

OFFICIAL RECORD OF PROCEEDINGS

立法局會議過程正式紀錄

Wednesday, 13 March 1996

一九九六年三月十三日星期三

The Council met at half-past Two o'clock

下午二時三十分會議開始

MEMBERS PRESENT

出席議員：

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 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.

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 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 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 FREDERICK FUNG KIN-KEE

馮檢基議員

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 EMILY LAU WAI-HING

劉慧卿議員

THE HONOURABLE LEE WING-TAT

李永達議員

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 HOWARD YOUNG, J.P.

楊孝華議員，J.P.

THE HONOURABLE ZACHARY WONG WAI-YIN

黃偉賢議員

THE HONOURABLE CHRISTINE LOH KUNG-WAI

陸恭蕙議員

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 ANDREW CHENG KAR-FOO

鄭家富議員

THE HONOURABLE PAUL CHENG MING-FUN

鄭明訓議員

THE HONOURABLE CHENG YIU-TONG

鄭耀棠議員

DR 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 BRUCE LIU SING-LEE

廖成利議員

THE HONOURABLE LO SUK-CHING

羅叔清議員

THE HONOURABLE MOK YING-FAN

莫應帆議員

THE HONOURABLE NGAN KAM-CHUEN

顏錦全議員

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

MEMBERS ABSENT

缺席議員：

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

李鵬飛議員，C.B.E., J.P.

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

劉皇發議員，O.B.E., J.P.

THE HONOURABLE MARGARET NG

吳靄儀議員

THE HONOURABLE SIN CHUNG-KAI

單仲偕議員

PUBLIC OFFICERS ATTENDING

出席公職人員：

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

CHIEF SECRETARY

行政局議員布政司陳方安生女士，C.B.E., J.P.

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

FINANCIAL SECRETARY

行政局議員財政司曾蔭權先生，O.B.E., J.P.

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

ATTORNEY GENERAL

行政局議員律政司馬富善先生，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 RECREATION AND CULTURE

文康廣播司周德熙先生，C.B.E., 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.

MR RAFAEL HUI SI-YAN, J.P.
SECRETARY FOR FINANCIAL SERVICES
財經事務司許仕仁先生，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 LAM WOON-KWONG, J.P.
SECRETARY FOR THE CIVIL SERVICE
公務員事務司林煥光先生，J.P.

MR KWONG KI-CHI, J.P.
SECRETARY FOR THE TREASURY
庫務司鄺其志先生，J.P.

MISS JACQUELINE ANN WILLIS, J.P.
SECRETARY FOR EDUCATION AND MANPOWER
教育統籌司韋玉儀女士，J.P.

CLERKS IN ATTENDANCE

列席秘書：

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>
Public Revenue Protection (Air Passenger Departure Tax) Order 1996.....	122/96
Public Revenue Protection (Business Registration Fees) Order 1996	123/96
Public Revenue Protection (Estate Duty) Order 1996.....	124/96
Public Revenue Protection (Stamp Duty) Order 1996.....	125/96
Public Revenue Protection (Dutiable Commodities) Order 1996.....	126/96
Air Pollution Control (Asbestos) (Administration) Regulation	128/96
Shipping and Port Control Regulations (Amendment of Seventh Schedule) Notice 1996.....	129/96
Criminal Jurisdiction Ordinance (Cap. 461) (Commencement) Notice 1996	130/96

文件

下列文件乃根據《常規》第 14(2)條的規定而提交會議席上省覽：

項 目

附屬法例	法律公告編號
《1996 年公共收入保障 （飛機乘客離境稅）令》	122/96
《1996 年公共收入保障（商業登記費）令》	123/96
《1996 年公共收入保障（遺產稅）令》	124/96
《1996 年公共收入保障（印花稅）令》	125/96
《1996 年公共收入保障（應課稅品）令》	126/96
《空氣污染管制（石棉）（行政）規例》	128/96
《1996 年船舶及港口管理規例 （修訂附表 7）公告》	129/96
《刑事司法管轄權條例（第 461 章） 1996 年（生效日期）公告》	130/96

Sessional Papers 1995-96

No. 65 — Revisions to the Estimate of Expenditure on
Capital Projects approved by the Urban Council
as at end of December 1995

- No. 66 — Report of the Public Accounts Committee on the Report of the Director of Audit on the Review of the Housing Benefits provided by the Hospital Authority to its Employees (February 1996 — PAC Report No. 25A)
- No. 67 — Audited Statement of Accounts of the Language Fund for the year ending 31 August 1995

