

OFFICIAL RECORD OF PROCEEDINGS

立法局會議過程正式紀錄

Wednesday, 18 October 1995

一九九五年十月十八日星期三

The Council met at half-past Two o'clock

下午二時三十分會議開始

PRESENT

出席者：

THE PRESIDENT

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

主席黃宏發議員，O.B.E., J.P.

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

李鵬飛議員，C.B.E., J.P.

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

周梁淑怡議員，O.B.E., J.P.

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

李柱銘議員，Q.C., J.P.

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

倪少傑議員，O.B.E., J.P.

THE HONOURABLE SZETO WAH

司徒華議員

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

劉皇發議員，O.B.E., J.P.

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

何承天議員，O.B.E., J.P.

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

夏佳理議員，O.B.E., J.P.

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

劉健儀議員，O.B.E., J.P.

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

梁智鴻議員，O.B.E., J.P.

THE HONOURABLE ALBERT CHAN WAI-YIP

陳偉業議員

THE HONOURABLE CHEUNG MAN-KWONG

張文光議員

THE HONOURABLE CHIM PUI-CHUNG

詹培忠議員

THE HONOURABLE MICHAEL HO MUN-KA

何敏嘉議員

DR THE HONOURABLE HUANG CHEN-YA, M.B.E.

黃震遐議員，M.B.E.

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

李家祥議員，J.P.

THE HONOURABLE FRED LI WAH-MING

李華明議員

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

唐英年議員，J.P.

THE HONOURABLE JAMES TO KUN-SUN

涂謹申議員

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

黃秉槐議員，M.B.E., F.Eng., J.P.

DR THE HONOURABLE PHILIP WONG YU-HONG

黃宜弘議員

DR THE HONOURABLE YEUNG SUM

楊森議員

THE HONOURABLE ZACHARY WONG WAI-YIN

黃偉賢議員

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

田北俊議員，O.B.E., J.P.

THE HONOURABLE LEE CHEUK-YAN

李卓人議員

THE HONOURABLE CHAN KAM-LAM

陳鑑林議員

THE HONOURABLE CHAN WING-CHAN

陳榮燦議員

THE HONOURABLE CHAN YUEN-HAN

陳婉嫻議員

THE HONOURABLE PAUL CHENG MING-FUN

鄭明訓議員

THE HONOURABLE CHENG YIU-TONG

鄭耀棠議員

THE HONOURABLE ANTHONY CHEUNG BING-LEUNG

張炳良議員

THE HONOURABLE CHEUNG HON-CHUNG

張漢忠議員

THE HONOURABLE CHOY KAN-PUI, J.P.

蔡根培議員，J.P.

THE HONOURABLE DAVID CHU YU-LIN

朱幼麟議員

THE HONOURABLE ALBERT HO CHUN-YAN

何俊仁議員

THE HONOURABLE IP KWOK HIM

葉國謙議員

THE HONOURABLE LAU CHIN-SHEK

劉千石議員

THE HONOURABLE AMBROSE LAU HON-CHUEN, J.P.

劉漢銓議員，J.P.

DR THE HONOURABLE LAW CHEUNG-KWOK

羅祥國議員

THE HONOURABLE LAW CHI-KWONG

羅致光議員

THE HONOURABLE LEE KAI-MING

李啟明議員

THE HONOURABLE LEUNG YIU-CHUNG

梁耀忠議員

THE HONOURABLE LO SUK-CHING

羅叔清議員

THE HONOURABLE MOK YING-FAN

莫應帆議員

THE HONOURABLE MARGARET NG

吳靄儀議員

THE HONOURABLE NGAN KAM-CHUEN

顏錦全議員

THE HONOURABLE SIN CHUNG-KAI

單仲偕議員

THE HONOURABLE TSANG KIN-SHING

曾健成議員

DR THE HONOURABLE JOHN TSE WING-LING

謝永齡議員

THE HONOURABLE MRS ELIZABETH WONG CHIEN CHI-LIEN, C.B.E.,
I.S.O., J.P.

黃錢其濂議員，C.B.E., I.S.O., J.P.

THE HONOURABLE LAWRENCE YUM SIN-LING

任善寧議員

ABSENT

缺席者：

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

李國寶議員，O.B.E., LL.D. (CANTAB), J.P.

THE HONOURABLE FREDERICK FUNG KIN-KEE

馮檢基議員

THE HONOURABLE EMILY LAU WAI-HING

劉慧卿議員

THE HONOURABLE LEE WING-TAT

李永達議員

THE HONOURABLE HOWARD YOUNG, J.P.

楊孝華議員，J.P.

THE HONOURABLE CHRISTINE LOH KUNG-WAI

陸恭蕙議員

THE HONOURABLE ANDREW CHENG KAR-FOO

鄭家富議員

THE HONOURABLE BRUCE LIU SING-LEE

廖成利議員

IN ATTENDANCE

列席者：

THE HONOURABLE MRS ANSON CHAN, C.B.E., J.P.

CHIEF SECRETARY

布政司陳方安生議員，C.B.E., J.P.

THE HONOURABLE DONALD TSANG YAM-KUEN, O.B.E., J.P.

FINANCIAL SECRETARY

財政司曾蔭權議員，O.B.E., J.P.

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

ATTORNEY GENERAL

律政司馬富善議員，C.M.G., J.P.

MR MICHAEL SUEN MING-YEUNG, C.B.E., J.P.

SECRETARY FOR HOME AFFAIRS

政務司孫明揚先生，C.B.E., J.P.

MR CHAU TAK-HAY, C.B.E., J.P.

SECRETARY FOR TRADE AND INDUSTRY

工商司周德熙先生，C.B.E., J.P.

THE HONOURABLE MICHAEL SZE CHO-CHEUNG, I.S.O., J.P.

SECRETARY FOR THE CIVIL SERVICE

公務員事務司施祖祥議員，I.S.O., J.P.

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

SECRETARY FOR TRANSPORT

運輸司鮑文先生，I.S.O., J.P.

MR GORDON SIU KWING-CHUE, J.P.

SECRETARY FOR ECONOMIC SERVICES

經濟司蕭炯柱先生，J.P.

MR NICHOLAS NG WING-FUI, J.P.

SECRETARY FOR CONSTITUTIONAL AFFAIRS

憲制事務司吳榮奎先生，J.P.

MRS KATHERINE FOK LO SHIU-CHING, O.B.E., J.P.

SECRETARY FOR HEALTH AND WELFARE

生福利司霍羅兆貞女士，O.B.E., J.P.

MR RAFAEL HUI SI-YAN, J.P.

SECRETARY FOR FINANCIAL SERVICES

財經事務司許仕仁先生，J.P.

MR JOSEPH WONG WING-PING, J.P.

SECRETARY FOR EDUCATION AND MANPOWER

教育統籌司王永平先生，J.P.

MR PETER LAI HING-LING, J.P.

SECRETARY FOR SECURITY

保安司黎慶寧先生，J.P.

MR BOWEN LEUNG PO-WING, J.P.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS

規劃環境地政司梁寶榮先生，J.P.

MR KWONG HON-SANG, J.P.

SECRETARY FOR WORKS

工務司鄭漢生先生，J.P.

MRS RACHEL MARY BEDDORD CARTLAND, J.P.

SECRETARY FOR RECREATION AND CULTURE

文康廣播司簡何巧雲女士，J.P.

MR ALAN LAI NIN, J.P.

SECRETARY FOR THE TREASURY

庫務司黎年先生，J.P.

THE CLERKS TO THE LEGISLATIVE COUNCIL

立法局秘書：

MR RICKY FUNG CHOI-CHEUNG, SECRETARY GENERAL

秘書長馮載祥先生

MR LAW KAM-SANG, DEPUTY SECRETARY GENERAL

副秘書長羅錦生先生

MISS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

助理秘書長吳文華女士

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

助理秘書長陳欽茂先生

PAPERS

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

Subject

Subsidiary Legislation	<i>L.N. No.</i>
Land Survey (Fees) Regulation.....	458/95
Securities (Offence and Penalty) (Amendment) Regulation 1995.....	459/95
Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) (No. 6) Order 1995.....	460/95
Public Cemeteries (Regional Council) (Amendment) (No. 2) Bylaw 1995	461/95

文件

下列文件乃根據《會議常規》第 14(2)條的規定而呈交局方省覽：

項 目

附屬法例	法律公告編號
《土地測量（費用）規例》.....	458/95
《1995 年證券（罪行及罰則）（修訂）規例》.....	459/95
《1995 年公眾 生及市政條例（公眾遊樂場） （修訂附表 4）（第 6 號）令》.....	460/95
《1995 年公眾墳場（區域市政局）（修訂） （第 2 號）附例》.....	461/95

Sessional Papers 1995-96

- No. 1 - Report by the Commissioner of Police on Police Welfare Fund for the period 1 April 1993 - 31 March 1994
- No. 2 - Urban Council
Revisions to the Lists of Work Approved
During the 1994-95 Financial Year and the
First Quarter of the 1995-96 Financial Year
- No. 3 - Sewage Services Trading Fund
Annual Report and Accounts
for the year ended 31 March 1995
- No. 4 - Companies Registry
Annual Report 1 April 1994 to 31 March 1995
- No. 5 - The Land Registry Trading Fund Hong Kong
Annual Report 1994-95
- No. 6 - The Government Minute in Response to Report
No. 24 of the Public Accounts Committee dated July 1995
- No. 7 - Hong Kong Sports Development Board Annual Report 94-95
- No. 8 - The Government Minute in Response to
The Seventh Annual Report of The Commissioner for
Administrative Complaints Hong Kong Dated June 1995

一九九五至九六年度會期內省覽的文件

第 1 號 — 警務處處長關於警察福利基金報告
一九九三年四月一日至一九九四年三月三十一日

第 2 號 — 修訂於 1994 至 95 財政年度及 1995 至 96 財政年度
第一季經市政局通過的工作清單

- 第 3 號 — 截至一九九五年三月三十一日止的
污水處理服務營運基金年報及帳目
- 第 4 號 — 公司註冊處年報
一九九四年四月一日至一九九五年三月三十一日
- 第 5 號 — 香港土地註冊處營運基金
一九九四至一九九五年度年報
- 第 6 號 — 回應一九九五年七月
政府帳目委員會第二十四號報告書的政府覆文
- 第 7 號 — 香港康體發展局
一九九四至九五年度年報
- 第 8 號 — 回應一九九五年六月
發表的香港申訴專員第七次年報的政府覆文

MISCELLANEOUS

Fourth Periodic Report by Hong Kong under Article 40 of the International Covenant on Civil and Political Rights

Thirteenth Periodic Report by the United Kingdom of Great Britain and Northern Ireland in respect of Hong Kong under the International Convention on the Elimination of all forms of Racial Discrimination

雜項

香港根據公民權利和政治權利國際公約
第 40 條呈交的第四次定期報告

消除一切形式種族歧視國際公約——
有關香港的第十三次定期報告

AFFIRMATION

Mr Fred LI Wah-ming made the Legislative Council Affirmation.

宣誓

李華明議員宣讀立法局確認誓言。

ADDRESSES

The Government Minute in Response to Report No. 24 of the Public Accounts Committee dated July 1995

CHIEF SECRETARY: Mr President, laid on the table today is the Government Minute responding to Report No. 24 of the Public Accounts Committee. The Minute sets out the measures which the Government has taken, or is planning to take, on the conclusions and recommendations contained in the Report.

Mr Peter WONG, the then Chairman of the Public Accounts Committee(PAC), spoke in this Council on 26 July 1995 when tabling the Report. I would like to respond to some of the points he made.

Mr WONG highlighted the problems relating to the licensing of food establishments, particularly the aspects of co-ordination, both within and amongst government departments, and the time required to process applications. As we have advised the Committee at the public hearing, the licensing authorities, that is, the two Municipal Councils, are conscious of the problems and have been making efforts to rectify the situation. The Director of Regional Services and the Director of Urban Services have been seeking the co-operation of concerned departments to streamline the licensing procedures, and co-ordinating improvement measures to achieve this. Both have introduced measures to ensure that the processing time is kept within 60 days. They are also working actively on the "Provisional Licence System" for restaurants whereby premises will be allowed to operate when they have complied with certain basic

requirements, pending the issue of a "full" licence. They hope to introduce this system by the end of 1995. In the meantime, control for food business premises will be strengthened and enforcement action on unlicensed premises stepped up to safeguard public safety.

The second issue addressed by Mr WONG in his speech is road opening. The Administration fully recognizes the problems associated with repeated and multiple road excavations and the inconveniences these may cause to the public. We have devoted serious efforts to co-ordinate, plan, and control utility openings to keep disruptions to road users to the minimum. Members will see from the Government Minute what we have done and are planning to do in this respect. We aim to bring to this Council soon the necessary amendments to the Crown Land Ordinance for the implementation of the Excavation Permit Fee Scheme, a measure which we have been asked at various fora of this Council to pursue.

Turning to briefing out of prosecution work to private counsel, I note that the PAC concurs with the Attorney General that there are good public interest reasons for the Legal Department to maintain the briefing out system, mainly to meet operational needs if the resources or the expertise required do not permit the Legal Department to handle the case in-house. It is our intention to handle cases by counsel in the Department as far as possible.

As the PAC rightly points out, it is important for the Legal Department to have clearer policies and guidelines on the briefing out arrangements. The existing system is being reviewed by a working party chaired by the Director of Public Prosecutions and comprising representatives from relevant government departments, the Bar Association and the Law Society. The working party will report to the Attorney General by the end of this year. We shall continue to improve the existing arrangements taking into account the recommendations of the working group. On the question of briefing out fees, since April this year, both the Legal Department and the Legal Aid Department pay maximum standard rate fees only for long and complex cases.

Mr WONG also mentioned the Committee's deliberations on the subject of accountability of public organizations, in particular the role of the Director of Audit in conducting value-for-money audits of such organizations. On this, we note the range of views that Members of the Public Accounts Committee have expressed. We have given these careful consideration. Whilst such audits

might increase the transparency and public accountability of statutory bodies, we need to consider whether they are appropriate having regard to the operating framework of individual organizations.

Like some Members of the Committee, our main reservations on the proposal relates to public corporations like the Mass Transit Railway Corporation, the Kowloon-Canton Railway Corporation and the Airport Authority which are established by law to run on prudent commercial principles. For this category of public organizations, we remain of the view that it would be inconsistent with the concept of establishing statutory bodies with a legal requirement to operate along commercial principles if their day-to-day management were to be placed under the scrutiny of the Director of Audit, and eventually to be made public.

We prefer instead to continue to place reliance on the tried and tested statutory and regulatory framework under which such bodies are required to operate. This includes internal and external professional audits and reporting of accounts to this Council. We have no wish to be complacent in this respect, however. We will therefore continue to examine further areas for increasing transparency and accountability, as suggested by Members, where these are also consistent with the principles of sound commercial management.

Mr President, I wish to conclude by saying that it is the aim of the Administration to serve the community by delivering quality services that are efficient and effective. The Director of Audit and the Public Accounts Committee have played a significant role in ensuring that we are on the mark. We will continue to work closely with them in our quest for greater efficiency.

Hong Kong Sports Development Board Annual Report 94-95

SECRETARY FOR RECREATION AND CULTURE: I am pleased to be able to present the Annual Report of the Hong Kong Sports Development Board for the year 1994-95. This Report incorporates the statement of the Hong Kong Sports Institute, and is the first consolidated report of the two organizations since they were integrated under the Hong Kong Sports Development Board Ordinance, with effect from 1 April 1994.

The year 1994-95 is the fourth and final year of the Board's First Strategic Plan. During that four-year-cycle, annual updates of progress have been produced for public information and a consolidated progress report covering 1991-95 has recently been issued.

A good deal of time has been spent in the past 12 months on the preparation of a second Strategic Plan which will cover the next four years, and will thus determine the direction of sports development up to the year 2000. Considerably more consultations with the various agencies have been undertaken in this process than was felt necessary in 1990. The draft Plan was also put out for public consultation from 1 June to 31 July, and comments were received up to 30 September. This exercise has brought the sports community together and its members have responded positively and contributed most helpfully.

Another milestone in sports development was achieved when in May 1994, the Board moved into its new office premises at Sports House, together with 34 National Sports Associations (NSAs). Sports House was built as part of the Hong Kong Stadium redevelopment, through funding from the Royal Hong Kong Jockey Club. The Government, as landlord of Sports House, has entrusted the Board with the responsibility of managing the building at a nominal rental. The building has provided an invaluable focal point for sports development, both locally and internationally, and its lecture theatre and conference rooms have been extensively used by the business and sporting communities.

Funds made available to the Board have continued to increase significantly since the Board's inception five years ago. The Government subvention for 1994-95 was \$73.26 million and an additional \$12.49 million was raised through sponsorship and donations. A total of \$24.05 million was dedicated to the programmes of the NSAs, an increase of 25% on the previous year. In addition, the Hong Kong Sports Development Board currently controls two trust funds donated by the Jockey Club for the Board and the Sports Institute respectively, and there is a \$100 million allocation from the Government for the Sports Institute, from which a total of \$71.18 million has so far been used for the Board's and the Institute's operations.

Since the introduction of the Board's Block Grant Scheme in 1991, NSAs have been enjoying the benefits of funding for their staffing, office expenses and

training programmes. In 1994-95, a total of \$41.38 million was allocated under the Scheme to the ASF&OC and NSAs. A comprehensive NSA Career Development Plan has been implemented which includes an in-service training programme, an incremental salary scale, a provident fund scheme and a diploma course in Sports Management at the University of Hong Kong.

One of the Board's most significant community programmes has been the Hongkong Telecom Go! Sports Programme which was launched in 1993. With the full support of the Education Department, major sponsors and two School Sports Associations, it has already reached 40% of Hong Kong schools and promises to be one of the most comprehensive and exciting junior sports programmes ever introduced in the territory.

The Hong Kong Sports Institute is predominantly involved, in accordance with its mandate, in providing an environment in which athletic talent can be identified, nurtured and developed. This aim implies the pursuit of excellence by athletes and coaches. In 1994, Hong Kong's teams won a total of 19 gold, 25 silver and 28 bronze medals at the year's Asian, Commonwealth and FESPIC Games. The Institute played a significant role in helping to produce these results through its coaching effort, and support from its sports medicine and sports science staff.

The Coach Education Programmes administered by the Institute, working with the NSAs, have continued to develop with 35 associations participating. More than 3 900 coaches attended sports theory courses and over 450 coaches attended seven seminars.

A good deal has been done in forging technical links between the Institute and China. A total of 23 coaches were given financial support to attend coach education programmes there and in other countries. Strong working links have also been developed at a technical level with various institutes and organizations in Australia, Canada, the United Kingdom and China.

An important new initiative was launched in athlete education, appreciating the need for the Institute to do more to keep athletes in the programme. Increased resources were made available to prepare athletes for a life after their sporting careers are over. More assistance have been given in providing educational training and in creating career opportunities for athletes. These

important support services will be expanded upon in the next financial year.

All in all, it has been a successful first year for the new integrated body which must continue to provide the leadership to take sports development forward. The second Strategic Plan provides the vehicle for this and I look forward to consulting Members of this Council on that Plan in the near future.

The Government Minute in Response to The Seventh Annual Report of The Commissioner for Administrative Complaints Hong Kong Dated June 1995

CHIEF SECRETARY: Mr President, when the Commissioner for Administrative Complaints (COMAC) Seventh Annual Report was presented to the Council on 19 July, the Administration indicated that a Government Minute would be prepared in three months' time. This Government Minute is tabled today.

The Government Minute covers all the complaint cases which COMAC investigated and listed in his Annual Report. In the majority of these cases, the branches and departments involved have accepted and followed up all of COMAC's recommendations. There are a few cases in which some of the COMAC's recommended measures have had to be modified because of operational constraints. The reasons for these modifications are set out in the Minute.

Should any Member of this Council wish to have further clarification on any point in the Government Minute, the Administration would be happy to provide it.

ORAL ANSWERS TO QUESTIONS

Boulders Fallen on Tuen Mun Highway

1. 黃偉賢議員問：主席先生，屯門公路於八月十八日因大石滾下而導致公路被封閉三次，政府可否告知本局：

(a) 山石滾下的原因；

(b) 是否有人為失誤及官員失職；

(c) 會否進行獨立調查；若否，原因為何；及

(d) 如何確保不會有同類意外發生？

SECRETARY FOR WORKS: Mr President,

- (a) Investigations have indicated that the probable cause may be attributed to fracturing of a part of the rock mass along a hidden plane of weakness during hand splitting of rock adjacent to the portion which subsequently fell off. The rock joints may also have been further weakened by water infiltration arising from heavy rains prior to the incident, including that associated with Typhoon Helen on 11 August.
- (b) The case is still being investigated by the police. Upon completion of their investigation, the police may recommend to the Coroner that he is to conduct an inquest. The Coroner's inquest or any further legal proceedings in this matter will determine if any human error or dereliction of duty on the part of any officials was involved.
- (c) A Coroner's inquest will essentially constitute an independent inquiry into the matter.
- (d) For the works relating to the widening of Tuen Mun Highway, very intensive inspection and monitoring of the slopes are being carried out. The construction methods are under review and will be modified, if required. An alternative alignment is under investigation which will, if adopted, enable the works to proceed to the Tai Lam section without further cutting of the relevant slopes. For future projects which require rock removal from slopes adjacent to roads, we will require that a more rigorous hazard assessment be included in the construction methods proposals. This would ensure that all possibilities of risks and ways of avoiding them are examined in detail.

黃偉賢議員問：主席先生，屯門公路進行擴闊工程，未見其利，先見其害，導致交通嚴重擠塞，令屯門和元朗區七十多萬居民飽受塞車之苦。我認為政府在監察方面須負上一定的責任，所以我堅持要求總督成立一個獨立委員會，調查此事。

主席先生，我想提出的跟進問題是，在主要答覆(d)段，工務司說如果日後進行工程時，須從路旁移走石塊，就會要求承建商將更嚴格的危險評估載列於建造方法建議書內。這句說話給我的印象是，以往政府或承建商並沒有進行透徹的工程危險評估。一旦出事，政府才要求承建商進行更嚴格的危險評估。為何初期開展這類工程時，不進行最嚴格的評估，而是在出事後，政府才要求承建商進行更嚴格的評估？當初政府將工程判給承建商時，要求顧問所作的評估是否不足？

工務司答：主席先生，基本上，所有這類工程我們都會進行風險評估。剛才我提到我們現時就屯門公路擴闊工程進行一系列的監察，並重新檢討以往的施工辦法。在屯門公路進行擴闊工程是有一定的困難，因為我們須在很小的空間進行道路擴闊工程。當然，我相信日後的工程很少會如屯門公路工程般有這種限制。不過，無論如何，我們會就今次事件進行詳盡研究，日後如遇有類似工程，就可利用今次經驗作為根據，檢討所有必需的措施。

PRESIDENT: Not answered?

黃偉賢議員問：主席先生，工務司並沒有回答我的問題。我的問題是，為何當初將工程判出時，沒有要求承建商作出最嚴格的危險評估，而要在出現意外和問題後，才要求承建商進行更嚴格的評估？

工務司答：主席先生，我剛才的意思是，在開展屯門公路擴闊工程時，我們確有要求作風險評估。我曾提到今次事件含有事前不可預測的因素，就是石層裏可能有一度外面看不見的裂縫，因而引致意外發生。當然，我們日後評估工程的危險程度時，會加入這因素。我並不是說我們沒有就這項工程進行

評估工作。

陳偉業議員問：主席先生，政府在處理屯門公路及觀龍樓兩宗意外事件上，特別在發放資料及報告方面，明顯有不同的處理方法。不知是否因為正值立法局休會期間，政府可以如此放肆。

在觀龍樓意外發生後，政府本身完成的報告在警方發放調查結果之前已經公布。政府委任的顧問穆根士頓博士在完成報告後亦將其有公開。但在屯門公路意外事件方面，據我了解，政府內部已完成報告，但政府卻不願公開。此外，有關承建商亦委託了具知名度的顧問作出研究，該份報告亦已提交政府，但政府同樣不願意公開該份報告。這兩件事件都涉及人命意外傷亡以及公眾利益，請問為何一些報告公開，一些卻不公開；政府所持的理由是甚麼？是否要立法局引用《立法局（權力及特權）條例》，才願意公開這兩份報告？

工務司答：主席先生，陳議員說得對，承建商和政府都已完成調查報告。我們希望就這兩份報告達成一個結論後，才在稍後時間向屯門區議會作出交代。因此，我們是準備公開報告的。

劉健儀議員問：主席先生，在吸收了屯門公路山石滾下的經驗後，若再有同類意外事件發生，引致必須緊急封路時，政府有否足夠應變措施，確保交通不會再次出現大混亂？如果有的話，請問可否告知我們是何種措施？

工務司答：主席先生，我希望由我的同事運輸司解答這問題。

SECRETARY FOR TRANSPORT: Mr President, we acknowledge that the closure of Tuen Mun Road resulted in a lot of inconvenience and of course the Government very much regrets that. But having said that, the Government has no reservation to state, even now, that we did take the correct decision in closing Tuen Mun Road, because there was no question of subjecting commuters to any injury or death. Emergencies are emergencies. We have contingency plans in trying to arrange alternative transport modes to cope with emergencies. But the

very fact is that in emergencies of this magnitude we cannot arrange alternative modes of transport at the flick of a switch. If we compare, for example, the closure of Tuen Mun Road to the closure of any major road elsewhere, for example M1 in England, it is inevitable that commuters will be inconvenienced. But we have learnt from the experience. The Transport Department, Police, Highways Department, Transport Branch and all other departments concerned are conducting a wash-up. We have had a preliminary round of discussions and we shall continue to see what lessons we can learn. From our findings we will try to ensure, that in the unlikely event that it will be necessary to close such a major road again, we can accommodate traffic flow more efficiently.

涂謹申議員問：主席先生，黃偉賢議員問題(b)部分問及是否有人為失誤或官員失職，而(c)部分則問會否進行獨立調查。據我理解，黃議員是問會否就官員有否失職或失誤進行獨立調查。但工務司答覆(c)段時說死因研訊基本上已屬一項獨立調查。請問工務司可否查看有關死因研訊的條例？死因研訊是研究為何致死，換言之，結論可能是死於意外、死於自然或死於人為疏忽等，但並不會追究是否有人失職或何人失職。政府是否仍認為根據法例所說的死因研訊基本上已可代替獨立調查，以決定是否有官員失誤或失職？

工務司答：主席先生，是否有需要另外進行獨立調查，我相信最好是待死因研訊庭作出結論後，如果認為須作進一步調查，我們就會加以考慮。

顏錦全議員問：主席先生，有關政府將會在十一月封閉屯門公路，以便進行擴建工程一事，我們從報章得悉政府在諮詢屯門區議會後，遭受區議會反對。請問政府可否告知本局，政府如何游說或令區議會接受進行這項工程？

工務司答：主席先生，我們早前向屯門區議會解釋有關小欖段的擴建工程時，提到有需要封閉部分道路，而不是全面封閉屯門公路。當時區議會希望我們考慮有否其他辦法，避免封路而又能進行擴建工程。現時路政署同事正重新檢討整項擴闊工程計劃，希望找出完善的辦法，既可以毋須封閉屯門公路而又可以進行擴闊工程。

何俊仁議員問：主席先生，我很高興聽到工務司剛才說會盡量考慮其他可行方法而毋須封路。我想提出一點，屯門區議會多次提出反對，是由於沒有充分的資料。我相信屯門和元朗區議會都想知道整件事的調查情況，並希望獲得充足的資料，知道整項工程日後是如何策劃，例如還有多少段道路須進行工程，將來須封路多少次，以及是否在這次封路後就能完成整項工程，抑或會否有其他選擇，例如可否在晚間進行工程。區議會完全沒有以上資料，所以根本無從決定。請問工務司可否承諾，在未能提供充足資料之前，又或在兩個區議會或本局交通事務委員會知道了詳情並作出考慮之前，不會單方面草率地作出封路的決定，使數十萬市民受到影響？

工務司答：主席先生，這是我們希望做到的事。在未得到兩個區議會的同意前，我們不會封路以進行擴闊工程。我們一定會諮詢兩個區議會的意見。

Public Housing for Civil Servants

2. 黃錢其濂議員問：主席先生，政府可否告知本局，有關分配公共房屋予較低薪公務員的政策詳情，以及是否打算更改此項政策；若然，當局會否就削減此項由來已久的公務員福利而作出補償？

公務員事務司答：主席先生，一貫以來，我們致力改善初級公務員的福利，其中包括一項常設計劃，讓公務員可以更加容易申請公共房屋。合資格公務員除可透過輪候公屋登記冊申請公屋外，還可以透過這項公務員配屋計劃申請公屋。

這項計劃在一九六三年開始推行。過去多年，該配額所提供的公共房屋數目不盡相同，因須視乎房屋委員會的建屋量，以及對公共房屋的需求而定。於一九六三年，該配額提供 117 個單位，其後單位數目逐漸增加。到了一九七二年，已增至 2 001 個。不過，在一九七四年，由於該年度的建屋量嚴重不足，所以公務員在那一年並無獲得任何配額。在一九七五年至一九七八年期間，該配額所提供的名額由 500 個至 1 500 個不等。到了一九七九年，名額共有 1 100 個。到一九八五年，數額增至 1 700 個。由一九八五年至今，配額數目維持在每年 1 700 個的水平，包括 1 300 個租住公屋單位和

400 個居者有其屋單位，而居者有其屋單位亦逐漸受到同事的歡迎。這項配額計劃推行至今，已經有 37 666 名同事及其家屬受惠。

至於現行的配額及分配情況，以及運作的形式，經過一九七九年作出檢討後，已作出重大修訂。當局在配額方面，分為一般配額和特別配額兩大類。在總薪級表及第一標準薪級表的公務員，可透過一般配額申請公共房屋。至於居於政府部門宿舍及距離最低退休年齡不超過十年的初級警務人員和紀律隊伍的員佐級人員，則可透過特別配額申請公屋。配額內各類名額的分配，我們每年要與員方代表磋商決定。由一九九一至九二年度起，分配的大概情形是，總薪級表同事佔 660 個、第一標準薪級同事佔 400 個、初級警務人員佔 400 個、其他員佐級人員佔 200 個。在過去五年，初級警務人員及紀律隊伍的員佐級人員申請配額方面，出現供過於求的情況。例如去年共有 92 個剩餘名額撥歸一般配額內再行分配。

現時凡屬下列類別的同事，均有資格申請這些配額：支薪點於總薪級表第 21 點（即現時月薪為 22,035 元）或以下的同事、在警務人員薪級表第 28 點（即現時月薪為 28,015 元）或以下的同事，紀律部隊為支薪 23,180 元者，至於第一標準薪級則最高支薪點為 9,225 元者。配屋優先次序則按年資而編定，服務年期長的同事可獲優先。凡有意透過輪候公屋總登記冊申請的人員，他們可以雙管齊下，亦即可透過公屋輪候冊申請，又可以同時經公務員配額申請。

配額的數目是由房屋委員會按照房屋署的意見而修訂。公務員事務科每年與房屋署磋商，以決定配額的數目，以及有關單位在各公屋或居屋的分布。今年的磋商結果是：我們爭取到增加配額的數目，這是過去十年來，我們首次取得成功的。不過，我們亦須接受在住用公屋單位方面會有所削減的事實。在一九九五至九六年度，我們取得的配額共有 1 950 個，以往是 1 700 個，分配情形包括 750 個租住公屋單位、700 個居屋單位，以及 500 個自資居所貸款計劃名額。最近，自置居所貸款額已由 30 萬元提高至 60 萬元，而且是免息的。

我想在這裏強調，我們並沒有改變我們的政策，亦不打算這樣做。公務員公共房屋配額雖然並非初級公務員的權利，但我們知道，亦非常重視這項特殊的福利。因此，公務員不會因為我們今次修訂租屋配額而得到任何補償。今年的配額有所改變，是由於公屋計劃的發展所致。我完全了解房屋委員會所面對的情況，亦相信公務員應明白這發展對配額的影響。不過，我認

為確保公務員得到合理分配居住單位，亦非常重要。由於居屋單位有所增加，加上我們首次推出了自置居所貸款計劃，我希望這樣可以彌補削減的租住公屋單位數目。

稍後，公務員事務科將會發出通告，邀請合資格的公務員盡快申請這些配額，我亦會盡快展開分配工作。

黃錢其濂議員問：主席先生，我很多謝公務員事務司提供仔細而詳盡的答覆。其實我知道很多公務員的強烈要求，只不過是希望政府履行責任，提供足夠的公屋給香港市民，包括身為市民一分子的公務員。我想跟進的問題是，政府有否就每年的配額數目與公務員磋商呢？公務員事務司提到很多時會與房屋署磋商，那麼公務員是受到影響的人士，政府有否與他們磋商呢？假如沒有的話，原因為何？

公務員事務司答：主席先生，對於黃錢其濂議員剛才作出的評語，我百分之一百同意。這是我們要做的工作，我亦會去做。至於我們有否與公務員磋商這問題，其實我們每次與員方代表開會時都會討論這公務員配屋計劃。他們的要求是每年都增加多些配額，例如由 1 700 個增加至 1 900 個等。這點我們很清楚。我們每年與房屋署磋商時，亦已經知道這項要求。當然，能否達到他們的要求，關乎很多因素，而這些因素並不在我的掌握之內。我們已竭盡所能，取得 1 950 個配額。配額是有所增加。但很可惜，在這 1 950 個配額內，租住單位較往年少，這是員方不滿意的地方，而不是說我們有否跟他們商量的這個問題，因為我們一直都知道員方的要求。有關這方面，我們是非常清楚的。

李卓人議員問：主席先生，剛才公務員事務司在答覆內強調沒有改變政策，我覺得有些誤導成分。其實政策是改變了，就是減少公屋配額，增加居屋配額。我很不明白為何公務員事務司仍強調沒有改變政策。我更加不明白的是，如果一如公務員事務司剛才提到，曾與員工磋商的話，我相信他們現時是要求有相同數目的公屋配額，而不是好像公務員事務司剛才提到，由 1 700 個增加至 1 900 個。在維持相同數目的公屋配額方面，為何公務員事務司不跟他們就這方面進行磋商，尊重員工的要求？

公務員事務司答：主席先生，我相信最重要的一點是我們有否撤銷或改變這項福利。這項福利肯定絕對沒有改變，而現在的改變，是因為要因應現時的房屋產量，以及房屋委員會所面對的各種問題，例如要清拆臨屋區等。如果他們認為今年的產量並不足以向公務員提供 1 300 個租住單位，而要利用居者有其屋單位來填補，我認為這是合理而又可接受的。雖然我了解到我們的同事希望可獲分配多些租住單位，但其實居者有其屋單位也有市場，不是沒有市場的。至於我剛才提到的自置居所貸款計劃，以往公務員並沒有這項福利，是我們爭取得來的。至於究竟這計劃有沒有市場，我認為我們不應太早下定論。

談及有關與員方代表商量，我們肯定曾多次與他們商量。但大家必須理解，餅只得這麼多，就算商量多次，很多時我們都無法達到理想。我們也要在公務員這方面的福利與市民在輪候冊等候兩者之間取得真正的平衡。因為公務員除了可以在這個計劃下優先配得公屋外，我還可以告訴你們，很多第一標準薪級內的同事等候七年已經可以獲配單位，而且更是市區的單位。此外，當我們計算他們的收入時，只計算他的個人入息，而不是計算他的家庭總收入。如果我們看看目前的一般收入上限以及我剛才提及的數字，大家都應該心中有數。

陳婉嫻議員問：主席先生，剛才聽了公務員事務司的說話，我想提出一些質問。昨天房屋司在本局曾經提到未來六年的建屋量是 141 000 個單位。我們當時質疑房屋司，到二零零一年以這建屋量能否達到政府的目標，即輪候時間從七年縮短至五年。昨日我們提出質疑，認為這建屋數字不能達到目標。今天聽到公務員事務司的答覆，知道現時公務員獲配的公屋數目亦遭削減，未能達到公務員本身的需求。請問在各方面都對公屋單位需求甚殷的情況下，我們有關的司級官員，是否應與房屋司討論，作出爭取，而不是說要因應“大餅”，而不去爭取？

PRESIDENT: Miss CHAN, you are straying away from the original question and answer, but I am quite sure the Secretary for the Civil Service would be happy to discuss with the Secretary for Housing.

SECRETARY FOR THE CIVIL SERVICE: Mr President, I confirm.

Primary Health Care Centres Serving AIDS Patients

3. 陳鑑林議員問：鑑於政府近日計劃於九龍灣興建一間包括為愛滋病帶菌者提供服務的基層護理中心，引致麗晶花園部分居民不滿，政府可否告知本局：

- (a) 本港現時共有多少間類似的基層護理中心；目前的需求如何；
- (b) 政府在規劃該等中心的地點時有何準則；及
- (c) 政府會否考慮將九龍灣基層護理中心遷往鄰近更合適的地點？

生福利司答：主席先生，

- (a) 本港現在有 69 間基層健康護理中心，其中九間除了提供門診及家庭健康服務外，亦設有社會衛生科診療所，為愛滋病帶菌者等性病患者提供服務。

普通科門診診療所的設立，是參照香港規劃標準與準則，即每十萬人設一間診療所的比率為依據。以觀塘區為例，約有 52 萬的人口，但只有四間普通科門診診療所，因此有需要在該區增設一間診療所。

在社會衛生科診療所服務需求方面，過去四年內總求診人次增加了約 14%（由 14 萬人次增至 16 萬人次）。在同一期間，新症人數亦增加了約 40%，由 10 500 人增至 14 900 人。愛滋病帶菌者的總數，由一九九零年的 206 人增至一九九四年的 520 人，而愛滋病病人的數目，亦由 44 人增至 130 人。估計本港現有 3 000 名愛滋病帶菌者，到一九九八年時會增至 6 200 名。因此，這類服務的需求是很明顯的。

興建九龍灣診療所的計劃，是為了配合各項基層健康護理服務的

需求，其中包括普通科門診服務，以及為愛滋病帶菌者等性病患者提供的服務。

- (b) 在規劃基層健康護理中心的地點時，位置是否方便適中是一個重要的因素。因為這些中心是個別人士與健康護理制度之間的第一個接觸點。我們這類中心通常設於區內居民可步行到達的範圍，且有公共交通的服務。事實上，大部分中心均設於住宅區附近。在同一間中心提供範圍廣泛的服務，亦符合國際間發展基層健康護理服務的趨勢，這項發展強調在同一個基層健康護理環境下提供一系列的全面服務。
- (c) 這項興建計劃的選址，是經過多個部門詳細考慮後才選定的。政府亦有考慮鄰近的地點，但找不到更適合的地點。有關工程已於本年七月提升為工務計劃甲級工程。工程將於十一月展開，預期於一九九七年年底完成。若要選擇另一地點，便會耽誤至少兩年以上的時間，對提供各項服務，包括門診、社會衛生科、學童健康和一間老人護養院服務，會造成不良影響。

陳鑑林議員問：主席先生，如果按照政府所說的比例，每十萬人就應設有一間診療所，其實觀塘區早在一九八四年，人口已接近 70 萬，但只有四間普通科診所，即是說政府在這方面白白耽誤了觀塘區居民 11 年。現時政府準備在觀塘區設立基層護理中心，事實上缺乏充分的諮詢，特別在選址方面，交通並不符理想。該處地點的原發展計劃應是興建學校和社區中心。剛才衛生福利司說政府找不到適合的地點，其實我們在上星期曾與規劃署有關官員作出討論；居民也曾在觀塘區議會提出了一些意見，並獲得觀塘區議會接納。觀塘區議會在上次會議上通過動議，要求政府考慮將地點改往另一處較接近、較方便和較大的地方。我希望政府詳細解釋，為何不考慮觀塘區居民和區議會的意見？

PRESIDENT: May I please remind Members to keep their supplementaries, particularly the preambles, short.

生福利司答：主席先生，關於麗晶花園部分居民建議的另一個地點，我們也曾經詳加考慮。但該處已安排作為輔警總部，並應在短期內動工。至於其

他兩個地點，其中一處是九龍灣公園附近的休憩用地，但該處並非規劃作為政府、團體和社區用途；另一處則為商業用地，在規劃上也不適合作為政府、團體及社區用途。我們亦已就現時的選址作出考慮，知道車輛的出入口及交通情況並不會對麗晶花園居民造成不便。

周梁淑怡議員問：主席先生，剛才立法局門外有些麗晶花園居民向議員提出一些質詢，希望我們向生福利司提問。基本上，他們有一個很重要的問題，就是他們在購買麗晶花園單位時，圖片顯示現時的選址本來用作興建社區中心和小學，但現在政府卻將其轉為診所。在轉變用途前，政府有否諮詢該處居民的意見？又為何選址如此貼近住宅樓宇，只得一牆之隔？既然地方這麼大，為何不設在距離住宅樓宇遠一點的地方？

生福利司答：政府決定選擇地點興建一間診所和基層健康中心時，曾就數方面詳細諮詢區內居民的意見。在工程計劃方面，我們每年都向地區居民提供資料，最近一次的詳細諮詢是在一九九零年。此外，在今年九月和十月，我們也曾進行詳細諮詢工作。最初居民對於愛滋病和其他因性接觸而傳染的病症有些憂慮，但經過衛生署同事詳細解釋後，部分居民已經比較明白，而且已消除這方面的顧慮。

周梁淑怡議員問：我的問題是，為甚麼在改變用途的同時，選址更完全沒有隔離，與住宅樓宇如此接近？

生福利司答：我在主要答覆中已提到選擇健康中心地點的重要因素是要方便居民。我們所有基層健康護理中心的位置一定要方便居民前往。個別健康中心更須交通方便，所以很多都設在住宅區附近，甚至在屋邨內。我們已不是第一次進行這方面的工作，我們也有其他診療所和健康護理中心設在市區和民居附近。

DR LEONG CHE-HUNG: *Mr President, while we all realize that the Disability Discrimination Ordinance has not yet come into effect, it has been passed by this Council. Could the Administration inform this Council whether the request for relocation of this centre, which also provides for the care of patients infected with HIV, and I stress, it also provides care for people with HIV, contravenes this Ordinance? To me, this is a blatant act of discrimination.*

生福利司答：主席先生，如果真是因為這個理由而要求政府另覓地點，我相信這可能違反條例。

何敏嘉議員問：主席先生，主要問題特別提到這個中心會為愛滋病帶菌者服務，導致一些居民不滿。政府可否告知我們，現時居民不滿的主要原因究竟是出於誤解還是歧視？政府知否該區區議員在致總督的信件中提到診所會帶來不良的影響，例如易受細菌感染，環境衛生問題和治安惡化等。這些其實全都是對愛滋病不理解和錯誤的信息，請問政府就這方面會做些甚麼工作，以糾正這些不正確的信息？

生福利司答：主席先生，當初居民確實在這方面提出很多憂慮，但經過我們詳細解釋後，他們對於愛滋病和其他因性接觸而傳染的病症增加了認識。我們也曾向他們解釋，愛滋病並不會輕易傳染。該病是經過血液和性接觸才會感染，並不會經空氣或一般日常活動傳染。我們會繼續在愛滋病教育和宣傳方面加強服務和工作。

唐英年議員問：主席先生，鑑於麗晶花園居民的反應，政府有否檢討愛滋病基金會在九五年度用於教育和推廣的四十多萬元是否用得其所？因為大家十分清楚，剛才生福利司在答覆中也曾提到，愛滋病根本不易傳染，更不會因為距離接近而傳染到愛滋病，所以在有關設立這個中心的問題上，教育應該是最好的公關方法。政府曾否就所花的金錢是否足夠或恰當作出檢討？

生福利司答：主席先生，有關愛滋病基金會的撥款用途是否適當和足夠，我們會經常進行檢討。事實上，每項活動或申請都要按時提交報告給基金會。此外，每項活動或宣傳完成後，我們都有詳細的報告，並評估該等活動的效益。我們會繼續評估每項及每類教育或宣傳活動的效益。

唐英年議員問：生福利司沒有回答我的問題。我的問題是，這筆款項是否用得其所，能否達到目的？

生福利司答：我們每次進行評估時都需要知道那些款項是否有效地達到預期計劃的目的。

黃震遐議員問：主席先生，除了這位區議員的信件外，我們還收到一疊居民的信件，信內提到興建這間診所會令居民容易受到病菌感染、滋擾和侵犯。他們顯然對愛滋病缺乏了解，基本上與以前的人歧視麻瘋病者一模一樣。政府可否確實向我們證明，第一，愛滋病患者其實不少是普通家庭婦女和血友病患者；第二，愛滋病不是經空氣或普通接觸傳染；及第三，愛滋病患者並無滋擾或侵犯他人的傾向？因此，政府會否答應我們，不會因為歧視原因而停止為所有香港市民 — 無論他們患甚麼病 — 均盡快提供足夠的醫療服務？

生福利司答：主席先生，我可以確實答覆議員，我們會繼續為所有感染任何病菌，包括愛滋病患者在內，提供全面的服務。

羅致光議員問：主席先生，我提出的問題與剛才黃震遐議員的問題大致相同。生福利司剛才提到會繼續提供這些服務，不過，根據過往經驗，當有一些居民就某些服務單位提出反對時，政府往往因而押後提供該類服務。請問生福利司今次會否有足夠信心和決心，依照計劃繼續提供這些服務？

生福利司答：主席先生，我的答覆是肯定的，我們一定會按原定計劃進行。

Conduct of Medical Practitioners

4. 葉國謙議員問：鑑於法庭可以推翻醫務委員會對違反專業守則的醫務人員所作出的裁決，政府可否告知本局，會否盡快檢討現時的上訴渠道，以及研究法庭和醫務委員會在出現相反裁決時對社會的影響，從而採取適當措施，以恢復市民對現時監管醫務人員操守機制的信心？

生福利司答：主席先生，《醫生註冊條例》第 26 條訂明，任何註冊醫生如

對香港醫務委員會就紀律事宜所作的頒令感到不滿，可向上訴法院提出上訴。上訴法院有權維持、推翻或更改有關頒令。

當局會在短期內向本局重新提交《醫生註冊條例》的各項修訂建議，而其中一項是授權上訴法院將個案發回醫務委員會再審。此外，當局亦建議擴大醫務委員會的成員組合，以包括更多業外人士。

現時，醫務委員會在每次研訊結束後，都會公布作出有關決定的理由，以進一步增加運作上的透明度，希望這項安排可以讓各有關方面更清楚知道醫務委員會的決定。我希望上述措施有助於消除葉議員的憂慮。我們定會繼續留意事態的發展。

葉國謙議員問：問題並不是要消除我個人的憂慮，而是市民的憂慮。我的問題主要是關於恢復市民對現時監管醫務人員操守的機制的信心，因為現時市民與醫生之間，是有資訊不平衡的情況，市民不知道醫生是否違反了操守，而醫務委員會則很清楚知道醫生的行為在哪方面違反了操守的。然而，醫務委員會是會作出與法庭相反的判決的。所以，我希望 生福利司能夠作出明確的答覆，如何恢復市民的信心？

生福利司答：我在主要答覆內提及醫務委員會現已採取新的辦法，在每次聆訊結束後都會公布作出有關決定的理由，以前是沒有公布理由的，如今的做法，可令市民知道醫務委員會基於何種理由作出裁決。我希望從這方面，市民對醫務委員會的裁決，可得知更多的資料。

其次，我們在將會提交的條例草案裏，希望增加業外人士成為醫務委員會成員，令到有更多委員協助監管醫生的操守。

DR LEONG CHE-HUNG: *Mr President, while I entirely respect the independence of the Judiciary, the fact remains that the court bases its decision on points of law while the Medical Council, which is a professional body, bases its decision purely on a peer assessment basis. Could the Secretary inform this Council how this difference could be bridged so that the convictions and penalties imposed by the Medical Council, which is a professional body, would be given the respect and consideration due and that this professional body would*

not be made a mockery of? The Secretary just replied that the Medical Council could inform the public why it makes its decision and that the Medical Registration Ordinance could be amended to increase the number of lay members. But that will not bridge the gap and that would still fail to get the court to agree with the decision of the Medical Council.

生福利司答：主席先生，剛才我亦提到另一項改變，希望可以授予上訴法院多一項權力。現時上訴法院只是有權維持、推翻或更改有關的頒令，但若《醫生註冊條例草案》得到通過，其中一項改變就是授權上訴法院可以將個案發還醫務委員會再審。此舉亦可增加醫務委員會的職能。其次，醫務委員會現在亦將裁決原因公開，但以前是沒有這樣做的，這樣對上訴法院有很大幫助。

涂謹申議員問：主席先生，醫務委員會以往很多的判決被推翻或被上訴法院推翻，主要是由於程序上的失誤，或者是明顯的裁判不公等情況。

我覺得 生福利司沒有回答剛才梁智鴻議員所提出的問題。這根本是兩套不同的標準。一般在醫務委員會的聆訊裏，很多申訴人或者出席者都透過御用大律師代表陳述觀點，甚至上訴法院亦有充分的法律代表去挑戰決定。

生福利司會否加強醫務委員會的法律支援？現時辯方往往聘用御用大律師，而支援醫務委員會的卻只是具備數年經驗的律師，且在某一段時間後亦會更換，故在這方面未必能掌握或提供好的意見。醫務委員會的委員往往因缺乏這方面的支援而在不知不覺間作出法律程序上不公道的決定，以致被人推翻。

生福利司答：主席先生，醫務委員會亦有法律顧問，若有需要增加這方面的支援，我可以向律政司提出要求的。

MISS MARGARET NG: *The Secretary had just reiterated the second paragraph of her answer in response to Dr LEONG Che-hung's question which I understand was in the following terms. He wants the Secretary to assure him that there are measures to get the court to agree with the decision of the Council. Is the Secretary telling this Council that this is a measure to get the court to agree with the decision of the Medical Council?*

生福利司答：《醫生註冊條例》是有上訴渠道的，我們應尊重這上訴渠道，保留每個人都有上訴的權利，所以我們不應干預法律程序。

MR ERIC LI: *Mr President, can the Secretary further elucidate on the precise form of the announcement of the Medical Council? Will it be in the form of short statements made simply to inform the public of the sentence reached, or will it consist of a detailed description of the nature of the complaint, the full fact findings and all the pertinent legal arguments in support of the Council's decision?*

生福利司答：醫務委員會作出聆訊後的報告，是由其決定是詳細或簡短的報告，當然，若它認為須要作更詳細的報告，自然會這樣做。

PRESIDENT: Dr LEONG Che-hung, I also have Mr James TO's name on my list, and you both have already asked two supplementaries. If there is no urgency in the supplementaries, may I propose that we get on with the remaining questions?