一九九五至九六年度會期內提交的文件

- 第 65 號 — 截至一九九五年十二月底對已獲市政局批准的建設工程的開支預算作出更改的報告（譯名）
- 第 66 號 — 政府帳目委員會就核數署署長報告書對醫院管理局為其僱員提供的房屋福利的檢討提出的報告書（一九九六年二月 — 政府帳目委員會第二十五 A 號報告書）
- 第 67 號 — 語文基金截至一九九五年八月三十一日止的經審核週年帳目

ADDRESS

Report of the Public Accounts Committee on the Report of the Director of Audit on the Review of the Housing Benefits provided by the Hospital Authority to its Employees (February 1996 — PAC Report No. 25A)

MR ERIC LI: Mr President, when I tabled the Public Accounts Committee's Report No. 25 in the Council on 7 February 1996, I explained why we had to defer a full report on the subject concerning "the review of the housing benefits provided by the Hospital Authority (HA) to its employees". I also assured Members that the Committee would put in our best endeavours to finalize the report to the Council at the earliest opportunity. I am pleased to report that we have now finalized deliberations on this subject and the Committee's conclusions and recommendations are contained in our Report No. 25A tabled today.

At the time when we decided to defer a full report on the subject, the Committee were hopeful that our request to examine the relevant documentary evidence concerning the formulation and financial analysis of the HA remuneration policy could meet with the Administration's favourable consideration. To our great disappointment, although the Chief Secretary implied in her earlier letter to the Committee that exceptions could be made in the disclosure of Executive Council papers, the Administration and the Executive Council have finally chosen to resort to blanket claims of "class" confidentiality in denying the Committee's access to the documents which we believe should not contain sensitive information affecting public security.

We are obviously dissatisfied with the act of the Administration which, I must say, is blatantly against the principles and its professed commitment to co-operate with the Committee in the performance of our duties. The Administration argued that all relevant information had been given to the Committee and that inspection of the Executive Council papers would not help to clarify matters further. However, should it be the case that the Administration can alone decide what and how much information and documentation the Public Accounts Committee need?

Mr President, there is no doubt that the Committee's scope of investigation into the HA case is hitherto constrained by the selective evidence and secondary information provided to us. Notwithstanding this, the evidence we gathered has clearly shown that the process of formulating the HA remuneration package at the time lack clarity and precision in determining the principle of cost comparability between the civil service and the HA packages. There was the obvious absence of a long-term cost analysis of the HA package under different possible scenarios and the lack of a crucial review mechanism. The arguments justifying the non-application of the double benefits rule on HA staff were also flawed.

In the course of examining the cost comparability between the civil service and the HA packages, the Committee had been provided different figures by the Director of Audit and the HA. The Committee are well aware of the fact that different assumptions taken to interpret the open-ended "cost comparability" principle could lead to very different cost projections. However, we do not consider it the proper role of the Committee to decide or adjudicate policy matters where the Administration's own policy is silent. This role falls squarely

on the Administration. It alone must take full responsibility to tie up the loose-ends. The proper focus of the Committee is therefore placed on the various short-comings identified in the policy formulation process and the glaring potential of over-spending revealed by the Director of Audit's Report. We urge the Administration to critically examine the HA staff remuneration package, as a matter of urgency, to ensure the public that there could be no chance of over-spending in future.

The Administration has set up an inter-departmental working group to review the HA remuneration package. We sincerely hope that the review will take into account the Committee's views and recommendations and look forward to the outcome of the review in May 1996.

In the Chief Secretary's letter of 1 February 1996 to the Committee, she said that "it is more important for the Committee to point the way forward rather than to dwell on what happened in the past". We have no disagreement with her as a matter of principle. Indeed, in my opening remarks at the Committee's first public hearing on 20 November 1995, I also mentioned that "our approach, as always, will be fact finding and problem solving rather than simply laying blames". However, we must not forget that it is through looking into previous mistakes and learning from lessons in the past that we know what improvements are necessary in achieving more efficient use of public funds in future.

Thank you, Mr President.

PRESIDENT: May I remind Honourable Members that under Standing Orders I can only allow short questions to be put to Mr LI and only for the purpose of seeking elucidation on his address.

MRS ELIZABETH WONG: Mr President, I would like to ask a question for elucidation. In the last third line of the Honourable Eric LI's speech, he referred to looking at previous mistakes. My question for elucidation is this: Does the PAC have evidence that any mistakes have been made in the past and whether there is in fact any over-spending?