Theft of Container Tractors

5. 鄭耀棠議員問：主席先生，鑑於目前本港貨櫃車拖頭被盜竊的情況相當嚴重，政府可否告知本局：

(a) 有關部門有否注意此問題，及有何對策；及

(b) 過去兩年來，貨櫃車拖頭被盜竊的數字？

保安司答：主席先生，政府有關部門自去年十月開始，為貨櫃車拖頭分開計算失竊數字；在此之前，這些數字撥歸失竊貨車的整體數字一併計算。因此，我只能提供過去12個月的拖頭失竊數字。過去一年，共有441輛貨櫃車拖頭被竊，其中112輛（即24.5%）已尋回。這441輛貨櫃車拖頭佔同期被竊車輛總數4 725輛的9.3%。

最近的車輛盜竊案當中，貨櫃車拖頭被竊案有成為新趨勢的蹟象。被竊

貨櫃車拖頭，由去年第四季的 92 輛，增至本年第三季的 162 輛。我們當然關注這類罪行急劇上升的情況。我們有理由相信涉及這些罪案的匪徒，與過往的名貴汽車竊匪同屬一類集團。有組織罪案及三合會調查科已受命專責調查這類犯罪集團，並自本年七月起，成功拘捕及檢控至少十名這類集團的骨幹分子。調查科又與中國當局保持密切聯絡，以緝拿這些集團的首腦和內地接收被竊車輛的犯罪分子。

竊匪多在偷取貨櫃車拖頭後，以最快的時間駛過邊境。警方已找出一些貨櫃車被竊黑點，並經常在關鍵時間和地點設置路障，突擊檢查車輛，以期阻截匪徒把車頭移離本港。

防止罪案科亦與保險公司、有關貨運業及司機工會緊密聯絡，促請他們提高警覺，採取適當預防措施，例如裝置防盜設施等，以減少失竊拖頭的案件。

鄭耀棠議員問：政府剛才的答覆說拖頭盜竊漸成為新趨勢。我想再問政府，除了運回中國大陸之外，這些拖頭有否被拆散後運到其他國家，而政府有否與這些國家商討將那些已經找到的拖頭交回本港的車主？

保安司答：主席先生，據我所知，在香港失竊的拖頭絕大部分都是運回大陸，當然我不可以說絕對不會有拖頭被拆散運往其他地方。至於與中國大陸有關當局的聯絡，本港警方亦與中國的公安當局緊密聯繫，將有關的資料交給他們，包括被竊貨櫃拖頭的資料。此外，亦當然會提供其他被竊汽車資料。我們知道大陸的公安當局亦已進行調查，我希望調查有結果。

詹培忠議員問：主席先生，有一段時間，香港有相當多名貴房車被偷入中國大陸，在計算保險時，失車的車主本身要負責一定的損失，所謂“墊底”。現在貨櫃車拖頭的失竊也有同樣的情形，但部分的司機根本負擔不起這筆所謂“墊底”款項。保安司在答覆內最後那段提及當局與保險公司或者其他有關機構聯絡如何防止這問題，保安司可否告知我們，會否成立一個跨部門委員會去遏止這類竊案，以免業內人士付不起這筆保險費以致整個行業的運作亦受影響？

保安司答：主席先生，我相信預防措施不一定需要一個跨部門的工作委員會來負責。警方的防止罪案科可以直接與有關的團體聯絡，例如貨櫃業的職工會、貨櫃業公司、貨車公司、或貨車司機的組織，與他們直接磋商，向他們提供意見。況且所要做的措施亦不一定很難做，這些預防措施包括找一些管理較好的車場停放拖頭，亦可以加裝防止盜竊的系統如防盜警報、波箱鎖、鎖等，甚至更加可以裝上防盜追系統。事實上是有辦法，而且亦不太難做得到的。貨櫃拖頭是很昂貴的車輛，雖然加多些預防措施可能要多費一些的金錢，但我相信為了安全或者保障貨櫃拖頭不會被人偷去，這也是值得的。

劉健儀議員問：主席先生，答覆中提及有 112 輛的貨櫃車拖頭被尋回，請問保安司，這 112 輛拖頭是否由中國當局安排送還給香港呢？另外，答覆的第二段提及調查科又會與中國當局保持密切聯絡。保安司在剛才的答覆中，亦提及絕大部分被偷的拖頭，都是駛回中國大陸，為何仍只是保持緊密聯絡，而不是在新趨勢出現之後，加強聯絡及共同採取針對性的行動或措施，去對付有關的問題呢？

保安司答：劉健儀議員問了兩個問題，第一個問題提到我在主要答覆中說我們已尋回的 112 輛貨櫃拖頭是否由中國方面送回給香港，答案是否定的，它們全部是在本港尋回的。至於劉議員第二個問題，問及為何有這些事件發生，我們還僅說保持緊密聯絡。當然我們是透過適當的渠道，讓香港警方與內地的公安部門保持緊密聯絡，互通消息，方便中國大陸有關的公安當局在內地進行調查。至於有關的調查工作，當然是屬於中國公安當局的事情，於此我不想作出評論，但我深信中國公安當局已經展開調查這些罪案，希望他們的調查很快獲得良好的成果。

涂謹申議員問：主席先生，既然保安司提到大多數的拖頭都是在被人盜竊之後，立即駛過邊境，那麼警方或有關部門有否考慮發出特別的證明文件，使到這類拖頭過境時須出示某些文件才可以通過，以便減少及防止這類的竊案？

保安司答：主席先生，其實我們未必須要這樣做。我們現正與有關部門包括律政署的同事研究一項措施的可行性，就是如果有些司機涉及偷竊車輛的罪行，被檢控及定罪之後，我們可能考慮撤銷他們的封閉道路通行許可證，即俗稱的“禁區紙”。

Suicide among the Elderly

6. 謝永齡議員問：近年本港老人自殺問題嚴重，政府可否知告本局有否為防止老人自殺提供服務，以及政府有何長遠對策和措施以解決這個問題？

生福利司答：主席先生，自殺是一個十分複雜的問題，原因有很多，包括情緒抑鬱、健康衰退、患上末期疾病、感到孤單或被人遺棄等。倘若及時給予協助及輔導，很多自殺事件都是可以避免的。

為減少老人自殺，當局須要提供多項服務，讓他們感受到自己仍然是社會一分子及對社會有貢獻。我們大力拓展老人中心及老人服務中心，來達到這個目的。

此外，為加強老人服務中心的功能及擴大它們的接觸網，我們已由本年十月起，在十間老人服務中心推行長者義工計劃及義務工作計劃。這些計劃，特別是長者義工計劃，旨在加強老人與所屬社區的聯繫，使那些仍然熱心參與社會事務的老人，有更多機會接觸其他老人，為他們提供協助。

除了這些預防措施外，當局亦為老人提供直接的外展服務和危機介入服務。社區老人科小組、老人精神科小組、社會福利署轄下的家庭服務中心及精神科的社會工作者，均提供專業輔導。有需要的老人及有關人士只要致電社會福利署，便可獲得所需的資料和協助。

在長遠策略方面，政府會繼續加強現有及新開展的服務，並會在地區層面舉辦宣傳教育活動。在處理老人自殺問題上，政府、其家人及社會人士都扮演重要的角色。家人及鄰舍應多關心他們周圍的老人，並留意他們的日常生活狀況，如發覺有老人需要援助，可與社會福利署或有關的非政府機構聯絡。政府已設立各項老人服務，關鍵在於確保需要這些服務的老人能接觸

到這些服務。在這方面，如果得到市民的熱心參與，是可以協助我們完成任務的。

謝永齡議員問：主席先生，根據政府數據，每年至少有二、三百個老人家自殺死亡。這些數據明顯顯示香港現時所提供的服務有待改善。老人中心和多元化中心的主要目的是為老人提供一些社區康樂服務而非輔導或防止自殺的服務。與老人家直接接觸最多的是老人中心的工作人員，而家務助理亦經常接觸老人，但他們都沒有接受過防止自殺方面的訓練，所以在輔導老人或防止自殺服務方面，無論質與量都不足夠。政府可否告知本局，在最近的將來會否改善輔導老人的人手編制，加強提供老人外展服務以解決老人自殺問題？

生福利司答：主席先生，加強人手編制，甚至擴大外展服務去幫助有需要的老人是一個有效的方法。外展服務可以透過很多模式去進行，而外展服務這個概念是適當的，但我們需要更詳細研究如何最有效接觸老人，因為我們須要知道老人在哪裏居住？需要哪類服務？所以，須依賴一個更大的聯絡網才可提供更有效的服務。我同意我們須要在這方面考慮怎樣加強為老人提供更多服務，特別是外展形式的服務。

李華明議員問：主席先生，我高興聽到生福利司說到外展服務，因為我的問題也與此有關。我們在福利事務委員會曾多次要求政府盡快擴展老人外展服務，但得不到正面回應。因為有自殺傾向的老人家通常鮮有參加老人中心的活動，在社會上是比較疏離的一群。所以外展服務是一個直接有效針對獨居、比較疏離的老人家，減少自殺事件發生，可惜到現在全港仍只得兩支外展服務隊，基本上完全不能解決問題。所以，我希望問生福利司，既然她覺得外展服務是有效的，為何數年來直至今日仍只得兩支外展服務隊？何時才能盡快決定擴展現在這兩支外展服務隊？

生福利司答：主席先生，關於用甚麼形式接觸老人是需要多方面的考慮，外展服務是一個可行的模式，但我們也要看看如何能有效地運用資源。我們會繼續詳細研究用最有效的方法接觸老人，並使老人可以接觸社工和其他機構，讓後者知道需為他們提供些甚麼服務。

PRESIDENT: Not answered?

李華明議員問：我覺得 生福利司沒有回答我的問題。其實問題很簡單，既然 生福利司認為外展是一個很有效的方法，為何至今仍只得兩隊？何時才決定應再增加？我覺得應詳細、清楚回答這個問題。

PRESIDENT: I think the Secretary has answered your question.

黃偉賢議員問：主席先生，正如我們的同事說每年平均有二百多個老人自殺，這個數字在過去數年一直維持，似乎並非如 生福利司所說，有更多的服務不斷提供，而自殺數字仍很高。

主席先生， 生福利司在答覆的第一段中提到自殺是複雜的問題，她亦舉出一些原因，包括情緒抑鬱、健康衰退、患上末期疾病或長期病患、感到孤單等等。這些問題絕大部分都和老人身體健康和心理狀況很有關連。 生福利司說得最好的一句是：“倘若及時給予協助及輔導，很多自殺事件都是可以避免的。”正如我們很多同事都追問，就健康狀況、心理輔導方面現時提供的服務，是非常非常缺乏，包括外展隊只得兩隊，心理醫生也很少，無論怎樣加強宣傳或康樂活動都不能幫助這些老人。雖經我們多次追問， 生福利司都沒有承諾如何加強這方面幫助老人，及時提供適當協助和輔導。

請問 生福利司，你不肯作出承諾，而現在的服務又不足夠，還說要繼續研究，政府這個做法是否見死不救？

生福利司答：主席先生，或者我可以提供一些資料給大家參考。除了以上所說的服務，我們仍有其他服務，包括熱線電話服務，這亦是很多國家和地方採用的方法。社會福利署有一項熱線電話服務，其他機構亦有提供類似的熱線電話服務，可以在有需要時及早介入。現時這些熱線話服務亦有在老人中心及老人服務中心內提供一些關於精神健康的資料，亦有輔導的服務，並

有老人需要知道的其他項目。有一些熱線電話是 24 小時服務的。此外，社會福利署的家庭服務中心亦提供很多輔導服務，所以，我們不是只靠兩支外展隊提供這些服務的。

PRESIDENT: I have three more names and I propose to draw a line there.

羅祥國議員問：請問 生福利司在近年老人自殺的情況中，有沒有發現老人自殺傾向上升的趨勢是由於經濟拮据或失業造成？

生福利司答：主席先生，我們的資料並無詳細分析老人為何因由自殺。但剛才在我的主要答覆中，曾提到主要原因是情緒方面，如情緒抑鬱、健康問題、孤單的感覺、被遺棄的感覺。其他國家的研究都提出類似的原因，有很多情形是因為失去家人、家庭的煩惱、失望、絕望等感情上、精神上的原因。但我們不知道他們是否因其他例如經濟、失業的原因而自殺。

黃震遐議員問：主席先生， 生福利司提到很多不同服務，包括熱線電話幫助老人家， 生福利司可否告知我們究竟這些服務接觸了多少因想自殺而要求助的老人？過去 1 年的數字是怎樣；又這些服務究竟是否有效？另一方面， 生福利司曾說她沒有分析老人自殺的原因，那麼她可否答允我們會要求 生署作這方面的調查，以便能更有效地設計預防策略？

生福利司答：主席先生，除非來電的老人清楚告訴我們他預備自殺，否則我們未必可以知道他的情緒問題。但我可以在這方面查看我們的資料，如果有的話，我會以書面答覆議員。(Annex)至於第二個問題，我同意我們需要在這方面多做一些分析，以便了解更多關於老人自殺的成因，甚至其他自殺事件的成因。

羅致光議員問：主席先生，剛才提到關於有需要的老人及有關人士可以致電社會福利署的熱線電話，得到需要的幫助和資料，同時亦提到很多時候，導致老人自殺的其中一些重要原因是情緒問題。顯然當有情緒問題時，需要立即得到支援。可惜根據綜合援助計劃的指引，老人除非是傷殘或獨居，或能證明有特別的需要，否則不可申請電話支援。換言之，其他不是獨居、傷殘

或沒有特別需要的老人，家裏連電話也沒有，請問當老人情緒低落時，而亦假設他知道電話號碼，如何能致電社會福利署的熱線電話？

生福利司答：主席先生，關於提供電話的服務，我們知道社聯和電話公司都已同意提供一些免費安裝電話的服務予獨居老人。其次，剛才羅議員說得很正確，接受公援的獨居老人可以獲提供一個電話及每月替他繳付電話費。關於其他人士如果需要安裝電話，我們也有辦法向一些福利基金要求提供援助，安裝電話。

WRITTEN ANSWERS TO QUESTIONS

Release of XI Yang

7. 劉慧卿議員問：有關《明報》記者席揚在中國被囚一事，政府可否告知本局，在過去一年內，香港政府曾採取甚麼方法尋求他早日獲釋，及是否得悉英國政府有否採取同樣或其他方法使席揚獲釋？

SECRETARY FOR HOME AFFAIRS: Mr President, the British and Hong Kong Governments remain concerned about the case of Mr XI Yang. Both Governments have raised this case on many occasions with the Chinese Government, and at very high level. We have conveyed our concern, and that of Hong Kong people and his family, about Mr XI, and urged that clear guidelines be produced for journalists working in China. In April 1995, Mr XI's case was raised by the then Secretary of State during his meeting with Vice-Premier QIAN Qichen in New York. In June, at the request of the family, the Hong Kong Government made representation to the Chinese authorities concerning the welfare of Mr XI. Earlier this month, the Secretary of State, during his meeting with Vice-Premier QIAN Qichen in London, also expressed the concern of the British and Hong Kong Governments, Hong Kong people and Mr XI's family about his circumstances including his health. The Hong Kong Government will continue to keep in close touch with the family and render whatever assistance is appropriate.

"Rat Accounts"

8. 詹培忠議員問：由於聯合交易所及期貨交易所大部分會員對所謂“老鼠倉”的叫法非常不滿及反感，認為嚴重貶低該等行業的地位，政府當局可否告知本局：

- (a) 政府當局對“老鼠倉”的定義及其行為的分析為何；及
- (b) 政府是否知悉股票、期貨經紀及其從業員是否不准與客戶對盤；若然，這樣的限制是否違背自由貿易的政策？

SECRETARY FOR FINANCIAL SERVICES: Mr President,

- (a) "Rat trading" is a term which has been used for many years in the Hong Kong securities and futures markets. It is a generic term covering a wide range of malpractices by brokers or their staff (staff trading dishonestly, to the disadvantage of clients. This trading invariably results in material benefits to brokers or their staff at the expenses of unsuspecting clients, by not giving clients the best execution of their orders. This is usually achieved by delaying notification of trade executions so as to take advantage of short-term swings in the purchase and sale price of the transaction and by interposing an additional transaction by themselves between the client and the market. As a result, the clients will almost inevitably receive an inferior price in the execution of their orders. In an effort to mask delays and identities of trading activities, the staff will often open an account (that is, a "rat account") either with the broker with whom the staff work or, more commonly, with another broker.

To the extent that brokers or their staff engaging in "rat trading" will not be acting in the best interests of their clients as required by the Rules of the Exchange, neither the Government nor the Securities and Futures Commission would condone such practices.

- (b) The Securities and Futures Commission and the two exchanges have established rules and codes of conduct which a broker should follow when dealing in transactions either for his own account or for his clients. The objective is to protect the interests of investors and to ensure that the broker conducts his business in a manner which contributes towards the maintenance of a fair and orderly market.

These rules and codes of conduct do not forbid brokers and their staff to match orders with their clients as such. Rather, they spell out clearly the principles and practices which a broker shall follow when carrying on cross trading between clients and between the client and the broker (or staff). Among other things, client orders should receive the best available execution and be given precedence over house orders. Moreover, before entering into such transactions, the broker must disclose to his client the fact that he has a material interest in the transactions and receive the client's consent either orally or in writing. The broker also must take all reasonable steps to ensure fair treatment of the client.

We are aware also that as part of their internal control measures, the better managed brokers have rules requiring orders to be time-stamped so as to provide an audit trail. Indeed, some brokers go to the extent of prohibiting their staff from matching their own orders with those of clients or dealing through other brokers.

Consultancy Studies on Reclamation and Redevelopment

9. **MISS CHRISTINE LOH asked:** *In regard to major consultancy studies relating to reclamation and redevelopment, will the Government inform this Council:*

- (a) *of the terms of reference, cost and completion date in respect of each of the studies undertaken since 1993; and*

- (b) *whether consideration is being given to undertaking similar studies in the near future; if so, what are the objectives and cost estimates of such studies?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, consultancy studies relating to reclamation and redevelopment include strategic planning studies, preliminary project feasibility studies and detailed project engineering studies.

Details of major consultancy studies undertaken by the Government since 1993 are at Table 1.

Details of other major consultancy studies which are tentatively planned to start before 1997 are at Table 2.

Table 1 : Major consultancy studies conducted since 1993

<i>Study</i>	<i>Start/ Completion Dates</i>	<i>Terms of Reference</i>	<i>Costs (\$/M)</i>
Hong Kong Island West Development Statement	Jan 1993 to late 1995	Formulate overall planning framework, urban renewal framework and land use sectoral action plan and, examine the institutional arrangements and resource implications for implementation of the proposal in various sections of Hong Kong Island	4.9
Wan Chai Reclamation Phase I	Jun 1993 to Nov 1993	Study the viability of, and determine the extent and amount of infrastructure and associated cost for the reclamation	3.5
Green Island Public Dump	Aug 1993 to Sep 1995	Assess the environmental and traffic impacts	5.5

Pak Shek Kok Reclamation	Sep 1993 to Apr 1994	Assess the environmental impact and road access	2.3
Lantau Port Development Stage I - Design of Reclamation for Container Terminals 10 & 11 & Back-up Areas	Jan 1995 to Dec 1995	Study the detailed engineering design of the reclamation and edge structures for the container terminals	22.0
Central Reclamation Phase III	Feb 1995 to Mar 1997	Study the detailed design and site investigation	65.0
Tsuen Wan Bay Further Reclamation	Jun 1995 to Mar 1996	Conduct engineering, planning and environmental investigations	10.0
Kowloon Point Development Feasibility Study	Aug 1995 to Nov 1996	Study the feasibility of the development	32.0
South East Kowloon Development Feasibility Study	Sep 1995 to May 1997	Study the feasibility of transforming the South East Kowloon Development Statement into action plans for implementation	85.0

Table 2: Major consultancy studies planned between now and 1996

<i>Study</i>	<i>Tentative Start/</i>	<i>Terms of Reference</i>	<i>Estimated Costs</i>
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	<i>Completion Dates</i>		<i>(\$/M)</i>
Green Island Stage I	Apr 1996 to Jul 1998	Conduct review studies, and study the detailed design and site investigation	64.0
Wanchai Reclamation Phase II	Apr 1996 to Sep 1997	Detailed design and site investigation	140.0
Tsuen Wan Bay Further Reclamation	Jun 1996 to Jan 1999	Study the detailed design	13.0
Tseung Kwan O Area 131	Aug 1996 to Dec 1997	Analyse and select a layout for the development of the area for mid-stream cargo handling facilities, a concrete batching plant and a barging point	13.0

Illegal Occupation of Government Land

10. 李華明議員問：近來很多屬於官地的山坡遭人非法開墾，大多作為耕種之用；這種情況已漸趨嚴重，單是觀塘區已有多處山坡出現類似情況。政府可否告知本局：

(a) 現時全港有多少位於官地的山坡遭人非法開墾耕種；

(b) 山坡遭人非法開墾耕種會否增加山泥傾瀉的危險；及

(c) 政府有甚麼短期及長期措施防止官地遭人非法佔用？

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President,

(a) we regret that we have not kept specific statistics on the number of

sites situated on hillsides located on government land which has been illegally opened up for farming. Undertaking such a survey is very resource intensive and not possible in the time given to reply to the question. The Lands Department's practice is to act on complaints received on illegal occupation or use of government land. We shall be very happy to act on the cases mentioned by the Honourable Fred LI if he can provide some information to us.

- (b) the opening up of hillside for farming may under certain circumstances increase the risk of landslips. It is not possible to generalize the situation as many determining factors are involved, such as the scale, size and nature of the farming activities, the original condition and margin of stability of the hillside in question, and the impact of the former on the latter.
- (c) the Government has power under the Crown Land Ordinance (Cap. 28) to take action against unauthorized occupation of government land. We will continue to respond to reported cases of illegal occupation of government land as well as cases detected during patrols made by district land staff.

Pollution in Victoria Harbour

11. 梁耀忠議員問：鑑於維多利亞港的污染問題日益嚴重，政府可否告知本局：

- (a) 在海港兩岸批核了多少項龐大的填海工程；及
- (b) 有何措施防止有關工程對海港造成污染？

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, seven reclamation projects have been approved in the Victoria Harbour. They are Central Reclamation Phase I, Central Reclamation Phase II, Wan Chai Reclamation Phase I, Aldrich Bay Reclamation, Belcher Bay Reclamation, West

Kowloon Reclamation, and Stonecutters Island Naval Base.

Reclamation projects by themselves are not the cause of pollution. However, they could affect the hydrology in the harbour which might have an impact on water quality. Measures have therefore been taken at both the planning and implementation stages to ensure that any impact is kept within acceptable levels.

At the strategic planning level, the cumulative hydrological and water quality impacts resulting from reclamation projects have been assessed in the context of Territorial Development Strategy, Metroplan and Port and Airport Development Strategy. Engineering hydraulics studies have been undertaken to study the effects of reclamation projects and other harbour engineering works on tidal flows, wave propagation and sediment deposit. A large scale physical tidal model has been built to facilitate in-depth investigation of the hydraulic effects of such coastal developments.

At the project design level, detailed engineering studies and environmental impact assessments are conducted before the projects are implemented to ensure that the water quality impacts during and after construction do not exceed acceptable limits.

Careful construction programming and monitoring also ensure that any water quality problems caused by the reclamation works is kept to the minimum. Wherever necessary a seawall is first constructed at the perimeter of the reclamation. A carefully planned, controlled, and supervised dredging and in-filling operation then takes place behind the seawall to prevent floating refuse from reaching the harbour and minimize turbidity problems caused by siltation. Furthermore, a comprehensive monitoring programme for each reclamation is established with well-defined action levels for key water quality indicators such as suspended solids, dissolved oxygen, turbidity, and temperature. If monitoring results should indicate action levels are in danger of being breached, the site staff would alert the contractor and require him to tighten the environmental mitigation measures in accordance with the contract specifications.

The main source of pollution in the Victoria Harbour is sewage discharges. This problem is being tackled by actions to declare the Harbour as a Water Control Zone and by the construction of Phase I of the Strategic Sewage Disposal Scheme which when completed in 1997 will improve the water quality of the Harbour by 70%.

Expenditure on Public Dental Services

12. DR LEONG CHE-HUNG asked: *With regard to dental services financed by public funds, will the Administration provide this Council with the annual breakdown in respect of the following areas in the past five years:*

- (a) overall expenditure;*
- (b) expenditure on direct services;*
- (c) expenditure on staff training;*
- (d) expenditure on public education; and*
- (e) the staff establishment and strength by major ranks for providing such services.*

SECRETARY FOR HEALTH AND WELFARE: Mr President, the annual breakdown of dental services financed by public funds in the past four years is as follows:

<i>Approved Estimates (Note 1)</i>			
<i>1992-93</i>	<i>1993-94</i>	<i>1994-95</i>	<i>1995-96</i>
<i>\$M</i>	<i>\$M</i>	<i>\$M</i>	<i>\$M</i>

(a) overall expenditure	258.2	298.9	334.6	361.8
(b) expenditure on direct services, that is, services provided to government servants/dependants of government servants, primary school children participating in the School Dental Service Scheme, special needs group as well as emergency treatment and in-patient dental treatment as an essential part of medical treatment	236.3	273.0	307.9	333.4
(c) expenditure on staff training, that is expenditure on the Dental Therapists Training School and expenses under departmental training vote for dental and para-dental staff	16.1	16.8	17.2	18.3
(d) expenditure on public education	5.8	9.1	9.5	10.1

The required information for the year 1991-92 has not been provided. It is because with a change in the programme management structure in 1992-93, the two sets of figures cannot be directly and meaningfully compared.

Note (1): 1995 salary revision has not yet been taken into account under this column

(e) The staff establishment and strength providing dental services by major ranks as at 1 September in the past five years are as follows:

	<i>1991</i>		<i>1992</i>		<i>1993</i>		<i>1994</i>		<i>1995</i>	
	<i>E</i>	<i>S</i>	<i>E</i>	<i>S</i>	<i>E</i>	<i>S</i>	<i>E</i>	<i>S</i>	<i>E</i>	<i>S</i>
Consultants	8	8	8	8	9	8	10	8	11	10
Principal Dental Officers	1	1	1	1	1	1	1	2	1	1
Senior Dental Officers	38	33	38	36	38	35	41	33	43	33
Dental Officers	134	130	134	135	140	138	151	159	158	167
Tutor Dental Therapists	4	4	4	4	4	4	4	4	4	4
Senior Dental Therapists	19	19	19	17	19	19	19	19	19	17
Dental Therapists/Students DTS	270	253	270	258	270	260	270	255	270	263
Dental Hygienists	8	3	8	4	8	6	8	6	9	8
Senior Dental Surgery Assistants	34	27	34	32	34	30	40	39	42	37

166 158 167 163 167 169 179 170 186 175

Dental Surgery

Assistants

Governor's District Visits

13. 張文光議員問：總督履任至今，曾先後巡視香港各區，政府可否告知本局：

- (a) 總督履任至今曾巡視的地區及日期；
- (b) 在總督巡區前，政府部門曾預先在哪些地區進行特別的粉飾工作，例如髹灰水、加建或改建、進行額外清掃工作，以及要求總督只參觀預先粉飾的單位等；這些特別粉飾工作每次涉及的費用分別若干；
- (c) 總督事先是否知悉和同意有關部門在其巡區前所進行的粉飾工作；又他在巡區時曾否聽到市民投訴政府部門粉飾太平及隱瞞真相等的的不滿意見；及
- (d) 政府有否考慮在總督巡區前進行額外的粉飾工作，會隱瞞該區的現實情況，令他不能確切了解市民的生活質素和實況；又政府會否檢討現時總督巡區時所採取的額外粉飾工作，使總督能真正了解居民的民生、民情和民怨？

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

- (a) Since arriving in Hong Kong in July 1992, the Governor has made 40 district visits as part of a continuing programme to familiarize and update himself with district issues and personalities. A detailed list of the districts visited is at Annex. The Governor has also made other theme visits and unannounced visits for specific purposes, such as seeing for himself living conditions in Temporary Housing Areas (THA).

(b) and (c)

One of the main aims of the Governor's visits is to enable him to see for himself what places are like in the normal course of events. It is not usual practice for government departments to undertake redecoration or improvement work specifically for visits by the Governor. All government departments are aware that they should not go beyond normal cleansing or maintenance of public facilities or venues which the Governor would be visiting and that they should resist any temptation to provide an unnaturally favourable impression. Indeed, the Governor has asked specifically that this should not be done. The only exception should be where it is relevant to demonstrate a revised standard. This was the case with the recent visit by the Governor to a THA where one of the several units seen by the Governor had been refurbished. This was done, with the knowledge of the Governor, to demonstrate the improved refurbishment standard which will be applied by the Housing Department.

The costs of routine cleansing and maintenance are absorbed as part of normal department expenses.

- (d) The Governor makes a point of talking to as many people as possible during his visits to help give him a better understanding of the feelings and aspirations of the residents. Very often the Governor achieves this by detouring from the suggested routing and visiting facilities not on the suggested programme. For the same reason, the Governor undertakes unannounced visits to see first-hand the situation on the ground and to talk directly to residents and members of the public.

Annex

The Governor's Visits to Districts

1992

1994

Date

District

Date

District

10 July	Mongkok	28 Jan	Southern
2 Sept	Sham Shui Po	2 Mar	Tai Po
23 Sept	Islands	16 Mar	Wong Tai Sin
14 Oct	Southern	13 April	Sha Tin
28 Oct	Tsuen Wan	4 May	Wan Chai
4 Nov	Central and Western	1 June	Tuen Mun
2 Dec	Tai Po	19 June	Kwai Tsing
9 Dec	Wong Tai Sin	12 Oct	Yau Tsim Mong
16 Dec	Kwai Tsing	20 Oct	Sai Kung
		30 Nov	Kwun Tong

1993

1995

<i>Date</i>	<i>District</i>	<i>Date</i>	<i>District</i>
6 Jan	North	12 Jan	Yuen Long
13 Jan	Wan Chai	15 Feb	Kowloon City
24 Feb	Sha Tin	3 Mar	North
3 Mar	Yau Tsim	15 Mar	Central and Western
10 Mar	Tuen Mun	14 June	Eastern
17 Mar	Central and Western	19 July	Tsuen Wan
24 Mar	Sai Kung		
28 April	Yuen Long		
14 May	Eastern		
26 May	Kowloon City		
3 June	Kwun Tong		
30 June	Mongkok		
29 Sept	Mongkok		
13 Oct	Sham Shui Po		
8 Dec	Islands		

Total number of visits : 40

Open-air Bus Stops

14. 陳榮燦議員問：有關三間專利巴士公司的戶外巴士站，政府可否告知本

局：

- (a) 當中有多少設有上蓋，而三間公司分別擁有此類巴士站的數目多少；
- (b) 是否有政府部門負責規定及監管巴士站的設施；及
- (c) 會否考慮要求巴士公司將來在所有巴士站加設上蓋，使市民在等候巴士時可以更舒適？

SECRETARY FOR TRANSPORT: Mr President,

- (a) There are 5 214 bus stops. 1 570 of these have shelters. Details are annexed.
- (b) The bus companies have an on-going programme to provide new shelters. These programmes are monitored and approved by the Transport Department in consultation with interested parties including District Offices with regard to priority, site suitability and local acceptance. The design and construction of bus shelters have to be approved by the Highways Department.
- (c) Our policy is to encourage franchised bus companies to provide bus shelters where possible. However, there are locations where shelters cannot be constructed because of the narrow width of pavement, engineering problems or local objections.

Annex

<i>Company</i>	<i>No. Of bus stops provided</i>	<i>No. Of bus stops with shelters</i>
Kowloon Motor Bus	3 714	1 322
China Motor Bus	788	123

Citybus	587	50
New Lantau Bus	125	75
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Total	5 124	1 570

Regulation of Residential Homes for the Elderly

15. 黃錢其濂議員問：政府可否告知本局：

- (a) 在推行規管本港老人住宿院舍的法例方面的進度如何，其中可有遇到困難；若有，困難為何；及
- (b) 鑑於北角一間私營安老院的火災事件，政府是否打算修訂法例中有關安全方面的條文，以保障居住於該等私營安老院的老人的利益？

SECRETARY FOR HEALTH AND WELFARE: Mr President, the reply is as follows:

- (a) the Residential Care Homes (Elderly Persons) Ordinance and Regulation came into effect on 1 April 1995 (except for Section 6 of the Ordinance). Relevant application forms and other documentation were then distributed to the operators of all residential care homes for the elderly. As at 17 October 1995, a total of 259 applications (from 44% of the total number of known residential homes) had been received of which, 185 came from private homes, 62 from subvented homes and 12 from self-financing non-profit-making homes.

Four teams of inspectors covering social work, building safety, fire safety and health, have started inspection visits to residential care homes to vet their applications for licences or certificates of exemption. We expect the first batch of licences and certificates to be issued at the end of this month.

We have encountered some problems at this early stage of implementing the legislation. For example, some residential care homes have been found to be operating out of non-domestic premises. This is not strictly in accordance with planning and building requirements, but the Social Welfare and Buildings Departments have agreed that a flexible approach should be adopted in such cases provided that fire precaution measures are up to standard and the homes do not have any unauthorized building works. Private homes which were found to have serious safety problems have, on the advice of our inspectors, either already been reprovisioned elsewhere or have had the necessary remedial changes carried out to make them acceptable.

The shortage of nursing staff in all residential care homes and health care staff in private homes has been another major problem. Additional funding has been secured to expand the training of health workers from 400 places to 1 200 places by March 1997.

- (b) Even before the introduction of this new legislation, it was standard practice of the Fire Protection Bureau of the Fire Services Department to pay visits to newly established residential care homes for the elderly to explain the fire prevention measures needed. Staff of the Social Welfare Department have also regularly reminded home operators to follow the advice of the Fire Services Department in this respect and have issued letters regularly advising on the need to pay attention to fire safety measures.

With the introduction of the Residential Care Homes (Elderly Persons) Ordinance, all residential care homes for the elderly are now under a statutory obligation to comply with fire services requirements. Senior Station Officers of the Licensing Office of Residential Care Homes for the Elderly give in-depth guidance and advice on fire precaution measures to operators of residential care homes for the elderly when processing their applications for licences or certificates of exemption.

The fire which occurred recently in a private residential care home for the elderly in North Point was a minor incident caused by an

electrical malfunction in a wall-mounted fan. Although this home had not yet submitted its application for a licence or certificate of exemption, the home was equipped with the basic fire services equipment and the operator possessed adequate knowledge about fire fighting. As a result, the fire was put out immediately.

This fire was a relatively minor and isolated incident which does not point to any inadequacy in the safety aspects of our legislation. Indeed, the fire was dealt with effectively and the electrical fault which caused it would have been difficult to detect whatever statutory requirements had been in effect at that time.

University Hostel Provision

16. 黃偉賢議員問：據悉今年部分居於元朗、屯門，以及北區的港大學生不獲安排宿舍，令學生飽受長途跋涉之苦。就此事宜，政府可否告知本局：

- (a) 政府在撥款資助大學提供學生宿位時，有否訂明條件要求有關大學優先編配宿位予居於偏遠地區的學生；及
- (b) 政府對住在偏遠地區而未獲分配宿位的學生會提供何種協助；及會否考慮給予他們租金津貼或交通津貼？

SECRETARY FOR EDUCATION AND MANPOWER: Mr President,

- (a) Under the existing policy, the tertiary institutions funded by the University Grants Committee (UGC) are provided with capital subvention to cover at most 75% of the total construction costs of the approved hostel places. They are required to meet at least 25% of the total construction costs from private donations and also the recurrent costs of the hostels. In allocating the capital grants to the institutions, the Government and the UGC do not stipulate the conditions for the allocation of the hostel places. It is up to the institutions to allocate the hostel places to their students. Nevertheless, it is understood that the student's travelling time

between home and campus is one of the main criteria used by the institutions for allocating hostel places to students.

- (b) Students living in remote areas who have financial difficulties may apply for financial assistance under the Local Student Finance Scheme (LSFS). Under the LSFS, grants are provided to eligible students to cover their academic expenses, that is, tuition fees, student union fees and other academic expenses whereas loans are provided to cover their living expenses which include expenses on accommodation and transportation. Recognizing that students residing in hostels and rented accommodation have a greater financial burden, student accommodation expenses are allowed to be deducted as necessary household expenses in the calculation of annual disposable income (ADI) for determining the level of grant and loan starting from the 1993-94 academic year. In addition, the expenses of the applicants' siblings on hostel fees or rented accommodation are also included as necessary household expenses in the calculation of the ADI in the 1995-96 academic year. These improvements have increased the amount of financial assistance available to tertiary students living in hostels or rented accommodation near their place of study.

Apart from the grant and loan under the LSFS, students living in remote areas may also apply for the Student Travel Subsidy Scheme. Under the Scheme, full-time students aged between 12 and 25 who have not completed their first degree courses and who have passed the means test are provided a travel subsidy to cover part of their travel expenses for education related trips. In general, students residing farther away from their institutions will be entitled to higher rates of subsidy. The level of subsidy will be updated annually to take into account the latest revision of public transport fares. The subsidy for each university student in 1994-95 varied between \$570 and \$5,500 per annum.

Election Complaints

17. 劉慧卿議員問：在一九九五年九月十七日舉行的立法局選舉中，有市

民投訴在未獲知會的情況下，被當局從選民登記冊上刪除其姓名。在點票過程中，亦出現投票人數與選票數目不符，以及點票紀錄計算錯誤的情況。政府可否告知本局：

- (a) 導致上述情況的原因；及
- (b) 如何保證有關情況不會令選舉結果出現偏差？

SECRETARY FOR CONSTITUTIONAL AND AFFAIRS: Mr President, the Legislative Council elections held on 17 September 1995 were a great success all round. The electoral arrangements were open and fair, and a record number of electors took part in the elections. Overall, the elections were conducted smoothly and in an orderly manner.

The incidents mentioned in the question relate to:

- (a) some people having been unable to vote because their names were not found in the register of electors;
- (b) discrepancies which had been identified during the process of vote counting, that is those between the summary ballot paper accounts and the actual number of ballot papers found inside the ballot boxes; and
- (c) a miscalculation in the number of votes counted in the process of vote counting.

Regarding (a), immediately following the elections, the independent Boundary and Election Commission conducted a thorough investigation into these incidents. The investigation in respect of the New Territories Northwest and New Territories North Constituencies, where two candidates involved also voiced criticism, has been completed. According to the Commission's findings announced on 12 October 1995, out of the reported cases in the two constituencies, about 30% to 40% are former electors whose names had been

deleted from the register of electors as a result of the annual vetting exercise. The rest are either electors who are still on the register but had gone to the wrong polling stations, or persons who have never been registered as electors.

The vetting exercise, conducted by the Registration and Electoral Office every year to ensure the accuracy of the register, is essential in maintaining the credibility and integrity of our electoral system. The elaborate vetting procedures are designed to ensure that no electors would be deleted from the register lightly. There is also an appeal mechanism already built into the existing arrangements to guard against wrongful deletion. The Commission's findings confirm that the vetting arrangements had been carried out in accordance with the law.

Regarding (b), a summary ballot paper account was prepared in respect of each polling station at the close of poll. The discrepancies which occurred between the accounts and the actual number of ballot papers found inside the ballot boxes could be caused by miscalculations by polling staff in compiling the accounts. In all cases, the discrepancies had been verified by the relevant returning officers in the presence of the candidates and agents present at the count.

Regarding (c), there was a miscalculation of the number of votes counted in the Kowloon Southeast Constituency. The Commission found that this was due to a clerical error in that extra votes had been inadvertently added to the total number of votes received by the losing candidate of that constituency. However, the election result for this constituency had not been affected.

Following the discovery of the above error, the Registration and Electoral Office conducted a thorough check of the available counting records in respect of all the other constituencies and all relevant calculations have been found arithmetically accurate. The Commission is therefore satisfied that the discrepancy found in the Kowloon Southeast Constituency was only an isolated incident.

Results of the Commission's investigations into these incidents have been made known to the public. They have not altered the fact that the arrangement for the September Legislative Council elections were open and fair. However, if any candidate or electors (10 or more) feel aggrieved by the election results,

the avenue is open to them to consider presenting an election petition to the High Court within two months of the publication of the result of the elections in accordance with the provisions laid down in the legislation.

Heavy Vehicle Traffic at Cross Harbour Tunnel

18. 詹培忠議員問：由於海底隧道港島入口經常擠塞，政府可否告知本局：

- (a) 有否規定巴士及重型車輛一定要駛入港島入口處左邊的行車道；若然，原因為何；
- (b) 若(a)項答案屬肯定，政府是否會檢討該項規定，以避免令司機混淆；及
- (c) 會否研究修改該項規定的可能性？

SECRETARY FOR TRANSPORT: Mr President,

- (a) It is stipulated in Bylaw 13 of the Cross Harbour Tunnel Bylaws that buses and other heavy vehicles must use only the left hand lanes in the tunnel, except when otherwise directed by uniformed tunnel staff. The purpose is to keep slower moving vehicles in the inside lane for traffic management reasons and for safety reasons. For example, this would facilitate bus passengers alighting on the kerb side in case of emergencies.
- (b) The requirement for heavy vehicles to use the left hand lane is sign posted at the tunnel entrances. This practice is well-known and has not caused any confusion to motorists. The main cause of traffic congestion at the Hong Kong entrance to the Cross Harbour Tunnel is not the movement of heavy vehicles to the left hand lane, but the fact that the tunnel itself is operating far beyond its designed capacity.
- (c) The Transport Department and the tunnel operators regularly review the traffic flow system in the tunnel and its approaches, and they are satisfied that the current arrangements are the most practical and are

justified on traffic management grounds and for safety reasons.

Consultancy Study on Container Port Industry

19. **MISS CHRISTINE LOH asked:** *The Government has indicated that it will soon invite tenders for a multi-million dollar consultancy study on the container port industry and its effects on the long-term sustainability of economic activity in the territory. This study will propose an economic development plan for the territory's port and port-related service sector industries for the next decade and beyond. Will the Government inform this Council:*

- (a) of the detailed objectives and cost estimate of the upcoming study; and*
- (b) whether this study will incorporate the rapid development of manufacturing and port services in the Pearl River Delta Region?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, the Government has no plans for a specific study as described in the question but is exploring ideas for a study of sustainability and development for Hong Kong in the 21st century, including issues relating to the port, developments in the wider region, and other development issues. We have not yet finalized the scope and costs of the study.

We expect to be able to include information about the study in the third Review of the White Paper on the environment, to be published in the next few months.

Freedom of the Press

20. **梁耀忠議員問：**鑑於香港記者席揚被中國政府囚禁，而近期亦屢次發生香港新聞從業員在中國大陸採訪時遭受阻撓的事情（包括無線電視及《壹週刊》記者被扣押的事件），政府可否告知本局：

- (a) 香港政府對上述事情採取了甚麼跟進行動；又是否知悉英國政府採取甚麼行動；及
- (b) 如何落實和保障本港的新聞自由，以及如何避免上述情況在本港發生？

SECRETARY FOR HOME AFFAIRS: Mr President,

- (a) We have conveyed to the Chinese authorities the widespread concern in Hong Kong, both in media circles and more widely, about the case of Mr XI Yang and the need for clearer guidelines for journalists working in China. In Mr XI's case, we have raised the case on many occasions with the Chinese authorities and our efforts were reinforced by the British Government. Mr XI's case was raised by Mr Douglas HURD during his meeting with Vice-Premier QIAN Qichen in April 1995 and also by Mr Malcolm RIFKIND during his recent meeting with Mr QIAN in London. The Hong Kong reporters involved in the two recent incidents were detained only briefly. Neither their families nor their employers asked us to intervene. Nonetheless, we monitored the developments closely and were pleased to note that the matters were resolved rapidly in each case.
- (b) Freedom of the press is a vital part of Hong Kong's way of life. It is protected and guaranteed in the Bill of Rights, the Joint Declaration and the Basic Law. The Government is fully committed to the principle of press freedom. This commitment is backed up by a comprehensive review of legislation with the aim of identifying provisions which might infringe press freedom or conflict with the Bill of Rights. Our review has covered 53 provisions in 27 Ordinances. To date, we have dealt with 43 provisions, including 31 provisions which have been amended or repealed. We have, for example, swept away old and excessive regulations to deal with emergencies while preserving the means to act swiftly to protect public safety in an emergency in ways which are consistent with the Bill of Rights and the International Covenant on Civil and Political Rights. In other areas, we have scrapped

powers to pre-censor TV and radio broadcasts, relaxed police powers regulating public meetings and processions, restricted the powers of law enforcement agencies to enter premises to search for and seize journalistic materials, and given the press more freedom to report and comment upon court proceedings. Action is in hand to complete work on the remaining laws.

BILLS

First Reading of Bills

**LEGAL AID SERVICES COUNCIL (NO. 2) BILL
PREVENTION OF BRIBERY (MISCELLANEOUS PROVISIONS) (NO. 2)
BILL 1995**

**INTELLECTUAL PROPERTY (WORLD TRADE ORGANIZATION
AMENDMENTS) BILL 1995**

GAS SAFETY (AMENDMENT) (NO. 2) BILL 1995

BANK NOTES ISSUE (AMENDMENT) BILL 1995

BUILDINGS (AMENDMENT) (NO. 3) BILL 1995

AIR PASSENGER DEPARTURE TAX (AMENDMENT) BILL 1995

TAX RESERVE CERTIFICATES (AMENDMENT) BILL 1995

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

Second Reading of Bills

LEGAL AID SERVICES COUNCIL (NO. 2) BILL

THE CHIEF SECRETARY to move the Second Reading of: "A Bill to

establish the Legal Aid Services Council and for related matters."

She said: Mr President, I move that the Legal Aid Services Council (No. 2) Bill be read the Second time. The Bill provides for the establishment of an independent Legal Aid Services Council to oversee the publicly-funded legal aid services operated by the Legal Aid Department and the Duty Lawyer Service. Members will recall that this Bill was introduced into this Council on 22 February, but the Council was unable to accord priority to it, as there were other more pressing commitments at that time, so that it lapsed at the end of the 1994-95 session.

The establishment of a Legal Aid Services Council was one of 25 recommendations made by a Working Group whose report was approved by the Executive Council and published in July last year, and which took into account the comments received on proposals set out in a public consultation paper released in April 1993. The other areas covered by the report involved improvements to the scope and operation of the legal aid scheme. These improvements were implemented via the Legal Aid (Amendment) Ordinance 1995, which was passed by this Council on 15 June and commenced operation on 28 July.

Let me make it clear at the outset that the Administration does not at present interfere with decisions made by the Legal Aid Department or the Duty Lawyer Service on the granting of legal aid. The Director of Legal Aid has a statutory obligation under the Legal Aid Ordinance to consider applications before her independently; and the Duty Lawyer Service is administered jointly by the Bar Association and the Law Society. However, the Administration recognizes that the status of the Legal Aid Department as a government department may create a perception problem in some quarters. We have therefore accepted the recommendation of the Working Group that an independent statutory Legal Aid Services Council should be set up.

To safeguard the independence of the Legal Aid Services Council, clause 3 of this Bill establishes it as a body corporate which can take action to enforce its legal rights or can be sued for breach of its legal duties. It will not be an agent of the Crown and will therefore not enjoy any status as such. Clause 15 also

adds the Council onto the Schedule of public bodies under the Prevention of Bribery Ordinance.

Clause 4 of the Bill sets out the functions of the Council clearly. Its main function will be to oversee the Legal Aid Department and the Duty Lawyer Service, although it will not interfere with their handling of individuals cases. The Council will also act as the Government's advisory body on the formulation of policies relating to legal aid and on the funding proposals/requirements of its executive agents.

Clause 5 of the Bill states that the Legal Aid Services Council will be chaired by a non-official who is independent of both the Government and the legal profession. Its members will include four lawyers and four lay persons, in addition to the Director of Legal Aid and the Administrator of the Duty Lawyer Service who are directly responsible for the provision of legal aid services. Members of the Legal Aid Services Council are required by clause 8 to disclose any interests that they may have in matters being considered by the Council. On the other hand, clause 7 protects individual members who act in good faith from civil liabilities for any act or omission of the Council.

Clauses 9 to 13 of the Bill deal with the *modus operandi* of the Council. To enhance its accountability, the Council will be required to submit an annual report to the Governor, and to table its report before this Council. The accounts of the Legal Aid Services Council will be subject to examination and inquiry by the Director of Audit.

The establishment of a Legal Aid Services Council will be far from a cosmetic change, as some critics have suggested. On the contrary, it will represent a significant policy change. It will provide a greater and more direct opportunity for public participation in legal aid administration and policy formulation and will therefore enhance the independence of legal aid administration. Some people have argued that we should go further and dis-establish the Legal Aid Department. The Administration is not convinced that this is the best way forward, but we are not ruling it out. Once the Legal Aid Services Council is established, we will ask the Council to examine the feasibility and desirability of this option.

Question on the motion on the second Reading of the Bill proposed.

Debate on the motion adjourned and Bill referred to the House Committee pursuant to Standing Order 42(3A).

**PREVENTION OF BRIBERY (MISCELLANEOUS PROVISIONS) (NO. 2)
BILL 1995**

THE ATTORNEY GENERAL to move the Second Reading of: "A Bill to make further and better provisions for the prevention of bribery."

He said: Mr President, I move that the Prevention of Bribery (Miscellaneous Provisions) (No. 2) Bill 1995 be read a Second time. This Bill is similar to the Prevention of Bribery (Miscellaneous Provisions) Bill 1995 that I introduced into this Council in May this year, but which lapsed on the dissolution of the Council in the summer. However, the Chinese text of the current Bill differs from that of the earlier Bill, reflecting the fact that an authentic Chinese text of the Prevention of Bribery Ordinance has since been gazetted.

The purpose of this Bill is to make the legislative amendments needed in order to implement the recommendations in the report of the Independent Commission Against Corruption (ICAC) Review Committee. That Committee was established at the beginning of 1994 to review the powers of the ICAC and its accountability in the exercise of its powers. It was chaired by Dr Helmet SOHMEN and included Members of this Council, community leaders and members of the Administration.

The report of the Review Committee was published in December 1994 and contained 76 conclusions and recommendations. Those recommendations may broadly be described as evolutionary rather than revolutionary. Members of this Council were given copies of the report, and the Security Panel of the Council discussed the report in January this year, when it expressed strong support for several of the recommendations.

The Administration has announced that, in principle, it accepts the recommendations in the report, although some minor procedural refinements may

be required in some cases. Certain of the recommendations can only be implemented by legislation, and that is the purpose of the Bill I am now introducing. In promoting this Bill, the Government's objectives are to strike a balance between two potentially conflicting views held in the community: namely, that the ICAC needs to have sufficient powers to be effective in the continuing battle against corruption; and that it should be more accountable and transparent in the use of those powers.

The Bill proposes amendments to the Prevention of Bribery Ordinance, the Independent Commission Against Corruption Ordinance and the Magistrates Ordinance. The amendments can be grouped into three categories.

Control by the courts

The first category relates to certain of the powers at present vested in the Commissioner of the ICAC, which are to be transferred to the courts. In particular, court approval will be needed in order for the ICAC to require a person to supply information under section 14 of the Prevention of Bribery Ordinance, to search premises (save in exceptional cases), or to prevent a suspect from disposing of property.

Bill of Rights Ordinance

The second category of amendments are to ensure that the legislation relating to the ICAC is consistent with the Bill of Rights Ordinance. The amendments will provide :

First, that the Commissioner's special powers of investigation arise only if he has reasonable cause to believe that an offence under the Prevention of Bribery Ordinance may have been committed;

Second, that the Commissioner's power to apply to a magistrate for a notice requiring a person to surrender his travel documents arises only if he reasonably suspects that person to have committed such an offence;

Third, that a person who has surrendered a travel document has the option of applying to the Commissioner of the ICAC, or a magistrate, or both for

its return; and

Fourth, that a statutory declaration or written statement made in compliance with a requirement under the Prevention of Bribery Ordinance will be admissible in evidence against the person who made it only if he gives evidence that is inconsistent with it.

Provisions in the Prevention of Bribery Ordinance that create a presumption of corruption and allow a court to comment on the failure of an accused to give evidence are to be repealed.

The opportunity presented by the Bill is taken to amend section 10(2) of the Prevention of Bribery Ordinance in order to ensure that it is safe from challenge under the Bill of Rights Ordinance. Section 10(1) makes it an offence for a Crown servant to maintain a standard of living above that which is commensurate with his official emoluments, or to be in control of pecuniary resources or property disproportionate to those emoluments. The importance of section 10 was recognized in a recent case decided by the Court of Appeal. I quote from the decision :

"And in case after case over the years, section 10 has proved its effectiveness in the fight against corruption. Although less visible, its deterrent effect must have been even greater. Chapter 201 of the Laws of Hong Kong is rightly named the Prevention of Bribery Ordinance. Section 10's worth is well-established."

At present section 10(2) creates a presumption, in a prosecution under section 10(1)(b), that certain assets were in the control of the accused, until the contrary is proved. It is now proposed to amend section 10(2) by replacing the legal presumption with an evidentiary presumption. The effect of this will be that the accused is not required to prove that the assets were not in his control, there merely has to be some evidence to that effect in order to displace the presumption.

Miscellaneous amendments

The third category relates to miscellaneous amendments. These include amendments :

- (a) to give the ICAC the same access to tax records as exists under the Drug Trafficking (Recovery of Proceeds) Ordinance and the Organized and Serious Crimes Ordinance;
- (b) to modify the power of the Commissioner of the ICAC to dismiss an officer under section 8(2) of the Independent Commission Against Corruption Ordinance;
- (c) to make it possible of the ICAC to keep a suspect on bail no longer than is necessary; and
- (d) to enable the Commissioner of the ICAC, in discharging specified corruption prevention duties, to gain access to all records, books and documents held by public bodies.

Comment

Mr President, this Bill is an essential step in reaffirming the ICAC's mandate in the light of present day circumstances and the changing expectations of the people of Hong Kong 20 years after the establishment of the ICAC.

Question on the motion on the second Reading of the Bill proposed.

Debate on the motion adjourned and Bill referred to the House Committee pursuant to Standing Order 42(3A).

INTELLECTUAL PROPERTY (WORLD TRADE ORGANIZATION AMENDMENTS) BILL 1995

THE SECRETARY FOR TRADE AND INDUSTRY to move the Second Reading of: "A Bill to amend the Copyright Ordinance, the Registration of Patents Ordinance, the Trade Descriptions Ordinance and the Trade Marks Ordinance."

工商司致辭：主席先生，我謹動議二讀《1995年知識產權（世界貿易組織修訂）條例草案》。

這條綜合修訂條例草案的目的，是修訂香港現行有關商標、專利權及版權的法例，使香港能完全符合世界貿易組織（以下簡稱“世貿”）協議中《與貿易有關的知識產權協議》（以下簡稱“《知識產權協議》”）的標準。

香港是關貿總協定烏拉圭回合談判所達成的世貿協議的其中一名簽署成員。世貿已於一九九五年一月一日成立，香港是該組織的創始成員，香港長駐世貿的代表並且獲推選為知識產權協議理事會主席。

《知識產權協議》的其中一個主要目的，是減少因知識產權保障不足而在貿易方面造成的障礙。作為世貿的其中一名創始成員，香港須向其他成員顯示會堅決履行世貿規定的責任。香港一直大力支持在多邊貿易制度下保障知識產權，而我們亦矢志履行《知識產權協議》所訂明的責任。盡早通過所需的法例，將有助提高香港作為一個國際貿易及服務中心的聲譽。海外投資者會增強日後在香港創造、製造和分銷擁有知識產權作品的信心。這樣會促進投資和提高香港在國際貿易社會上的競爭能力。

《知識產權協議》就各類知識產權，包括商標、產地指示、專利權、版權、工業設計、集成電路的布圖設計、保障未披露資訊權益及保障植物品種權益等，訂明世貿成員須遵守的標準。該協議亦訂明有關執行知識產權的邊關措施，以便商標及版權擁有人可向民事法院提出訴訟，行使其權利。

香港現行的知識產權制度大部分已符合《知識產權協議》的標準。不過，我們仍須作出一些相關的修訂。

主席先生，我現在簡述這條條例草案的主要條文，並闡釋該等條文如何使到香港可以履行《知識產權協議》的標準。

在商標方面，《知識產權協議》規定，任何能以圖示的標記均可註冊成為商標。我們建議擴闊可註冊為商標的範圍，尤其是貨品的形狀、顏色或字母，只要具有識別作用，亦可註冊成為商標。

與此同時，我們也須確保世貿成員在商標申請的優先權方面應獲得最惠國待遇。目前，總督在釐定商標申請的優先權時，只可在《商標條例》的附表中，訂明《關於保護工業產權巴黎公約》（以下簡稱《巴黎公約》）的締

約國可獲優先考慮。我們建議總督應有權在該附表中，訂明本身並非《巴黎公約》締約國的世貿組織成員，亦可獲優先考慮。

《知識產權協議》規定給予商標擁有人更大的保障，使他們可以阻止其他人在進行買賣時如未獲其同意，在相同或相似的貨品或服務上使用相同或相似的商標。我們建議將現行的條文修改，使之更清楚地確保擴大了的保護範圍。

《知識產權協議》規定須保障產地指示。產地指示是用以標示貨品或服務產地來源的標記或指示。我們認為產地指示可根據本港的《商標條例》視作證明商標而受到保障。為提高透明度及消除法例上有關保障範圍的任何不明確之處，我們建議修訂有關證明商標的條文。

在專利權方面，《知識產權協議》規定，各成員的政府在符合某些條件的情況下，才可未經專利權擁有人同意而徵用享有專利權的發明。我們建議訂定新條文，使政府只可在宣布進入極端緊急情況的期間，為了獲取足夠市民生活所需的供應品和服務，才運用有關的專利權，但政府須向專利權擁有人支付公平合理的報酬。這樣做是確保專利權擁有人的合法權益不會受到不公平的損害。建議的新條文會類似於一九九四年三月制定的《集成電路的布圖設計（拓樸圖）條例》的相關條文。

在版權方面，《知識產權協議》規定須保障“租借權利”和“表演者權利”。本港現行的版權法例並無就這兩類權利訂定條文。我們建議在《版權條例》制訂明確的條文，就這兩類權利作出規定。

根據建議的租借權利條文，電腦程式、影片和錄音的版權擁有人可阻止他人未經其同意而租借這些作品。任何人若未經許可而租借這些享有版權的作品，即屬侵犯版權。

為免租借權利可能遭濫用，我們建議制訂一項條文，容許工商司決定應否給予強制租賃特許。在作出有關決定時，工商司將會顧及多項因素，包括租借權擁有人在市場所佔的優勢、濫用情況的證據、有關版權物品的性質，以及涉及公眾利益的其他考慮因素等。我們亦建議擴大現有播演權審裁處（將改稱為“版權審裁處”）的權限，使該審裁處可釐定版權擁有人就其版權作品的租借而應得的合理版稅。

根據建議的表演者權利條文，音樂、戲劇和文學作品的表演者可阻止他人未經其同意而錄製及廣播他們的現場表演，並可阻止他人未經其同意而翻錄這些錄製品。

在香港或任何合資格國家定居或居住的表演者，均會享有表演者權利。總督可訂立規例，指定世貿的成員為合資格國家。合資格表演者在世界任何地方的表演，或在香港或任何合資格國家舉行的表演，均會受到保障。若干行為，例如將表演者的錄製品供私人使用、節錄一小段內容作報導時事用途或作教學或科學研究用途，均會視作非侵犯版權行為。界定這些行為為非侵犯版權行為是為了在保障公眾利益與保障版權擁有人的合法權益之間，謀求平衡。

最後，我們建議在版權法例和《商品說明條例》中制定新條文，提供邊境措施，以協助版權和商標擁有人向民事法院提出訴訟，以行使他們的權利。版權和商標擁有人將可向法院提出申請，要求香港海關總監扣押涉嫌侵犯版權的進口貨物，但須繳付一筆保證金。最初的扣押期限為十日，而申請人可要求法院批准延期最多十日。他們會有機會檢查被扣押的貨物，以便向民事法院提出訴訟。如申請人在扣押期限內並無向民事法院提出訴訟，則該批貨物須退還給進口商。

主席先生，我今天提交的《1995 年知識產權（世界貿易組織修訂）條例草案》，是一條綜合修訂草案，屬於臨時措施，目的在各項知識產權條例全面檢討完成前，使香港能盡快履行世貿組織成員的責任。在本立法年度的稍後時間，政府會提交全面的本地化《版權條例》、《專利權條例》及現代化的《商標條例》。當中會包括這條綜合修訂條例的條文。我們現正草擬這幾條全面並複雜的條例。鑑於中英聯合聯絡小組下的專家小組正在討論本地化建議，加上草擬這些法例需時，因此我們先行提交這條綜合修訂條例草案。我們希望在今年年底前能獲得通過

Question on the motion on the second Reading of the Bill proposed.

Debate on the motion adjourned and Bill referred to the House Committee pursuant to Standing Order 42(3A).

GAS SAFETY (AMENDMENT) (NO. 2) BILL 1995

THE SECRETARY FOR ECONOMIC SERVICES to move the Second Reading of: "A Bill to amend the Gas Safety Ordinance."

經濟司致辭：主席先生，我謹動議二讀《1995 年氣體安全（修訂）（第 2 號）

條例草案》。

本條例草案旨在根據安全理由，對氣體喉管附近進行的建築工程作出管制。草案最初於一九九五年三月八日提交本局，後因本局事務過多而延至今屆會期再次提交。

條例草案有四項主要規定。首先，條例授權總督會同行政局得以訂立規例，藉以管制在氣體喉管附近進行的工程。

第二，條例草案提高根據《氣體安全條例》制定的規例可訂立的最高刑罰，即是由現時罰款 25,000 元及監禁六個月，如持續再犯，則每日罰款 5,000 元，提高至罰款 20 萬元及監禁 12 個月，如持續再犯，則每日罰款一萬元。

第三，條例草案使氣體安全監督，即機電工程署署長，得以視察氣體喉管附近的工程，並可基於氣體安全理由，藉¹⁰ 敦促改善通知書，要求進行工程有關人士採取該等他認為必要的措施。

第四，條例草案使氣體安全監督在敦促改善通知書的規定未獲遵守的情況下，基於安全理由親自採取行動；並訂明可向沒有遵守敦促改善通知書指示的人，收回政府認為必須採取的任何預防或補救措施的費用。

條例草案倘獲本局通過，政府當局會隨即制定新規例，規定除非有關人士已查察氣體喉管的位置及採取步驟確保喉管不會因工程受損，否則不得在有關氣體喉管附近展開建築工程。

新規例特別規定有關人士必須採取一切合理步驟，在施工前確定氣體喉管的地點或位置。為協助進行這類工程的有關人士，氣體安全監督將會遠在該規例生效之前，公布工作守則，詳細說明氣體安全監督認為進行有關工程人員確定氣體喉管的地點和位置所需採取的合理步驟。

新規例亦規定有關人士必須採取一切合理措施，以防止氣體喉管受損，以免危及安全。倘有關人士沒有採取上述措施，一經定罪，可被處以條例草案新建議的最高罰則。不過，新規例亦規定只要有關人士能夠證明在工程展開前，他已採取一切合理步驟，以確定這些氣體喉管的地點和位置，便可以提出免責辯護。

條例草案會於頒布六個月後開始生效，以便氣體安全監督有時間制定

新的規例和發出工作守則，以及使氣體供應公司及建築業亦有時間適應新的規定。

主席先生，這些建議反映出，政府關注建造及掘路工程時常因不小心而損毀氣體喉管的情況。損毀氣體喉管的事件，在一九九四年有 120 宗，而本年至九月底為止，則有 71 宗。雖然這些事件大部分都幸好影響輕微，但氣體喉管受到損毀，可能會引起火警或爆炸，威脅到附近工人、市民和樓宇的安全。條例各項建議的目的是盡量減低這些潛在危險。我懇請本局早日考慮通過《1995 年氣體安全（修訂）（第 2 號）條例草案》。

Question on the motion on the second Reading of the Bill proposed.

Debate on the motion adjourned and Bill referred to the House Committee pursuant to Standing Order 42(3A).

BANK NOTES ISSUE (AMENDMENT) BILL 1995

THE SECRETARY FOR FINANCIAL SERVICES to move the Second Reading of: "A Bill to amend the Bank Notes Issue Ordinance."

財經事務司致辭：主席先生，我謹動議二讀《1995 年銀行紙幣發行（修訂）條例草案》。

本條例草案的目的，是修訂發行法定貨幣紙幣的法律架構，使其符合中英聯合聲明及基本法的規定。

聯合聲明及基本法清楚訂明，港幣的發行權屬於香港特別行政區政府，而香港特別行政區政府可授權指定銀行根據法定權限發行或繼續發行港幣。

目前的《銀行紙幣發行條例》並無訂明政府有發行紙幣的法定權力，亦無賦予政府特定權力以授權指定銀行發行紙幣。

為符合聯合聲明和基本法的規定，我們認為該條例應作出修訂，以訂明：

（一） 政府有法定權力發行貨幣；

（二） 政府有法定權力授權銀行發行或繼續發行貨幣；

(三) 如政府發行紙幣，會設有保證機制；及

(四) 政府有法定權力監管有關發行貨幣的安排。

我們建議授權財政司在總督會同行政局的批准下，可發行紙幣。為配合這項修訂，發行銀行紙幣的保證機制亦會適用於政府發行的紙幣。

雖然訂有上述授權條文，但政府無意取代發鈔銀行的發鈔職能。這一項修訂，純粹令《銀行紙幣發行條例》能夠符合聯合聲明和基本法的規定。

本條例草案亦明確賦予財政司一項法定權力，使其能在總督會同行政局批准下，可授權銀行發行或繼續發行貨幣。當條例生效時，現有的三間發鈔銀行將視為已獲授權。

本條例草案制定後，現有發鈔制度的主要特點（即三間發鈔銀行以負債證明書作為發行法定貨幣紙幣的保證）將維持不變。要注意的提議修訂只有兩項：

(一) 財政司在總督會同行局批准下，可就銀行紙幣的設計、面額及其他發行紙幣的安排，向發鈔銀行訂出各種規定及條件。目前，發鈔銀行實際上會就新銀行紙幣的設計，向金融管理專員徵詢意見；但政府現時並無批核銀行紙幣設計及監管其他貨幣發行安排的法定權力。

(二) 香港上海 豐銀行有限公司及渣打銀行將會停止發行信用紙幣。基於歷史原因，香港上海 豐銀行有限公司及渣打銀行過往發行了極少量銀行紙幣（數額分別是 6,000 萬元及 3,500 萬元）。該類紙幣是由存放於外匯基金的證券作為保證，而不是由無息負債證明書作為保證。基本法規定，“港幣的發行須有百分之百的準備金”。為符合上述規定，該兩間銀行同意在《銀行紙幣發行（修訂）條例草案》實施後，停止發行信用紙幣。《香港上海 豐銀行有限公司條例》有關發行該類紙幣的條文亦會予以廢除。

主席先生，本條例草案載有多項必要修訂，使有關條例能夠符合聯合聲明及基本法的規定，有助香港順利過渡九七。多謝。

Question on the motion on the second Reading of the Bill proposed.

Debate on the motion adjourned and Bill referred to the House Committee pursuant to Standing Order 42(3A).

BUILDINGS (AMENDMENT) (NO. 3) BILL 1995

THE SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS to move the Second Reading of: 'A Bill to amend the Buildings Ordinance.'

He said: Mr President, I move the Second Reading of the Buildings (Amendment) (No. 3) Bill 1995.

The amendment Bill was first introduced into this Council on 31 May this year as the Buildings (Amendment) (No. 2) Bill 1995. It was not processed for enactment before the expiry of the last Session, owing to the heavy workload of the Council at that time.

During the past few months, the Administration has further consulted concerned bodies on supplementary details. The Bill has been refined in a few areas, in particular as regards the supervision duties of different parties in a building project.

The Bill consists of two parts. One aims at improving the system of registration of building professionals. The other aims at tightening safety control over building works and sites with works in progress.

As regards the registration of Authorized Persons and Registered Structural Engineers, we propose to bring the existing system in line with the provisions of the Architects, Engineers and Surveyors Registration Ordinances.

Under the Bill, only a building professional who is registered under the relevant Registration Ordinance will be allowed to apply to be an Authorized Person or Registered Structural Engineer. Two registration committees will be formed to help the Building Authority examine the suitability of an applicant.

Most of the committee members will be nominated by the statutory Registration Boards of the respective professions.

The proposed change will ensure the competence of and help encourage self-regulation by building professionals.

As regards the registration of building contractors, we propose that two types of contractors, general building contractors and specialist contractors, should be registered. A contractor's qualifications, experience and competence will have to be assessed by the proposed Contractors Registration Committee, consisting mainly of representatives of the concerned industry and professional bodies, before registration.

Taking into account the views of the industry, we have refined the original proposal such that companies and partnership will continue to be allowed to register. If the contractor is a company or partnership, the directors, partners or senior staff nominated to act for it for the purposes of the Buildings Ordinance, such as in certifying prescribed documents, will also have to be assessed by the proposed Contractors Registration Committee. To remove the existing grey area in terms of statutory responsibility, such nominated directors, partners or senior staff will be subject to discipline on a personal basis. To illustrate this point, if the director of a contractor is convicted of misconduct, he or she will not be allowed to continue to act for another contractor.

Since the collapse of a part of a wall of a building under demolition at Nathan Road in September last year, the issue of construction site safety has raised increased and considerable public concern. Such concern is shared by the Administration. We therefore announced a comprehensive action plan outlining immediate, medium-term and long-term measures to tighten safety control over building and demolition works. The plan included a legislative review. The second part of the Bill is the result of this review.

The Bill proposes to enable the Building Authority, for public safety reasons, to :

- refuse to approve building or demolition plans or issue consent for the commencement or continuation of building works;

- require proper supervision and safety measures to be provided at work sites; and
- require the submission of relevant information so that the Building Authority can determine whether adequate safety measures have been implemented.

To ensure safety, the following will be made criminal offences under the Bill :

- failure to provide proper supervision of building works in prescribed manner; and
- non-compliance with the conditions attached to the Building Authority's approval of the building plan or consent to the commencement of building works.

This will cover building owners, registered contractors, site agents, works supervisors, building professionals and construction workers. Their responsibilities will be clearly defined, in the form of a supervision plan to be prepared by the professionals and approved by the Building Authority, which reflects their actual roles on a work site.

The Administration has thoroughly consulted all concerned bodies before finalizing the Bill. I am pleased that all parties share a common objective of improving safety at construction and demolition sites. The concerned industry bodies and the various advisory committees including the Land and Building Advisory Committee have given in-principle support for virtually all of the Administration's proposals.

I have to report that there is some disagreement from some professional institutes regarding the Administration's proposal to make failure to provide proper supervision by Authorized Person and Registered Structural Engineers a criminal offence. But our consensus in other areas far outweighs this difference. As I mentioned earlier, the proposed criminal liability is required to ensure safety. It is in line with sanctions for breaches of other provisions of the Buildings Ordinance and subsidiary Regulations, such as deviation from approved building plans.

The Bill is a reasonable, workable and effective approach in improving building and site safety. I recommend the Bill to Members.

Thank you, Mr President.

Question on the motion on the second Reading of the Bill proposed.

Debate on the motion adjourned and Bill referred to the House Committee pursuant to Standing Order 42(3A).

AIR PASSENGER DEPARTURE TAX (AMENDMENT) BILL 1995

***THE SECRETARY FOR THE TREASURY to move the Second Reading of:
"A Bill to amend the Air Passenger Departure Tax Ordinance."***

庫務司致辭：主席先生，我謹動議二讀《1995年飛機乘客離境（修訂）條例草案》。

凡從機場乘搭飛機離港的旅客，如年滿 12 歲或以上，均須繳付飛機乘客離境稅。現時各航空公司負責徵收離境稅。旅客離港前只可在航空公司的旅客登記櫃台繳付離境稅。

離港旅客當中，有不少是遊客。為改善對旅客提供的服務，我們曾研究其他徵收離境稅的方法，我們現在建議准許酒店向住客售賣離境稅券，藉以收取稅款。現時提交各位議員審議的條例草案，旨在使民航處處長得以委任酒店履行這項工作。這樣可令收稅工作更具靈活性。入住酒店的外地旅客不用再費心保留本地貨幣，以便在機場繳付離境稅。稅款亦可撥入酒店房租帳單，但酒店不會因提供該項服務而加收額外費用。這項建議已獲得香港旅遊協會及香港酒店業商會的支持。

條例草案的另一目的，是令民航處處長得以轉授其在該條例下徵收離境稅的權力及職能，並指明轉授的權力及職能的行使及執行方式。這樣可令收稅工作的管理更具靈活性。

主席先生，我建議本局通過條例草案。

Question on the motion on the second Reading of the Bill proposed.

Debate on the motion adjourned and Bill referred to the House Committee pursuant to Standing Order 42(3A).

TAX RESERVE CERTIFICATES (AMENDMENT) BILL 1995

***THE SECRETARY FOR THE TREASURY to move the Second Reading of:
"A Bill to amend the Tax Reserve Certificates Ordinance."***

庫務司致辭：主席先生，我謹動議二讀《1995年儲稅券（修訂）條例草案》。

根據本港的薪俸稅制度，稅款不會即時在納稅人所賺取的入息中扣除，納稅人是在賺取入息的課稅年度開始至少九個月後才須繳納以暫繳形式評估的薪俸稅。這種稅制的優點是，納稅人在有關期間可運用他的資金，而缺點則是部分納稅人可能並無預留足夠款項繳稅，因而在到期繳稅時出現經濟困難。因此，我們認為鼓勵及協助納稅人儲蓄，以準備繳稅，是有好處的。

現時提交各位議員審議的條例草案，旨在實施一項自願性質的即賺即付計劃，首先會以試驗形式只限向公務員推行。該計劃能提供另一個更方便並可自動儲蓄的繳稅方法。

根據該計劃，公務員可選擇授權庫務署每月在其薪酬中扣除一筆指定數額的款項，以使用作購買儲稅券。稅務局會將每筆購買儲稅券的款項，存入以該參加者名義開設的帳戶。為方便準備參加的人士及盡量減低有關費用，該計劃會以無票據形式運作，即當局毋須向購買者發出儲稅券。有關利息會按普通儲稅券的一般計息方法計算。在到期繳稅當日，帳戶內的累積款額將會用作支付稅款，而任何盈餘的款額都會在帳戶內結存。

條例草案倘獲得通過，我們打算立即實施這項計劃。我們會根據所吸取的經驗及其他行業對這計劃的需求，檢討其運作情況，並會考慮應否及何時分期把計劃擴展至其他納稅人，例如香港及海外的退休公務員。

條例草案亦會根據該條例訂立規則的權力，由總督轉授予庫務司。這一項權力並非重要的權力，由庫務司執行應較為適宜。

主席先生，我建議本局通過該條例草案。

Question on the motion on the second Reading of the Bill proposed.

Debate on the motion adjourned and Bill referred to the House Committee pursuant to Standing Order 42(3A).

MEMBER'S MOTIONS

PRESIDENT: The House Committee has recommended that I exercise my discretion under Standing Order 21(1) to dispense with the notice of Dr LEONG Che-hung's motion seeking to effect further amendments to the Standing Orders of this Council. I have accepted the recommendation because the proposed amendments to the Standing Orders are only technical in nature and should be made at the earliest opportunity.

HONG KONG ROYAL INSTRUCTIONS 1917 TO 1993 (Nos. 1 AND 2)

DR LEONG CHE-HUNG to move the following motion:

"That the Standing Orders of the Legislative Council of Hong Kong be amended -

(1) in Standing Order No. 4C(2) -

(a) by repealing "Standing Orders Nos. 1 and 6(1) (Oath or Affirmation), 3 (Presiding in Council and in Committee of the Whole Council), 4AA (Attendance of the Governor), 10 (Quorum), 13 (Petitions)" and substituting "Standing Orders Nos. 1 (Oath or Affirmation), 3 (Presiding in Council and in Committee of the Whole Council), 4AA (Attendance of the Governor), 6(1) (Proceedings at First Sitting of Session), 10 (Quorum), 13 (Presentation of Petitions)";

(b) in the proviso by repealing "paragraph (a) of Standing Order No. 29" and substituting "Standing Order No. 29(a)";

- (2) in Standing Order No. 16 (3A) by adding "(Notice of Questions)" after "Standing Order No. 17(4)";
- (3) in Standing Order No. 30(6) by repealing "given" and substituting "give";
- (4) in Standing Order No. 39(1) by repealing "or a designated public officer" where it secondly appears;
- (5) in Standing Order No. 60(2) -
 - (a) by repealing "members,," and substituting "members";
 - (b) by repealing "a chairman,," and substituting "a chairman";
- (6) in Standing Order No. 60E(5) -
 - (a) by repealing "The Panel may also elect a deputy chairman.";
 - (b) by adding "The Panel may also elect a deputy chairman." after "amongst its members.";
- (7) in Standing Order No. 64A(1) by repealing "paragraph (2)" and substituting "paragraph (1A)";
- (8) in Standing Order No. 67(3) by repealing "or a" and substituting a comma.

AND FURTHER RESOLVED that -

- (1) the Standing Orders of the Legislative Council of Hong Kong made by the Legislative Council under clause XXIII of the Hong Kong Royal Instructions 1917 to 1967 by Resolution made and passed on 9 October 1968 be amended in Standing Order No. 24(3) by repealing "sub-paragraphs (2)(a)

or (2)(b) of Standing Order No. 21" and substituting "Standing Order No. 21(2)(a) or (b)";

(2) Standing Order No. 60A made by the Legislative Council under clause XXIII of the Hong Kong Royal Instructions 1917 to 1977 by Resolution made and passed on 10 May 1978 and amended by the Legislative Council under -

(a) clause XXIII of the Hong Kong Royal Instructions 1917 to 1983 by Resolution made and passed on 18 July 1984;

(b) clause XXIII of the Hong Kong Royal Instructions 1917 to 1986 by Resolution made and passed on 15 July 1987;

(c) clause XXIII of the Hong Kong Royal Instructions 1917 to 1991 by Resolution made and passed on 10 July 1991; and

(d) clause XXIII of the Hong Kong Royal Instructions 1917 to 1993 (Nos. 1 and 2) by Resolution made and passed on 28 July 1995,

be further amended in paragraphs (1A), (5) and (5A) by repealing "table" and substituting "Table".

DR LEONG CHE-HUNG: Mr President, I move the first motion standing in my name on the Order Paper.

The Standing Orders of the Legislative Council were last amended at the end of the last Session. A number of amendments were then made principally to take account of the new composition of this Council after the 1995 elections and to improve its operation. Since the making of these amendments, it has been found necessary to make some further amendments as a consequence of the last amendment exercise. The proposed amendments to be moved, which are confined within the scope of that pervious exercise consist wholly of technical,

drafting and clerical changes and do not introduce any new matter. The proposed amendments have been endorsed by the House Committee.

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

Question on the motion proposed, put and agreed to.

PRESIDENT: The House Committee has also recommended that I exercise my discretion under Standing Order 21(1) to dispense with the notice of Dr LEONG Che-hung's second motion which seeks the Council's approval for the manner of election of the members of the Legislative Council Commission and their terms of office. I have accepted the recommendation because after the last dissolution of the Council, members of the Legislative Council Commission have to be elected as soon as possible to consider some urgent business.

THE LEGISLATIVE COUNCIL COMMISSION ORDINANCE

DR LEONG CHE-HUNG to move the following motion:

"That with effect from 18 October 1995 the following shall apply to the determination of membership of The Legislative Council Commission, the election of members thereof and their terms of office:

Membership

1. The number of members referred to in section 4(1)(e) of the Ordinance shall be 8.

Manner of election

2. An election of members referred to in section 4(1)(e) of the Ordinance shall be held at a sitting of the House Committee, the date of which ("election date") shall be appointed by the House Committee.

3. The Legislative Council Secretariat shall issue to the Members of the Legislative Council at least 7 days before the election date, a circular

inviting nominations to be made in a nomination form issued by the Secretary General.

4. Each nomination form shall be for the nomination of one member and shall be signed by one member as the proposer, one member as the seconder, and by the nominee member to signify his consent to the nomination.

5. Duly completed nomination forms shall be delivered to the Legislative Council Secretariat at least 3 days before the election date.

6. In cases where the number of nominations received by the Legislative Council Secretariat is less than the number referred to in paragraph 1, further nominations shall be called for and received at the House Committee sitting held under paragraph 2; such nominations shall be proposed by one member and seconded by another, with the proposed nominee signifying his consent to the nomination.

7. In cases where the number of nominations received under paragraphs 5 to 6 is less than or equal to the number referred to in paragraph 1, the Chairman of the House Committee shall declare the nominees duly elected.

8. In cases where the number of nominations received under paragraphs 5 and 6 is more than the number referred to in paragraph 1, a poll shall be taken at the House Committee sitting held under paragraph 2; voting at which shall be by secret ballot and counted in accordance with the simple or relative majority system of election (otherwise known as "first-past-the-post" system of election).

9. In cases where a nominee would have been elected but for there being one or more other nominees having been given the same number of votes, a separate poll shall be taken in respect of that nominee and the other such nominee or nominees in accordance with the system of election mentioned in paragraph 8.

Terms of Office

10. The terms of office of members elected under section 4(1)(e) shall

be 1 year or until the next House Committee meeting held for the election of Commission members, or until the next dissolution of the Legislative Council, whichever is the earlier."

DR LEONG CHE-HUNG: Mr President, I move the second motion standing in my name on the Order Paper.

As stated in section 4(1) and (2) of The Legislative Council Commission Ordinance, the Commission shall consist of, in addition to the President of the Legislative Council and the Chairman and Deputy Chairman of the House Committee, not more than eight members elected in such manner as the Council may determine by and from amongst Members of the Council.

In addition, in accordance with section 5(3) of the Ordinance, the terms of office of members elected shall be such period not exceeding one year as the Council may determine.

I would like to highlight the main proposals with regard to the manner of election of members of the Commission and their terms of office :

- (a) Election of Commission members shall be held at a House Committee meeting, the date of which shall be appointed by the House Committee;
- (b) Eight members shall be elected to the Commission and their terms of office shall be one year or until the next election, or until the next dissolution of the Legislative Council, whichever is earlier;
- (c) A circular shall be issued by the Legislative Council Secretariat at least seven days before the election calling for written nominations. Nominations must reach the Secretariat at least three days before the election. If the number of written elections is less than eight, nominations may be called from the floor at the House Committee meeting at which the election is conducted;
- (d) If there are more than eight nominations, voting shall be conducted by secret ballot and counted in accordance with the simple or relative majority system of election; and finally

- (e) If the number of nominations is less than or equal to eight, the Chairman of the House Committee shall declare the nominees duly elected.

Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

PRESIDENT: I have accepted the recommendations of the House Committee as to the time limits on speeches for the motion debate and Members were informed by circular on 17 October. The mover of the motion will have 15 minutes for his speech including his reply and another five minutes to speak on the proposed amendment. Other Members, including the mover of the amendment, will have seven minutes each 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.

MEMBER'S BILLS

DR PHILIP WONG: Mr President, Standing Order 21 of this Council stipulates notice of 12 clear days in the case of motions to be moved and five clear days in the case of amendments to the motion must be given before the day on which the motion is to be considered by the Council unless you, Mr President, in your discretion, dispense with such notice.

With due respect, Mr President, can you inform this Council of the reason or reasons why you have decided to dispense with such notices considering that none of us has been sworn in for more than seven days.

PRESIDENT: I shall take a brief recess.

5.08 pm

Council then resumed.

PRESIDENT: I think Dr WONG was also referring to Standing Order 1(1) which says: "Except for the purpose of enabling this order to be complied with, no Member of the Council shall sit or vote therein until he has made or subscribed an oath or affirmation in accordance with the provisions of the Oaths and Declarations Ordinance (Cap. 11)."

The Standing Order simply states that no Member may sit or vote. The question is whether or not a Member who has not taken the oath or made the affirmation is a Member. Section 5B(1) of the Electoral Provisions Ordinance (Cap. 367) states: "Subject to this Ordinance, a member elected to the Legislative Council shall hold office -

- (a) in the case of a member elected in an ordinary election held under section 5A, for the period commencing on the appointed date after his election" and so on.

And section 5B(3) states: "In subsection (1) "appointed date" means the date appointed by the Governor under section 5(3) of the Legislative Council (Electoral Provisions) Ordinance (Cap. 381)".

The Governor had already appointed a date which took effect before this Council began the first sitting. So I rule that the motion is in order.

MR DAVID CHU to move the following motion:

"That Members of this Council should refrain from introducing Member's Bills to amend or repeal laws enacted to implement the agreements reached by the Sino-British Joint Liaison Group."

MR DAVID CHU: Mr President, I rise to move the motion standing in my name in the Order Paper. My motion is: *"That members of this Council should refrain from introducing Member's Bills to amend or repeal laws enacted to implement the agreements reached by the Sino-British Joint Liaison Group."*

The motion is, as its wording shows, about looking forward and about the exercise of moderation, restraint, and humility in order to achieve a smooth transition. It is not about posturing or about restricting Members' constitutional powers. It is about co-operation between this Council and the present and future sovereigns to ensure a lasting, constructive relationship on which our

future success depends. It is about finding practical solutions. It is about putting aside politics for its own sake and about serving the people for their and our sake.

The sovereigns have their own constitutional powers. The interests of all are reflected in agreements reached through the Joint Liaison Group. The Sino-British agreements on defence land treaty, airport financing and the Court of Final Appeal were accepted and welcomed by the Hong Kong people as well as approved by this very Council.

To change laws enacted to implement these agreements will only complicate things and cause unnecessary friction between the sovereigns as well as uncertainty and anxiety for the people. I think we can put our energy to better use.

We should, it is worth repeating, look forward with bold vision, not just talk, to tackle issues which will make Hong Kong great.

The world does not stop turning from 1 July 1997. We cannot solve the problems of the next 50 years in the next 21 months. We have finite resources and must use them wisely. Much work need to be done to pave the way for a smooth transition.

By supporting this motion, we can send the public a clear and powerful message which is: this legislature is committed and willing to help, co-operate and work with the sovereigns. This will also tell investors that the Council is keen to create the right atmosphere for business, business that generates growth as well as jobs. This is what the people of Hong Kong expect of us and we should not disappoint them.

Mr President, I beg to move.

Question on the motion proposed.

PRESIDENT: Mr LEE Cheuk-yan has given notice to move an amendment to the motion. It has been raised with me that Mr Lee Cheuk-yan's amendment to

Mr David CHU's motion on Private Member's Bills should not have been allowed presumably on the ground that the amendment will change the scope of the original motion.

Standing Orders of this Council are silent as to what amendments to motions may be admitted. *Erskine May on Parliamentary Practice* is, however, explicitly helpful and I quote:

"The object of an amendment may be either to modify a question in such a way as to increase its acceptability or to present to the House a different proposition as an alternative to the original question.

The latter purpose may be effected by moving to omit all or most of the words of the question after the first word 'That' and to substitute an alternative proposition which must, however, be relevant to the subject of the question. The debate that follows is not restricted to the amendment, but includes also the content of the motion, both matter being under the consideration of the House as alternative propositions."

Mr CHU's motion is about the introduction of Member's Bills (MB's) into the Legislative Council urging Members to refrain from introducing them to amend or repeal laws enacted to implement Sino-British agreements. Mr LEE's amendment is also on the introduction of MB's but requesting the National People's Congress to amend Article 74 of the Basic Law. The amendment clearly changes the scope of the original motion as it proposes an alternative proposition; it is, however, relevant to the subject matter raised in the motion. I have therefore ruled that the amendment is in order. Changing the scope of a motion by proposing an alternative proposition does not render an amendment inadmissible, as long as it is germane.

MR LEE CHEUK YAN's amendment to MR DAVID CHU's motion:

"To add "as" after "That"; to delete "should refrain from introducing" and substitute with "have the right to introduce"; to add "enact," before "amend or repeal laws"; to delete all the words after "repeal laws" and substitute with "relating to the public interest, this Council requests The National People's Congress of China to amend Article 74 of the Basic Law to remove restrictions on the introduction of Member's Bills relating to the political structure, the operation of the Government and government

policies by Members of the Legislative Council of the Hong Kong Special Administrative Region".

李卓人議員致辭：主席先生，我動議修正朱幼麟議員的議案，修正內容一如議事程序表內以我名義提出者所載。

立法局今天辯論的是九七年前後，立法局議員提交私人法案的憲制權利。朱幼麟議員的原議案是要立法局議員自縛手腳，交出武器，歸順行政機關。如果原議案真的獲得通過，港府官員真是“飲得杯落”，而總督毋須“扮醜人”，在施政報告中自毀開明形象，露出殖民地宗主國的真貌，以威嚇手段來阻嚇議員提交私人法案。原議案更為危險的是其邏輯思維，將中英聯合聯絡小組的協議無限上綱，提升至神聖不可侵犯的地位。這相等於改變“港人治港”的基礎，由《中英聯合聲明》變為中英兩國政府的意願。

《中英聯合聲明》附件二清楚寫明，聯合聯絡小組只是一個聯絡機構，不是權力機構。聯合聯絡小組的協議，基本上不具權威性，與《中英聯合聲明》這份兩國之間具約束性的協議並不相同。況且，聯合聯絡小組的協議亦不一定符合《聯合聲明》的規定，終審法院的協議便是最好的例子。

朱議員是否認為，本局應該捍衛的是聯合聯絡小組的協議，而非《中英聯合聲明》呢？

如果再進一步引申原議案的邏輯思維，香港便須轉而依循一個新的指導原則，就是在高舉聯合聯絡小組的協議後，可以再高舉預委會的決定為指導原則，私人法案亦要避免違背預委會的建議。莫非我們要接受預委會法律小組的建議，廢除由立法局制定，並符合《人權法》的法律，剝奪港人的基本人權？

我們希望香港的未來社會，是依據一國兩制、高度自治的精神發展，以《中英聯合聲明》為本，以法治、人權、民主、自由為原則，建立一個脫離英國殖民地的香港，而並非以長官意志為指導思想的香港。因此，我不能贊成原議案，並提出修正。

我提出修正案的目的，在於恢復立法局議員提交私人法案的憲制權利，使這個憲制權利能乘坐直通車過渡九七，並將《基本法》第七十四條的限制取消。

根據《基本法》第七十四條，凡涉及公共開支或政治體制或政府運作的

法律草案皆不能提出。凡涉及政府政策者，則必須得到行政長官的書面同意。這與目前立法局議員的憲制權利比較，有三項倒退。

第一，涉及政府政策草案要先得到行政長官書面同意才可提出，便相等於剝奪了提交私人法案的權利。倘若行政長官可以同意的話，根本可由官方提出，毋須由立法局議員提出。議員須提交私人法案的話，一定是由於未能與政府取得共識，才会有此需要。《基本法》將這項批准權交予行政長官，便相等於不能提出私人法案。

第二是有關涉及公共開支的私人法案。現時如獲總督同意，仍可提出這類法案。雖然這已經十分困難，但將來卻索性規定不能提出這類法案。

至於第三項倒退，就是凡涉及政治體制或政府運作者，在九七年後不能以私人法案形式提出。這三項倒退都改變了現時立法局所有議員本身的憲制權利。明顯地，《基本法》的規定是要盡廢立法局議員的武功，使立法局淪為一個“跛腳鴨”議會。立法局議員一旦失去提交私人法案的憲制權利，政府便可搖身一變，由“行政主導”變為“行政霸道”的政府。請大家想一想，這將會是一個怎樣的立法局？怎樣的政府？

主席先生，立法局議員的工作是制訂法例和監察政府的施政，向部分不懂民間疾苦的司級官員反映我們所代表的民意。提交私人法案是本局議員有限的立法權。此外，過往的經驗清楚告訴我們，提交私人法案能有效改善現行法例，迫使政府在制訂政策時，更廣泛地照顧市民大眾而非“小眾”的利益。

我將會提出一項停止輸入外地勞工私人法案。由於政府不願意完全撤銷輸入外勞政策，我們便唯有提出私人法案來處理。試想想，在這些政策上，我們將來甚至不能採用這方法來改變政府政策，那麼，我們立法局所能做到的工作將會非常有限。

《基本法》的倒退規定，究竟有何理據？根據蕭蔚雲先生在《一國兩制與香港特別行政區基本法》一書所提出的原因，他認為這類草案都是香港特別行政區的重大問題，其中帶有科學技術及專門性的問題，因此不宜由議員個人提出，而應由有關機關、部門提出。這個看法未免過於看輕立法局議員在不同範疇的專長，亦過於迷信政府部門的全能和無所不知。事實並非如此。我們試將去年由政府草擬的《性別歧視條例》和由胡紅玉議員提出的《平等機會條例草案》作一比較，便可看到私人法案所具有的優勢。因此，我們相信真正的原因並非技術問題，而是要柑制將來的立法會。

據聞有部分議員反對我這次的修訂，認為倘若獲得通過，將招致另一議會提早干預。我相信其中的意思在於這種做法會“引狼入室”。這使我想起紅帽姑娘的故事。那隻狼根本上已穿起了紅帽姑娘婆婆的睡衣，睡在床上，等待紅帽姑娘靠近，將她吃掉。一直以來，《基本法》就是在全國人大主導及干預下草擬的。我們現時所做的，絕非“引狼入室”，而是“趕狼出屋”。希望中國人大不要介意我這個譬喻，我並非指中國人大是一隻狼，相信大家亦明白我的意思。我希望表達一個清楚的訊息：還我憲制權利，讓將來的立法會能真正擔起監察政府施政的角色，落實《中英聯合聲明》及《基本法》所載，即行政機關向立法機關負責。提交私人法案的權利一旦失去，“負責”兩字將無從落實。

我希望人大代表鄭耀棠議員可以協助表達這個訊息。謝謝。

Question on the amendment proposed.

CHIEF SECRETARY: Mr President, the motion that Members are debating today needs to be seen in the context of this Council's overall responsibility for the passing of legislation. Our system of government in Hong Kong provides for the executive — the Administration — to take the lead in formulating policies, and the legislature — this Council — to scrutinize the legislative and financial proposals that we put forward. It has always been the case that the vast majority of Bills considered by this Council are introduced by the Administration.

The Administration's programme of legislation does not come about by accident. It is carefully thought out. Many bills reflect the wishes of Members of this Council, expressed through motion debates, through discussion in Legislative Council panels or through other means. Many others are the result of public consultation exercises, or of recommendations made by our many advisory boards and committees. Still others are initiatives by the Administration, perhaps to give effect to an international obligation that the sovereign power has entered into on our behalf, to update legislation that is now obsolete or to correct some anomaly or loophole in previous legislation.

Every year, Branch Secretaries put forward proposals for legislation in their policy areas arising from all these sources. The Financial Secretary, the Attorney General and I meet several times with the Law Draftsman to consider these proposals very carefully. We have to balance the pressures for change against the resources available, both in terms of the capacity of the Law Draftsman's Division to draft the legislation and of this Council to scrutinize it. Inevitably, we conclude that we cannot include in our programme all the proposals that have been put forward. So we have to set priorities. And we do this, of course, in terms of what we honestly believe to be, the public interest. Our aim is to end up with a balanced programme of legislation that meets, as far as possible, the interests of the various sectors of our society.

So a lot of work goes into the preparation of our legislative programme. And we give it a high priority which I hope is shared by Members of this Council.

Let me state at the outset that the Administration fully respects Members' constitutional right to introduce Members' Bills(MB's), subject to the limitation imposed by Royal Instructions regarding MB's which have the objective effect of disposing of or charging any part of the public revenue. But, as the Governor said in his policy address, we doubt whether the public interest is best served by this Council and the Government operating on parallel tracks rather than moving forward on an agreed basis. Continuing co-operation between the Government and the Legislative Council in the coming Session will surely be the best way to promote the interests of the people of Hong Kong.

It is in this spirit of co-operation that the Governor offered in his policy address to review with Members our proposed programme of legislation for 1995-96. I have suggested to the Chairman of the House Committee that among the issues we need to discuss are whether this programme needs to be adjusted to take account of Members' own priorities, how the Government's legislative programme can be processed most effectively and efficiently, and how MB's can be handled in a way that will not upset the processing of public bills or put a strain on resources in the Administration.

I would like to echo the Governor's call for the Government and the Legislative Council to move forward by consensus wherever possible. Clearly the more we can co-operate on the Government's legislative programme, the less

need there will be for Members to put forward their own bills.

I now turn to the more specific issue of MB's which aim to amend or repeal laws enacted to implement Joint Liaison Group (JLG) agreements. Since 1985, the JLG has reached many agreements on a variety of subjects, from the construction of a new airport to the establishment of the Court of Final Appeal, from Hong Kong's membership in the General Agreement on Tariffs and Trade to the future use of defence lands. These agreements have one important point in common: they are the results of joint efforts, by Britain as the current sovereign and China as the future sovereign, to identify solutions for issues which are essential for a successful transition. Together, they provide a framework within which we can work for a secure and prosperous future.

These agreements are not reached lightly. They are invariably the product of careful negotiations. Before the British side signifies its agreement to a particular issue, it will always ensure that:

- (a) the agreement is fully consistent with the Joint Declaration; and that
- (b) the agreement safeguards the best long-term interests of Hong Kong.

At all stages of the negotiation, the Hong Kong Government is fully involved, as it is in all aspects of the work of the JLG. And in the process, we take full account of views expressed by this Council and the community.

Where the implementation of an JLG agreement requires legislation, draft legislation will of course be put before this Council. And this Council has a well-established track record of performing its scrutinizing role responsibly and with vigour.

But to repeal or make fundamental amendments to laws enacted to implement JLG agreements would have serious consequences. In effect, it would mean negating the work of the JLG, and unstitching the way forward that had been painstakingly agreed on important transitional issues. Progress in the implementation of the Joint Declaration would be severely affected. Indeed, the whole basis for a successful transition would be called into question. All this would be extremely damaging to Hong Kong, and to confidence in Hong Kong,

particularly as we enter into the final 20 months of the transition. I am sure Members of this Council would wish to consider seriously the risks involved before going down this road.

At the end of the day, any legislature or executive is credible only if it performs responsibly, and is seen to be acting in the overall interests of the community it serves. As the Governor pointed out in his policy address, the interests of the people of Hong Kong must be paramount. He made it clear that he would not shrink from refusing assent to legislation if it were his honest view that this course of action would be in the best interests of Hong Kong. I very much hope, of course, that we will not get ourselves into a situation where the Governor has to consider making use of his constitutional powers.

Finally, I would like to turn to the amendment proposed by the Honourable LEE Cheuk-yan. The first part of this amendment seems to me to do more than state what is generally recognized to be the current constitutional position, subject of course to the limitation imposed by the Royal Instructions. The second part relates to the amendment to the Basic Law by the National People's Congress. This of course is a matter for the Special Administration Region Government and the Central People's Government, not the Hong Kong Government. I therefore do not propose to comment on it.

李鵬飛議員致辭：主席先生，自由黨對朱幼麟議員的議案和李卓人議員的修正案，都不能支持。

對於原議案，自由黨認為立法局議員提出議員條例草案是《常規》賦予我們的權力，我們應否運用，以及如何運用這項權力，應該視乎實際的需要，以及議員本身如何在照顧全港市民利益的大前提下，作出自己的判斷。自由黨相信，運用這項權力應該有一個適當的平衡。倘若有一些基於社會整體利益的政策和法案，政府一直不予以正視或拖延推行，議員以維護香港利益為宗旨，提出議員條例草案，加快制訂這些法例，這是值得支持的。這一方面的工作不應受制於有關問題是否在中英聯合聯絡小組已達成協議。況且，中英聯合聯絡小組並不會就他們達成協議以前的議案諮詢立法局的意見。如果聯合聯絡小組達成的協議未能最理想地照顧香港的利益，我們看不到有甚麼理由，只為尊重協議而放棄為香港爭取更大的福祉和利益。當然，平衡是兩方面的。本局議員如果只為博取自己的知名度或政治本錢，輕率運用提出議員條例草案的權力，這就應該由他自己決定。他的表現應由市民評價。

立法局議員並不是行政長官或行政官員，不應取代政府去制訂政策。因此，對於議案，自由黨認為沒必要自己先行劃定一條界線，規定自己不要觸及某些問題。但議員應該心裏有數，不應將香港行之有效的行政主導機制，貿然改為立法主導機制。如果這樣做，只會造成行政與立法機構之間的對立。這個局面，並非香港市民之福。

自由黨同樣不能支持修正案。我們同意修正案的前提部分，即議員應該有提出議員條例草案的權力，我剛才已經作出解釋。但是這個前提成立，而同時又引進李卓人議員的結論，中間實在需要有很多的假定，才能把這兩件事連繫一起。其中包括特區政府的政策運作是否違反香港整體的利益，而又不願從善如流，以及政府是否必定與立法會對立。我們有否必要如此以個人對前途的看法來假設未來的行政立法關係呢？

自由黨反對修正案，並非認為《基本法》的規定是不可以修訂的，而是一份經過多年諮詢而定稿的憲法文件，我們不應輕率，未經體驗，便憑自己種種的假設去要求修訂。況且，《基本法》內也訂有修改《基本法》的規定。特區的立法會並非沒有標準或權力修改《基本法》。議員是否有需要以自己的標準，現在就評定還未成立的特區立法會的工作能力？抑或李卓人議員相信只是現在的立法局才有這項能力呢？

我不想糾纏於意識形態和各種假設的爭論。我想明確地指出，自由黨深信行政主導是香港社會穩定的基礎，我們不應改變這個機制。特區立法會未來是否認為有需要修改《基本法》，應該由特區立法會自行決定。我們不應取代一個未成立的議會去決定他們將來的判斷。

主席先生，本人謹此陳辭，代表自由黨反對議案和修正案。

DR LEONG CHE HUNG: Mr President, I rise to speak on the subject of Members' Bills. In doing so, I am reflecting my personal view as Chairman of the House Committee on the necessity of MB's, the effect they would bring to the Government, to this Council and to the Legislative Council Secretariat staff, and how, perhaps, MB's could be minimized and adopted with public bills.

Let me state from the outset that MB's are every single legislator's prerogative. The Governor in his policy address said: "That (Members' Bills) is of course within Members' right to decide, provided that their proposals do not have the object or effect of disposing of or charging any part of the public revenue."

Mr President, this Council, composed of fully elected legislators, more than any other Council in Hong Kong so far, represents the views of the people of Hong Kong. This body, and this body in particular, understands more of public needs and interests than any bodies in Hong Kong. It is therefore ironic to hear the Governor, an appointee from Britain, hinting his discontent about MB's and suggesting that he would refuse to assent such legislations using his constitutional powers, and I quote, "I would not shrink from doing so in a particular case if it were my honest view that this course of action would be in the best interests of Hong Kong." The question remains, therefore, "who represent the views and interests of Hong Kong people truly and more."

Mr President, MB's are a mechanism in all democratic institutions to reflect the needs of the people by legislators when government is seen not to satisfy such needs.

That said, Mr President, I am in no way promoting MB's. Instead, I call for legislators to try their best to reflect the views of the public to Government, and at the same time, for the Government to be more sensitive to the public's needs and to enshrine them into government bills and the legislative timetable.

Mr President, in the last Legislative Session, quite a few MB's were introduced which exemplified the above point. Take the example of the Equal Opportunities Bill introduced by Ms Anna WU. This was the result of years of fiasco attempt to move an unbudging government stone wall. At the end of the day, the Government was forced to take its own action by introducing two anti-discrimination bills. The result: those relevant parts from the Member's Bill were suitably withdrawn. I personally attempted to introduce the Medical Registration (Amendment) Bill as a Member's Bill, only because of frustration over some three years of government procrastination inspite of promises on

speedy action. When ultimately, the Government under pressure introduced the same bill, I did not push ahead.

Mr President, MB's in any significant number do pose many problems. No doubt it would upset the government legislative timetable and that of this Council. Within the House, it also poses the problem of priority in setting up bills committees to study the different bills when both the number of legislators and supporting staff of the Legislative Council Secretariat are limited. Should government bills and MB's be studied in two parallel stream? Or should they all go on the same queue? Which one is more important? Which Member's bill is more important than others? All these questions have to be answered.

We must of course not lose sight of the fact that though MB's are drafted on a private basis, they still strain staff resources of the law drafting department, as well as the legal unit and secretariat staff in this Council.

Yet, Mr President, these should never be the constraints to the introduction of MB's if such are to reflect the public needs. Nor should MB's be "killed" or "guillotined", through intense negative lobbying by the Government, let alone refusal to assent by the Governor after the bills were passed by this Council.

The way to balance MB's and government bills must be through co-operation between this Council and the Administration and through better hands-on understanding of public's needs by taking suggestions of their representatives elected to this Council.

With goodwill, this can be done through various kinds of mechanism. One way is for the Government to come forth early with a list of bills they intend to introduce and invite Members to add in areas on those proposed bills which are deemed deficient. Another way is for panels or "select committees", if these are to be set up, to discuss all policies or directions of bills in the pipeline with the relevant government Branches starting from their embryonic stage.

In short, better rapport between the Legislative Council and the Administration throughout the formation of policies and bills could enable

government bills to cope with public needs, making MB's less needed.

There are of course others. I am sure the House will discuss in details how this could be brought about and bring home better relationship or partnership with the Government in the same light as expressed by the Chief Secretary.

Now turning to the motion and the amendment, Mr President, in the same way, it would be very difficult for me to accept this idea that Members cannot reflect the views of the public through introduction of MB's on issues agreed in the JLG as it is obvious that in many areas, discussion in the JLG has not completely taken Hong Kong people's wishes into consideration.

Mr President, it is a blessing that the Basic Law empowers the future legislative to introduce MB's. Yet there are too many constraints and many areas of doubt on the interpretation. An early amendment to facilitate ways to reflect public needs and interests is therefore a good move.

Thank you very much.

楊森議員致辭：主席先生，一九九五年是香港政治發展史上重要的一年。今年，所有立法局議員都經由選舉產生，亦是第一次所有議員都選擇向香港市民 忠，服務香港。我們應該時刻緊記立法局的角色和我們曾經對香港和廣大市民作出的承諾。

首先，立法局的立法目標是要促進香港的發展，改善社會的管理和提高港人的生活質素。立法局的存在價值就是在達致這些目標時，能夠代表港人，作出對香港最有利的決定。這是立法局的首要作用。因此，我對朱議員的建議，要對本局議員條例草案立法作出限制，以“避免修訂或廢除為實行中英聯合聯絡小組協議而制定的法例”這種說法極感疑惑。

我不知道朱議員提出這個建議是代表誰的立場，是選舉委員會內的區議員？是中英聯合聯絡小組？還是朱議員兼任為成員的預委會？我只知道，這個建議令立法局的首要功能並非服務香港；亦否定了立法局代表港人利益的價值；更將 忠的對象假設為中英聯合聯絡小組，而非香港市民。這是背棄香港利益的建議！

第二，香港人在過渡期一直堅守的，是中英雙方必須遵守《聯合聲明》對香港人的承諾。《聯合聲明》是我們判定中英政府是否履行承諾，維護香港高度自治和港人治港的重要依據。現時朱議員要求降低標準，將標準只設定為中英聯合聯絡小組的協議，而非《聯合聲明》，對香港來說是絕對絕對不能接受的。

近年，中英政府多方面地違背《中英聯合聲明》。去年，立法局進行動議辯論，表達對中英雙方歪曲和破壞《聯合聲明》有極大憂慮。議案獲當時大部分議員支持而通過。另外，聯合聯絡小組在九一年就終審法院問題達成違反《聯合聲明》的協議，並在今年年中達成進一步協議，港府隨後依從協議提交草案，受到各界人士的嚴厲批評。有見及此，我們怎能期望中英聯合聯絡小組一定會實踐《聯合聲明》的承諾，捍 港人的利益呢？

第三，我們必須緊記，立法局議員是有憲制權力提出議員條例草案的。世界上很多國家的立法議會都擁有主動提出草案的權力，以體現立法議會的憲制職能，監察政府的運作。很多國家只會限制涉及公共支出的法律草案，需要事先徵得行政部門的同意，或是需要有一定數目的議員聯署；一些國家甚至連這些限制也沒有，所以本局議員提出私人草案是合乎普遍被採納的憲制安排。若將提案權局限為不能修訂兩國政府一個工作小組的協議，則雖未必是絕後，但肯定是空前的創舉。

其實，《基本法》及近年預委會分別規定和建議削弱立法議會的職權，例如不容許盡快推行全面直選、推行比例代表制、制訂“一會兩局”的表決程序、成立全屬委任的臨時立法會等，目標都是分裂立法會，削弱立法會，以推行中方所謂“行政主導”的獨裁管治。而《基本法》第七十四條更針對私人草案增加限制，除涉及公共開支外，涉及“政治體制或政府運作”的草案亦一律需事先得到行政長官的同意。按照這些新增設，相信沒有甚麼不需要行政長官的事先批准了。那麼，主席先生，試問立法部門又如何能有效地體現其立法職能，監察政府的運作呢？難道到時立法會只可扮演一個真正橡皮圖章的角色？這是否香港人願意見到；是否所有立法局議員願意見到的情況？

因此，民主黨強烈反對原議案的建議，進一步不合理地規限立法局的立法權。民主黨支持修訂《基本法》，刪除第七十四條中對私人草案涉及政治體制或政府運作的限制。因此，我們會支持李卓人議員的修正案。

主席先生，本人謹此陳辭。

葉國謙議員致辭：主席先生，儘管朱幼麟議員有¹⁹良好的出發點，他的議案是沒有必要的。

監察政府的施政是立法局議員憲制職責之一，這職責並不應因任何因素而受到約束或限制。身為立法局議員，如果發覺港府施政有失誤，便應以市民整體利益為前提，必要時在立法局提出議員條例草案加以糾正。民建聯希望同事不要在立法局剛“開鑼”之際，便提出任何有削弱立法局監察政府施政的含義的建議。我擔心此例一開，其他形式的掣肘，便會接踵而來。

一九八四年《中英聯合聲明》簽署後，香港便進入過渡期，中英聯合聯絡小組的成立，便是為著香港的平穩過渡而工作。多年來，已有多條香港法例透過中英聯合聯絡小組的協議而生效，這些法例至今仍如常運作。由此可見，中英聯合聯絡小組十年來所達成的協議，都符合香港平穩過渡的要求，符合香港人的利益。

主席先生，中英聯合聯絡小組既為香港平穩過渡而工作，其協議自然有利於香港的繁榮穩定。本屆的立法局議員亦已全部宣誓忠港人，相信各議員必將盡心盡力地以港人整體福祉為依歸。我並不覺得中英聯合聯絡小組的目標，與立法局議員促進香港平穩過渡的目標有任何衝突，反而應該是相輔相成的。

中英聯合聯絡小組的協議雖由中英兩國所訂立，但往往也須透過本地法律才能生效，政府也才得以實施。如果聯絡小組所達成的協議，未能得到社會及立法局認同，立法局議員便應指出來，透過任何合法及適當的渠道，發揮其監察政府施政的功能，而提出議員條例草案，便是議員應有的權利。只要有關草案不涉及政府財政開支，這權利是不應有任何條件或掣肘的。

我必須指出，任何不利於平穩過渡的條例，不論是官方的還是非官方的，民建聯都會反對。倘有任何立法局議員提出議員條例草案去修訂、或者廢除透過中英聯合聯絡小組而生效的法例，民建聯一定不會支持。

民建聯基於對民選立法局議員的信任，堅持議員對監察政府施政職責的承擔，以及相信議員不會隨便提出導致憲制危機的草案，故民建聯認為朱議員的原議案是不必要的，民建聯將會投反對票。

至於李卓人議員的修正案，民建聯也不能同意。民建聯認為，如有需要修改《基本法》，應由香港特別行政區提出。根據《基本法》第一百五十九條規定“《基本法》的修改議案在列入全國人民代表大會的議程前，先由香港特別行政區基本法委員會研究並提出意見”，而該由 12 人組成的委員會中，其中一半為港人，並由特區行政長官、立法會主席和終審法院首席法官聯合提名。由此可見，《基本法》雖然是在實施後有關特定的修改機制才開始運作，但在修改過程中，可以看到港人仍有很大程度的參與，故現時實毋須急於要求修改。因此，民建聯亦會反對李卓人議員的修正案。

本人代表民建聯謹此陳辭。

莫應帆議員致辭：主席先生，本港一向以來都是奉行行政主導的管理模式，立法局議員只能透過幾種途徑來影響政府政策，而提出議員條例草案就是其中一項憲制下賦予立法局議員的權力。本人認為立法局議員絕對有權力在維護市民利益為原則的情況下提出任何形式的私人法案。我們沒有理由因政府有可能不接受，或因中方未首肯而將我們一向所堅持的原則及立場放棄，又或者在未有問題出現前已自綁手腳、自廢武功，否則，我們難以充分行使民選議員應有的責任。

也許各位市民都知道，現時有些立法局議員打算草擬的私人法案，都是以保障市民利益為大前提的，譬如民協考慮在本年度立法局會期內提出的“公平競爭法”草案，就是其中一項以保障消費者權益及促進公平的經濟商業活動所草擬。另外由於在七月期間，民協就《終審法院條例草案》所提出的修訂未能成功通過，我們會考慮再在立法局提出對《終審法院條例》條例的修訂，要求在條例內列明“國家行為”一詞，應以普通法的原則及精神解

釋。有人可能認為民協此舉有違中英協議的規定，但民協確信為使市民對本港司法制度保持信心及維持現有的法律制度不變，修訂是有需要的。至於其他議員將會就勞工政策草擬的法案，亦是為保障勞工權益及福利而設。總體來說，立法局議員是有責任因保障市民權利而對現行法例提出修訂或補足。從以上得出的結論，民協會對朱幼麟議員的議案投反對票。

對於李卓人議員的修正案，民協原則是贊同的。在《基本法》中，第七十四條明顯地對九七年的立法會議員作出了不必要的限制。立法局本身的作用，是監察政府的運作及制訂法例。若議員不能對政府提出法律草案，無疑是削弱立法局本身已極之有限的權力，故此這條文絕對有修改的必要。事實上，《基本法》中不合理及較含糊的條文並不只這一條，其他明顯例子，如第二十三條，亦是有修改的必要。因此，民協贊成修改《基本法》中一些不適合條文。

然而，在支持李卓人議員的修正案之餘，本人須在此申明民協的立場。民協認為修改《基本法》的建議必須在九七年後按照正式法律程序進行。要知道，若我們要在九七年前修改《基本法》，就等同容許人大在九七年前自行修改《基本法》一樣，這是民協所不能接受的。若人大在九七年前可以自行修改《基本法》，對香港高度自治是非常不利的。《基本法》本身有待九七年後提出修改，循《基本法》所規定的途徑，即由三分之二的特區人大、三分之二的立法會議員及行政長官的同意下，向人大提出修改的議案。我們不應逞一時之快，而自毀長城。

最後，民協在此呼籲立法局議員在九七年政權移交後一同要求廢除《基本法》內一些不合理的條文。

本人謹此陳辭，反對朱幼麟議員的議案，贊成李卓人議員的修正案。

李啟明議員致辭：主席先生，對朱幼麟議員的“議員條例草案”議案，本人持反對態度，因為這是侵犯了立法局議員的合法權力。如通過有違中英聯合聯絡小組協議的條例草案，總督有憲制權力拒絕批准，毋須由立法局議員承擔此項責任。

我對李卓人議員的修正案的前部分表示支持，但對其要求修訂《基本法》那一部分，本人則有所保留。因按《基本法》條文規定，修訂《基本法》的程序繁複，現時本局尚未具備那樣的條件。因此，本人對修正案決定投棄權票。

何俊仁議員致辭：主席先生，今天的議案辯論涉及一個主題，就是本局如何看自己在九七年前後的角色和地位。這問題的關鍵全在於我們如何處理以下兩種關係：

第一，就是香港在九七年前和兩個宗主國，以及九七年後和中央政府的關係；

第二，本局在九七年前後和政府及將來特別行政區行政長官的關係。

在處理這兩種關係時，我們應採取甚麼基本原則和立場呢？這決定了我們的具體方針及措施。

主席先生，如果我們的基本原則和立場是相信《聯合聲明》會為“一國兩制”和“高度自治”奠定重要和必需的基礎，而我們決心加以維護的話，我們是絕對不可能，亦沒有理由支持朱幼麟議員的議案。我們絕對不能無條件和全面接受中英兩國政府透過聯合聯絡小組的協議為我們制訂法律。首先，很明顯，根據《聯合聲明》附件二，聯合聯絡小組並不是權力機構，不會參與香港或將來特區的行政管理，甚至不對之起任何監督作用。如果我們無條件和全面接受其協議的約束力，這豈不是把聯合聯絡小組奉為更高的立法機關和權力機構？這明顯違背了《聯合聲明》，如果我們尊重法治的話，我們絕對不能接受這樣的議案。

第二點，聯合聯絡小組在執行職責時，很明顯必須受制於《聯合聲明》，所以任何協議亦絕不能背離中英聯合聲明精神和原則。故此，任何政府法案，如果建基於聯絡小組的協議，而本局若有充分理由認為這些法案違反《聯合聲明》，或背離《聯合聲明》的精神的話，我強調我們有責任提出修訂，使其符合《聯合聲明》，甚至拒絕通過這些違反《聯合聲明》的法律。這是一個道德、法律及政治的責任。當然，除非我們覺得聯絡小組有權隨意刪改或解釋《聯合聲明》，或我們沒有勇氣、沒有能力去捍衛《聯合聲明》，否則，我們又怎可能接受朱幼麟議員的議案呢？

主席先生，在考慮李卓人議員的修正案時，我們當然很清楚本局在九七年前後所應扮演和履行的角色，不單要反映民意，還要在維護公義和公眾利益的基礎上為香港立法。我們更應透過質詢政府的機制、監察政府財政等權力來制衡政府，使之能成為一個有高透明度和負責任的政府。但不幸的是，《基本法》第七十四條的內容，與我剛才所說的目標和方向背道而馳，剝奪了立法機關議員在憲制方面的提案權，使整個立法局完全附屬於行政長官之下。其實，《基本法》政制的設計藍圖，現在很明顯看到，是要絕對的“行政

主導”，甚至變成“行政專權”，藉以控制以至剝奪立法議員的提案權。我們再看到，在《基本法》內，立法會設有“分組投票權”，使本來由大多數議員可以決定的事，現在要分組來決定。兩組亦分別要有多數議員同意才可以通過，而行政長官亦有兩次“否決權”，在行使第二次“否決權”時，即使三分之二立法會員所通過的議案，亦可以被否決。其實已經可說是處處設防，使立法會多權力已遭窒礙。現在連僅有的提案權亦要剝奪，試問我們還怎可能履行《中英聯合聲明》所規定的行政機關須向立法機關負責的原則呢？

最荒謬之處，是涉及政府政策的提案都必須事先得到行政長官的書面同意；但我們知道，有甚麼政策不會涉及政府政策呢？如果政府表明或行政長官表明不贊成某項議案，這本身不就是一個政府政策嗎？若是這樣，豈不是任何議案都需要行政長官同意？我們在這時候真的需要拿出政治勇氣，本¹⁰社會良知，去捍衛《聯合聲明》、維護一國兩制、高度自治。我呼籲大家反對朱幼麟議員的議案，支持李卓人議員的修正案。

謝謝主席先生。

6.10 pm

PRESIDENT: It appears that the grounds for my ruling on Dr Philip WONG's point of order are dubious. I must apologize to Honourable Members for having to take a second break in order that I can take further advice from our Legal Adviser. This time it will perhaps be a bit longer.

6.53 pm

Council then resumed.

PRESIDENT: Honourable Members, I have taken further legal advice. The appointed date on which a Member commences his office as Member of the Legislative Council is the date appointed by the Governor for the commencement of the Legislative Council Session. So from a technical point of view, the mover of the motion had not begun his office as a Legislative Council Member when he gave notice on 2 October 1995.

The point taken by Dr the Honourable Philip WONG is an intriguing one. However, public officers are not constrained in the same manner regarding the giving of notice as there is no question of their commencing their public offices on the appointed date. To deprive Members of the right to move motions, motions to amend and motions to adjourn, before they commence their tenure of office, would result in an anomalous situation. Furthermore, Members have been informed of the terms of the motion and the amendment in good time. I consider that I should exercise my discretion under Standing Order 21(1) to dispense with the notice requirement.

By the same token, I would also exercise my discretion under Standing Order 9(6) to dispense with the notice of motion on the adjournment that Mrs Elizabeth WONG will move at a later stage.

I therefore retract my previous ruling.

詹培忠議員致辭：主席先生，今天這項議案辯論的唯一好處，是讓在座的新議員有機會為了二十五及二十六日答謝總督的施政報告作一次演習，即如一場足球賽前有一個練波的機會。

主席先生，我們了解到，目前香港政府的運作是以行政為主導。這個模式亦是司級公務員最好的定心丸。若不是由行政主導，就算有很好的待遇，我相信亦會有很多公務員考慮退休。因為如果立法局議員的權力有一天太大的話，可能提出十條，以至百條議員條例草案，而這些條例草案最終可能限制政府行政主導的實施和工作，這是事實。當然，在目前香港的政制來說，由殖民地步向未來回歸中國，這也是事實。我們作為政治參與者，在這些事實當中，如何可以求取一個平衡，作出以香港市民利益為依歸的決定，而不是為了政黨的利益，作出糾纏或不必要的幻想。

曾經有些人跟我說，他們心目中特區首長的最佳人選是李柱銘議員。我個人同意，如果香港是獨立的話，有選票支持，便會勝出。一如南非總統孟德拉，他曾入獄，但出獄後得到選票支持勝出，便成為總統，這絕對是事實。但香港事實上不是獨立的，現在是英國管治下的殖民地，雖然聯合國的憲章沒有殖民地的字眼，但我們不可以否定這個事實；九七年後它是中國的一個特別行政區。因此，很多政黨和政治參與者領導市民，說香港是香港人的，我們要高度自治，但很多時候，香港市民每每被這些噪音造成不必要的誤解。我們要深切了解到，香港並非一定是香港人的。香港是中國的，中國不只有香港人，還包括其他很多民族和人民。我們必須清楚明白這點。

有關今天這項議案辯論，朱幼麟議員稍後可能發覺只有一、兩票支持。在他來說，無論有多少票，都是“朱一炮”——一炮而紅。得不到支持是事實，但也不要緊。這是政治，大家不要看得太重。這只是一場辯論，輸了也不用太介懷。但問題是李卓人議員的修正案可能造成一個相當嚴重和不良的後果。我們知道，現時很多政治參與者是為了向選民作出交代。有機會讓他發揮，為何不發揮？一切後果，以後再算，自己有多少便賠上多少。總督彭定康先生何嘗不是採取這種態度？因此，對李卓人議員所提修正案的精神和他自己所做的事，我個人可以理解和諒解。

不過，我們要明白，基本上，目前《基本法》已經清楚載明，在九七年前，如果立法局通過的議員條例草案牴觸《中英聯合聲明》，甚至兩國利益時，總督絕對可以運用《英皇制誥》和《皇室訓令》所賦予的權力，阻止或取消有關草案。因此，這個精神根本不值得朱議員為目前或以後擔心。甚至九七年後，《基本法》亦已經清楚寫明，特區首長絕對可以運用他的權力，一如《英皇制誥》和《皇室訓令》所賦予總督的權力，以達到管治香港的目的。換句話說，很簡單，九七年後，特區首長是代表中國中央政府。他在顧及香港人利益的同時，亦要顧及中央的利益。以為到時會有三分之二票數反對他的決定，連續令他兩次取消立法會的決定，未免是妙想天開。

因此，無論是政治參與者也好，任何人也好，我們只是進行辯論，用口來做政治。以前中國的領導是以人頭作政治，與我們的口頭政治，根本是不同級數，所以不可以相提並論。我們可以討論，可以發揮，但是大家千萬不可以太認真。我們要讓市民清楚知道，我們可以說，可以爭取，但最後，對不起，做不到。因為九七年前有總督代表英國的利益；九七年後有特區首長代表中國中央政府的利益。

主席先生，就今天的議案辯論，我首先反對李卓人議員的修正案。對於原議案，我則投棄權票。我很希望在未來的日子裏，無論是九七年前後也好，香港還是實行行政主導。同時，我也希望司級官員與立法局議員取得較佳的溝通，立法局議員不用經常運用議員條例草案來達致目的。

主席先生，我謹此陳辭。

梁耀忠議員致辭：主席先生，我深深相信，無論是朱幼麟議員的議案，抑或是李卓人議員的修正案獲得本局通過，對於事件本身，是絕不會帶來任何改變的。倘若李議員的修正案獲通過，中國全國人大亦絕不會因此而修訂《基本法》第七十四條的內容。而對於那些一向慣於“自我約束”的議員來說，

不論有沒有這項議案，他們也會自動避免提及內容有可能違反聯合聯絡小組協議的議員條例草案。

另一方面，即使朱議員的議案獲得通過，立法局內的同事，尤其是那些過往一直不滿聯絡小組所通過協議的議員，以及對於那些敢於為港人爭取權益，竭力爭取九七後港人高度自治的議員來說，在這後過渡期的關鍵時刻，都依然會本¹⁰良心，為市民盡力爭取，絕對不會因為朱議員的議案而有所動搖或退縮。

不過，儘管如此，我依然會支持李議員的修正，反對朱議員的原議案。原因有以下兩點：

一、議案無實效，議員條例草案才奏效

自從立法局在八五年引入民選議席後，對於議員曾提出的大小議案，即使能夠獲得大多數議員同意，政府部門亦往往不為所動。

記得上屆立法局曾動議辯論有關要求政府即時凍結大專學費加幅，並重新檢討學費政策。雖然最後這議案獲多數議員贊成通過，但政府的態度卻“依然故我”：學費照加，而政策亦未獲檢討。

由此可見，議案實際上已淪為一堆軟弱無力、而又毫無實效的議事話題了。

但是自從上屆本局議員引入議員條例草案之後，政府的態度便有明顯的改變了。一方面變得更主動地去回應本局議員所關心的問題；而另一方面，亦無奈及被迫地提出相應的法案，來挽回政府的威信。因此，實際上，對社會而言，亦帶來了一些改善。例如在上一屆會期，若不是在議員條例草案的壓力下，政府不會主動提出資訊公開守則，及立法禁止對性別及殘疾歧視。

因此，若本局議員他日因《基本法》第七十四條所限，不能就政治體制、政府運作，以及政府政策這三方面，提出議員條例草案的話，情況就等於被削去實權。而民選出來的議員，也變成了“冇爪蟾蜍”。九七年後的立法局，將返回以前的橡皮圖章年代。

二、善用議員條例草案，落實港人高度民主自治

事實上，在這回歸前夕，愈多出現所謂“協議”，可能正意味愈多港人的權益被出賣。

大家可見，在最近聯絡小組就終審庭所達成的新協議裏，其中關於《基本法》對國家行為的表述，以及行政長官可以主持司法人員推薦委員會來產生首席法官這兩點上，不但早已經被行政局指為違反了《聯合聲明》和《基本法》；另一方面，這是英方為求盡早可讓終審法院得以成立，不惜放棄了委任法官比例的靈活性，將海外法官減至一名作為代價所換回來的。

故此，在這中英交接的最後階段，以及在往後的日子裏，可能將有更多的機會，在更多的情況下，我們被人順手拈來，借花敬佛，出賣了我們的權益。

在這關鍵時刻，作為民選的立法局議員，若不能透過有實效的途徑，提出議員條例草案來捍衛市民權益，改善社會整體問題，而只是以近乎空談式的議案來反映民意，只讓政府部門有恃無恐地“意見照收、政策照舊”的話，則恐怕大家到時都變成了“港人自講”，即港人自說自話了，而真正的港人高度自治則變成神話，難以落實。

因此，基於維護香港市民的實際權益，立法局議員應該有權提出議員條例草案，藉以制訂、修訂或廢除涉及公眾利益的條例草案。因此，最後我謹此作出嚴肅的呼籲，希望全國人大聽取我們的意見，修改《基本法》第七十四條。

主席先生，我謹此陳辭，支持李卓人議員的修正案，反對原議案。

MR PAUL CHENG: Mr President, as a matter of principle, I fully agree that every Member of this Council has the right to introduce MB's as a legitimate part of the legislative process. However, I also believe this right should be used sparingly on issues of vital concern to Hong Kong and where other weapons in the legislative armoury have failed to make an impact on our executive-led Government.

The Hong Kong Administration has a difficult enough task ahead in the run-up to 1 July 1997. All parties should now focus on how to work in partnership to help ensure a smooth and stable transition. The process for amending the Basic Law is clearly outlined in the Basic Law itself, and it is a matter for the National People's Congress and the Government of the Special Administrative Region of Hong Kong. As Members know, the HKSAR is some 600 days away before it is established.

The Basic Law was formulated with the best interests of Hong Kong people in mind and provides a solid framework for our future. To press now for amendments to the Basic Law may trigger others to amend other articles as well. Where would that lead us? Would it really be in the interests of the people of Hong Kong? Would it promote stability? I think not.

As for the original motion, I believe it is too restrictive in its wording. Mr President, I can support neither the amendment nor the original motion.

MR ELIZABETH WONG: Mr President, for the first time in Hong Kong's history, we have a fully elected Council, elected as people's representatives in service to them. Yet, it is ironic, is it not, that in our very first motion debate, we are debating whether we should shut up in respect of MB's, instead of speaking up, in the interests of Hong Kong people to whom we have sworn allegiance only last week and in whose interests we serve.

In my opinion, a MB's is an effective measure to monitor the action of the Government and in the good words of a former Legislative Councillor, Ms Anna WU, "a Private Member's Bill is a constitutional check against the delinquencies of the Government."

It would be, I suggest, delinquent of us to refrain from introducing MB's simply to avoid trespassing on the sacred terrain of the Sino-British Joint Liaison Group.

Thus, dare I say that to accept the original motion is tantamount to reducing this Council of people's representatives to a Council of sheep or scapegoats, whichever you prefer?

It could also be argued with equal conviction that voluntary restraint in some cases is as good, or as bad, as committing constitutional *harakiri*.

Let us not forget that we owe it to the people of Hong Kong to do what is right and not to do — what we are told — to be right.

That said, I think a person of reason and common sense, and a person of humility should, in order to effect a smooth implementation of any bill, on a realistic basis, discuss the subject matter first with government officials, to see in what way the issue could be satisfactorily resolved in an acceptable manner. It would be better still for the official to be persuaded to take up the issue as a government measure.

I think it is only proper and right that we do so if we are really serious in not only introducing a bill, but also in having the bill implemented.

However, if we fail to reach an agreement with the officials, and as a matter of last resort, and in honourable demonstration against either the ineptitude, or the intransigence, or sheer stupidity, of the Government, I, for one, would contemplate introducing MB's for a public good, even if I were to run the risk of having the bill vetoed by the powers that be.

Here I would admonish against any veto which will be draconian both in nature and in effect and might trigger off a constitutional crisis which would not be in the best interests of Hong Kong.

Mr President, with these remarks, I oppose the original motion.

PRESIDENT: Mr David CHU, do you wish to speak? You have five additional minutes to speak on the amendment.

MR DAVID CHU: Mr President, I regret that the Honourable Mr LEE was using the language of war. He obviously does not understand my motion. It is not about fighting, it is about moderation and co-operation so that we can have smooth transition. Hong Kong people want peace, not war. Regarding the second part of his amendment, I have three points.

First point, Mr LEE's amendment is written in the present tense. In other words, he is asking that the Basic Law be changed now, almost two years before its implementation. This is unrealistic. The first amendment to the American constitution was made three years after the charter's implementation.

Second point, one should not change the Basic Law so lightly. This is not good for the rule of law or for confidence.

My third point, this amendment is not realistic because the suggested change is totally against the principle of executive-led government, the Basic Law and the Joint Declaration.

Thank you, Mr President.

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, as the Chief Secretary said earlier, the agreements we have reached in the Joint Liaison Group(JLG) are the results of joint efforts, by Britain as the current sovereign and China as the future sovereign, to identify solutions for issues which are essential for a successful transition. Together, they provide a framework with which we can work for a secure and prosperous future for Hong Kong and its people.

I only wish to reiterate that to repeal or make fundamental amendments to laws enacted to implement JLG agreements would have serious consequences. Progress in the implementation of the Joint Declaration would inevitably be severely affected. What possible benefits could this have for the people of Hong Kong? It would affect confidence in our future, both locally and overseas. This would certainly not be conducive to a smooth transition.

As the Governor pointed out in his policy address, the interests of the people of Hong Kong must be paramount. Like the Chief Secretary, we very much hope that we will not get ourselves into a situation where the Governor has to consider making use of his constitutional powers to refuse assent to legislation. I therefore hope that Members of this Council will proceed with great care, and act in the long-term interests of the community, when contemplating the introduction of MB's, whether they are related to JLG agreements or not.

As regards the part of Mr LEE Cheuk-yan's amendment relating to the Basic Law, our position has always been that any proposal to amend the Basic Law, which will not come into operation until 1 July 1997, is a matter for the Special Administrative Region Government and the Central People's Government, not the Hong Kong Government.

Question on Mr LEE Cheuk-yan's amendment put.

Voice vote taken.

PRESIDENT: Council will proceed to a division.

PRESIDENT: Will Members please first register their presence and then cast their votes?

詹培忠議員：主席先生，請你清楚告訴那些新議員應如何按掣，以免他們按錯。

PRESIDENT: I think all Members are acquainted with the voting machine.

PRESIDENT: Before I declare the result, Members may wish to check their votes.

MR RONALD ARCULLI: I am not a mathematical genius, but if you look round it seems to me that there must be more than 38 Members present. I do not know whether there is anything wrong with the machine. It would not be the only thing going wrong tonight.

劉千石議員：主席先生，真是因為他們不知如何按掣，所以最好請你解釋一次。

PRESIDENT: I have decided to reactivate the voting machine. Will Members please first register their presence by pressing the first button, and then vote by choosing one of the three buttons below the first button?

PRESIDENT: Any queries? Before I declare the result, will Members please check their votes? The result will now be displayed.

Mr Martin LEE, Mr SZETO Wah, Dr LEONG Che-hung, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Michael HO, Dr HUANG Chen-ya, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Mr LEE Cheuk-yan, Mr CHEUNG Bing-leung, Mr HO Chun-yan, Mr LAU Chin-shek, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr LEUNG Yiu-chung, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr TSE Wing-ling, Mrs Elizabeth WONG and Mr YUM Sin-ling voted for the amendment.

Mr Allen LEE, Mrs Selina CHOW, Mr NGAI Shiu-kit, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr CHIM Pui-chung, Mr Eric LI, Mr Henry TANG, Dr Samuel WONG, Dr Philip WONG, Mr James TIEN, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Paul CHENG, Mr CHENG Yiu-tong, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr David CHU, Mr IP Kwok-him, Mr LAU Hon-chuen, Mr LO Suk-ching and Mr NGAN Kam-chuen voted against the amendment.

Mr LEE Kai-ming abstained.

THE PRESIDENT announced that there were 23 votes in favour of the amendment and 25 votes against it. He therefore declared that the amendment was negated.

PRESIDENT: Mr David CHU, you are now entitled to reply and you have 11 minutes 15 seconds out of your original 15 minutes.

DR DAVID CHU: Mr President, if my honourable colleagues think that I am

here today to seek their "yes" vote, they are wrong. I am here today to give them a chance to say to the people of Hong Kong that they are for moderation, for co-operation, and that they will do their best to achieve practical solutions for a smooth transition.

Therefore, Mr President, I do not mind at all if the only vote I get is that of my own. This way, the people will at least know that there is one person in this legislature who is not afraid to exercise moderation. There is at least one person in this legislation who is not afraid to say that he is for co-operation. I do not mind being alone on this because when you know you are right, you do not mind being alone.

May I give an analogy. All of us are flying in the same airplane, on a heading pre-programmed by history, towards a destination where no one has ever been. We, the Members of this first totally elected legislature, are in the cockpit and the people who voted for us are all seated behind. It is understandable that Members have different ideas about how to prepare for the arrival. We can settle our differences by either confrontation or co-operation.

But regardless of the choice we make, we have to land this aircraft in 21 months' time. Whether we have a smooth landing or a crash, it is up to us. I have made my choice and now it is your turn.

Thank you, Mr President.

Question on Mr David CHU's motion put.

Voice vote taken.

PRESIDENT: I think the "Noes" had it.

Mr David CHU claimed a division.

PRESIDENT: Council will now proceed to a division.

PRESIDENT: Will Members please register their presence and then proceed to vote?

PRESIDENT: Any queries? Before I declare the result, Members may wish to check their votes. The result will now be displayed.

Mr David CHU voted for the motion.

Mr Allen LEE, Mrs Selina CHOW, Mr Martin LEE, Mr SZETO Wah, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Dr LEONG Che-hung, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Michael HO, Dr HUANG Chen-ya, Mr Eric LI, Mr Fred LI, Mr Henry TANG, Mr James TO, Dr Samuel WONG, Dr YEUNG Sum, Mr WONG Wai-yin, Mr James TIEN, Mr LEE Cheuk-yan, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Paul CHENG, Mr CHENG Yiu-tong, Mr CHEUNG Bing-leung, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr HO Chun-yan, Mr IP Kwok-him, Mr LAU Chin-shek, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr LEE Kai-ming, Mr LEUNG Yiu-chung, Mr NGAN Kam-chuen, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE, Mrs Elizabeth WONG and Mr YUM Sin-ling voted against the motion.

Mr CHIM Pui-chung, Mr LAU Hon-chuen and Mr LO Suk-ching abstained.

THE PRESIDENT announced that there was one vote in favour of the motion and 42 votes against it. He therefore declared that the motion was negatived.

ADJOURNMENT

MRS ELIZABETH WONG: Mr President, I move that this Council do now adjourn to enable me to raise a public matter for which the Government is

responsible, with a view to eliciting a reply.

PRESIDENT: Members may wish to be reminded that in an adjournment debate there are 45 minutes for Members to speak. I have accepted the recommendations of the House Committee that the 45-minute speaking time be equally apportioned amongst the six Members (including Mrs Elizabeth WONG) who have given prior notification to the Clerk of their intention to speak. As Members were advised by circular on 17 October, Members who have given prior notice to speak, including the proposer for the subject, will each have seven minutes 30 seconds for his or her speech. Under Standing Order 27A, I am required to direct any Member speaking in excess of the specified time to discontinue his or her speech. At the expiration of the 45-minute period or after all the Members wishing to speak have spoken, whichever is the earlier, I will call upon the Secretary for Education and Manpower to reply.

The Importance of Encouraging Broad Education and Modern-day Literacy (for example, Computer Literacy) in Hong Kong

MRS ELIZABETH WONG: Mr President,

Introduction

I believe there have been no adjournment debates for at least two years in this Council. As a new comer to this Council, I feel I should practise the art of thinking on my feet so as to prepare the way for many marathon debates of the kind in the good days to come.

The subject of today's adjournment debate, which I sponsor, was prompted by the recent spate of suicides amongst teenagers which is really heart-rending. Some of these suicides were described as due to pressure from school work.

All this, I think, is a sad indictment of our society! Hence debate.

Without attributing or wishing to attribute, and without having any pretensions to either being a philosopher, or an intellectual, or even an educationalist, I hope that through this debate and collective wisdom, and through the voice of those who care in this Council, we can give the right message to the Hong Kong people about this very important broad area of

education.

I would like to say that true broad education is not just about facts or theories or laws or about book-learning. Mere accumulation of information by stuffing the memory is not education, but instruction or indoctrination.

Education is really about opening up minds, not to take things for granted in the same way as we do not take the Standing Orders for granted. Education widens our horizons, and awakens in us a natural curiosity in things. It is about how to think for ourselves. More importantly, it is about how to cope with life and making the best of life itself.

Just as civilization is the result of the accumulated art and experience of survival, so education should teach us the skills of survival in an ever changing world.

The modern dilemma we face, I think, is how to achieve a balance between the demands of mediocrity and the pursuit of excellence; between pedantic book-learning and developing individualism.

We live at a time when the average individual has to know several times as much as his ancestors. In order to keep informed, in Hong Kong for instance, we are told that we should speak Cantonese, we should speak English and we should speak Putonghua — and, goodness me, these are only just starters!

No wonder our kids are under tremendous pressure.

The measure of progress of the world is not about how many A's student gets, or how many languages he speaks. What about the dumb and deaf? They also have something to offer to our society. What about how the young person can cope with life itself and, can survive in this complex world?

In these critical days, the requirement for knowledge covers such enormous grounds that no single person can be expected to be good at all the subjects; but some might be good at some of the subjects. That is to say, not all the people are talented in the same subject, but in all the subjects there must be some talented people.

Therefore, it is important through education to make for individuality: individual superiority of achievement rather than collective mediocrity.

It is in the discovery of the strengths in a person that parents and teachers alike must work together to detect, cultivate and bring about the best talent in that person: be the talent in music, in cooking, in dancing, in sports, in mathematics, whatever.

But to cope with modern hi-tech, we require a new approach to education. Technological changes should bring about the need for an understanding of the new literacy, including computer literacy, so that we can cope with the influence that new technology can bring. Computer literacy should not just start in the secondary schools — it is a bit too late for that — but much earlier in primary schools. Elsewhere, it is in the kindergartens. Kids should know how to punch into the computer. There is no doubt that we live in evolutionary times with a need to setting codes of ethics, so that we know the ground rules of communication through faceless, heartless machines. Young people would be lost without new road maps for travelling on the internet or in cybernetic space.

If we look into the future, we should prepare our children to become good citizens not only in Hong Kong but in the new world order. If we do not enrich their minds with knowledge or in-build their hearts with love or truth and the duty of international citizenry, we are doing an injustice to our next generation because the world is getting very much smaller than you and I think.

So, I recommend the Government, parents and teachers should work together in tapping the individual talent, in providing more choice of subjects, in providing better-paid expert teachers, in promoting literacy in the arts, in music, in science, whatever the young people are good at individually, to identify new opportunities in Hong Kong's economic structure and enhance less pedantic book-learning, in enhancing vocational training, and in promoting the understanding of new ethics in the use of computer.

When we spend one third of our lives in academic studies, let us at least try to make education both fruitful and enjoyable. Let us encourage modern day literacy.

Thank you, Mr President.

MR MARTIN LEE: I do not think we have a quorum.

PRESIDENT: I direct that Members be summoned.

張文光議員致辭：主席先生，新學年開始，接連多宗學童自殺的悲劇，令人震驚。為甚麼他們會選擇一條絕路？為甚麼他們會對生命不存希望？為甚麼他們幼嫩的心靈，會對人間毫無眷戀？

我作為代表教育界的議員，對於個別學童離棄生命，或殘害身體，感到非常難過，但這亦反映出今天現代化社會及教育制度的不足之處。現代化社會，重物質、輕靈性、欠缺有情天地的空間；科技化生活，單向、疏離、製造污染的、冰冷的環境。孩童有能力去擺脫疏離、消除冷漠嗎？現今教育有否對應問題，作出補救？

對黃錢其濂議員今日辯論的議題，本人很同意要討論，亦贊成要鼓勵推行現代化的全面教育。不過，在這論題下，我們先要賦予現代化教育及全面教育正面的意義和充實的內容，然後確立目標和方向，討論才有價值。

全面教育，離不開德、智、體、群、美五育均衡發展。教育是樹“人”的事業，“人”不是“物”，所以教育制度首先不能僵化，要照顧不同人的差異性，要重視個別學童的獨特性。智能的表現只是教育一部分而非全部，優異的學業成績不應視為單一的追求目標。如果教育只是重視智育，而輕視德、體、群、美育，就是不全面，就有缺失。

樹“人”是培育健全的人，知識固然重要，但是面對日新月異，急劇轉變的社會，學海無涯。然而，今日的教育有沒有為學童提供一些一生受用的知識，有沒有教導他們正確地面對人生，維護社群利益之餘，認同人權、民主、自由、法治、廉潔及保護環境的重要，並能欣賞和創造美好的世界和事物？成功的全面教育等如“全人教育”，是要使每一位接受過教育的人，能明辨是非、善惡、美醜，並且兼具正直剛強和不屈不撓的德性。

儘管人有差異，資質亦可能有優劣之分，推行“全面教育”的目的一定不能汰弱取強，造成一部分人註定要面對挫折失敗，另一部分人就以優越成功為榮。所以“全面教育”的路向，應朝向多元發展，要因應學童的不同能力，不同需要，再配合社會的發展趨勢，設計適切及追上時代的課程，照顧不同性向的學童，令他們同樣能夠愉快地接受教育，並能在其中提高興趣及

取得進步。

邁向現代世界由工業社會轉型到資訊社會的變化，培育高科技及電腦人才，固然重要。但與此同時，現代化教育要讓人能駕馭科技，應用電腦，而不是讓人崇拜物質，甚至變成物質的奴隸。現代化教育的重要任務，不能單一追求科技進步，還須教導學生學習面對和克服現代社會上人與人之間的疏離和無情；適應和調節科技生活的多變和單向性。

主席先生，本人謹此陳辭，希望我們的下一代能夠在一個自在、寬闊、溫暖和開放的環境下接受現代化全面教育，但願學童自毀和自殺的悲劇不再重演。

唐英年議員致辭：主席先生，提到香港的教育，很多人會投訴，舉例而言：

投訴一：有中學校長投訴，錄取的中一學生連 26 個英文字母也未完全認識。

投訴二：記者說：向一批大學生做問卷調查，問及知否誰是曹雪芹，竟有學生反問：“是否今年亞姐的候選人？”

投訴三：一名老闆在會見了近百名大學畢業生後，說難於聘請一個合適的人！

這些都不是笑話。

我知道人力就是香港唯一的資源，假如我們到了二十一世紀，仍然任由教育質素江河日瀉的話，我可以說，香港沒有本錢再驕傲下去。

二十一世紀的來臨，香港學生所面對的挑戰是國際性的。日本、美國、南韓、英國、法國、德國等各個國家用於培養學生的資源都比香港慷慨得多。中國的大學生就更加是十億人口中的精英。“香港的學生將來在國際市場上怎樣能不被比下去？”是今天的一個首要問題。

我深切期待教育統籌委員會今年年初宣布成立的工作小組，能在香港的政治及經濟邁向二十一世紀的過程中，為香港教育重新作出定位。

要改善香港教育的質責，可說是長路漫漫，不斷求索。其實早在一九八

二年港府聘請的國際教育顧問團所撰寫的建議書，已經為香港教育制度作出了一個全面的檢討。可惜這些有系統、有遠見的建議在經歷了十多年時間後，竟變成了“做一些、不做另一些；做到一部分、又做不到另一部分”的零星改革。

當年的國際教育顧問團批評香港教育以考試為中心，受考試制度的支配，這個批評到了今日也沒有絲毫改善。學生為考試而讀書；老師為考試而教學；課程為考試而編寫。政府堂而皇之說改善教育質素，但若連最結構性的問題也解決不了，要提升教育質素，談何容易？

每個中學生都有一部電腦，這是彭定康先生的驕傲，但假若師資、輔助、空間、配套一應俱無，一部電腦最終亦只是一部電腦！

每年耗費 1,000 萬元加強普通話訓練確然值得嘉許，但有些學生連廣府話也未能說得好，他們又怎樣辦呢！

教育是重要的，所以我們要計劃；
教育是瑣碎的，所以我們要統籌；
教育是基本的，所以我們要由基礎做起；
教育是長遠的，所以請於今天開始。

張炳良議員致辭：主席先生，雖然剛才黃錢其濂議員說今天是第一次立法局會議，所以藉今次辯論的機會，讓我們嘗試發言，但我認為她今次提出討論的有關全面教育這論題是非常及時的。

香港現正處於過渡九七，邁向二十一世紀的關鍵時刻，雖然較早前幾位議員提到學童自殺問題，作為一個觸發點，但我認為我們應從一個更正面和積極的態度來看全面教育這問題。

香港社會近年來對於教育的前景、課程和教育質素等問題都談論得比較多，社會上亦有一個全民教育的共識。我認為現時正是時候，正視如何在全民教育的基礎上，推動全面教育，或可稱為“全人教育”，來充實我們教育的內涵。

剛才張文光議員用“德、智、體、群、美”來描繪一個全面教育的內容，或者容許我用另一些字眼，一些我形容為肢體語言，（但並非一些鄰近地區的立法機關所採用的肢體語言）來解說“全人教育”須注意的地方。我會從眼、耳、口、鼻、手五方面來說。

在“眼”方面，我認為我們須培養我們的學生和年青人須眼光遠大，視野廣闊。他們應對周邊地區的環境、民情及發展充分掌握。香港的經濟顯然是立足於亞太區，亦愈來愈與中國大陸的經濟扣成一起。九七年後，香港回歸中國，所以我們的青年學生當然應該要有一個具體的中國視野。然而，香港亦是一個外向經濟，所以除了要對中國和台灣有認識外，我們應該讓學生對我們周圍的地區，包括日本、南韓，以至東南亞各地的歷史、地理、社會經濟和政治都能加深認識。過往香港所謂的國際觀都是偏重於英、美這些地區。我認為，今時今日，當香港邁向二十一世紀亞太區發展這範疇內，我們應該確立完全而並非偏頗的國際觀。

在“耳”方面，我們應該培養學生願意聆聽，具有關懷、照顧他人、兼容、尊重其他人的人權和自由的胸襟。

在“鼻”方面，這是指嗅覺。我們應該培養學生對周遭社會和社群有充分的敏感度，包括對社會內一些少數民族，不同性別、不同性傾向、不同信仰、不同年齡的人士的處境和需求有充分的敏感度，不存歧視。我們的公民教育應該做到這點。

在“口”方面，我們應該培養學生的語文能力，這不單是指“三言兩語”，在香港，我們要懂得英文、中文、廣東話、普通話和英語會話。我們更應令學生勇於使用多種語文。語文對他們來說不應是一種壓力，而是一種他們樂於使用，作為溝通的媒介。我知道《教育統籌委員會第六號報告書》會討論語文教學的問題。我希望到時可以很清楚和全面看到如何在香港落實一個多語文社會的目標。

在“手”方面，我們過往的學校教育都較為注重一些傳統的學科，或是所謂“書本上”的知識。我們應該讓學生除了學習書本上的知識外，還可以在其他方面多些學習。因為學術並非只是“學”，還包括“術”。我們應透過課程的發展，突破傳統科目的界限。剛才黃錢其濂議員提到電腦，其實視聽藝術，甚而舞蹈、戲劇等都應被納入學校主流教育內，不要使一些修讀傳統科目以外學科的學生被人視作二等學生。我們應該讓我們的課程達致多元化，使學生能夠全面發展他們的知識，啟發他們的思想。

主席先生，人生應該是多姿多采。青年學生應該能從教育中學習珍惜人生，學習怎樣與人相處，有社會感、有歷史感，尊重他人，欣賞生命的一切，培養積極的人生觀，感到他們能掌握自己的命運。

當我們談論全面教育的時候，學校須面對這問題，而我們整個社會也應一齊努力。

主席先生，我謹此陳辭，支持休會議案。

MR MARTIN LEE: We fall short of a quorum again.

PRESIDENT: I direct that Members absent be summoned.

8.07 pm

黃秉槐議員：《常規》有否規定要等候多久才可以休會？

PRESIDENT: May I read to Members Standing Order 10(2): "If the attention of the President is drawn to the fact that a quorum is not present, he shall direct the Members to be summoned. If after fifteen minutes have expired he is satisfied that a quorum is not present, he shall adjourn the Council without question put." This could be interpreted to mean that the 15-minute period started from the time when my attention was drawn by Mr LEE to the fact that a quorum was not present.

黃秉槐議員：現已差不多 15 分鐘了。

NEXT SITTING

PRESIDENT: Members, 15 minutes have elapsed. In accordance with Standing Order 10(2), I now adjourn the Council without question put, until 2.30 pm on Wednesday, 25 October 1995.

Adjourned accordingly at seven minutes past Eight o'clock.