PRESIDENT: I am afraid I will not allow exchanges along these lines because under Standing Order 14 no debate may arise on the address. However, I can see that there might be a desire on the part of Members to debate the issue and I am considering whether or not to introduce a procedure in future whereby reports on matters referred by the Council to the committees should be made on a motion which is of course debatable.

May I also remind Honourable Members that according to the former President's ruling on the conventions of this Council, no sign or message may be displayed, not even on clothing items. So, Mr TSANG Kin-shing and Mr LEUNG Yiu-chung may wish to have their signs removed.

ORAL ANSWERS TO QUESTIONS

Equal Opportunities Commission and CEDAW

1. 李卓人議員問：有關政府尚未實施於去年已承諾的兩項有關婦女權益的措施，分別是成立平等機會委員會及將聯合國《消除對婦女一切形式歧視公約》援引來港，政府可否告知本局：

- (a) 平等機會委員會的成立時間表為何，及將於何時公布委員會成員名單；
- (b) 會否考慮在未有委員會主席前，先成立平等機會委員會開展工作；
- (c) 據知政府已計劃就援引《消除對婦女一切形式歧視公約》訂立若干保留條文，及中英聯合聯絡小組會進行有關磋商，政府會否就有關保留條文諮詢婦女團體意見；若否，原因為何；及
- (d) 中英聯合聯絡小組磋商上述(c)項條文的時間表為何？

政務司答：主席先生，相信議員已知道，我們現正物色平等機會委員會主席的人選，並希望於三月底前完成甄選程序。由於我們所選人士也許需要按照其個人情況完成某些手續，方能正式接受委任，以便我們作出有關公布，故此，在現階段實難以確定成立委員會的時間表。不過，議員大可放心，我們

會盡快公布委員會的全體成員名單。

我們認為，在未委出主席前，並不適宜先成立平等機會委員會。為確保委員會成立後能夠即時有效運作，政務科的籌備工作小組已取得所需的撥款，並已租用辦公室和加以裝修。其他的準備工作，例如釐定委員會以及屬下工作小組的組織架構和職權範圍，以及制定辦事處大約60名員工的聘用服務條件等，都已差不多就緒。工作小組並已着手編訂僱傭實務守則，給委員會考慮。

關於本質詢的第二部分，即有關《消除對婦女一切形式歧視公約》一事，由於援引公約後，會把一些新的國際權利和義務在一九九七年後加諸香港，因此須透過中英聯合聯絡小組，諮詢中方的意見。我們已於本年一月，將一份說帖連同有關資料送交中方，刻下正待中方回應。

英國去年就公約所訂的原有保留條文作出全面檢討，並於九月完成有關工作。我們由當時起便考慮可以引進香港的保留條文。現建議香港在援引公約後，引用七條保留條文。這些條文的目標，是要澄清本港加入公約後的義務，和重申我們某些現行的規則及措施是在公約下所容許的。有關係文當中，除了有一條是關於《中英聯合聲明》所容許的租金優惠安排及小型屋宇政策外，其他都是按照相應的英國保留條文而制訂。我們於一九九四年宣布將會把公約援引至本港時，已向市民解釋，為何需要保留該項特別條文。

李卓人議員問：主席先生，我的質詢很簡單，就是究竟何時會成立平等機會委員會，政務司完全沒有提到政府打算何時會成立該委員會。由於一天不成立該委員會，兩條法例，即《性別歧視條例》及《殘疾歧視條例》都無法生效，所以我想知道何時會成立該委員會。

政務司答：正如我剛才在主要答覆所說，我們會盡快成立平等機會委員會。事實上，遴選過程現已展開，我們希望在本月底前能確定有關人選。正如我剛才所說，由於我們所選的人士也許須就他的個人情況完成某些手續，例如他需要辭職，或有些人選在外國應徵，他們須返港才可接受委任，所以他們需要一些時間來完成這些程序，而我們要在有關人選完成這些程序後才可作出公布。時間可短至一、兩天，又或長至一、兩個星期甚至一、兩個月，須視乎當事人的需要而定。因此，正如我剛才所說，是很難定出確實時間表的。不過，無論如何，我們會盡快公布名單。

PRESIDENT: Mr LEE Cheuk-yan, are you claiming that your question has not been answered?

李卓人議員問：是的，主席先生。我覺得我很清楚.....。

PRESIDENT: I do not think you need raise the question again. Secretary, are you prepared to give a definite date?

政務司答：主席先生，很抱歉，由於我剛才所說的原因，我不可以提供一個確實日期。

劉千石議員問：主席先生，李卓人議員的質詢(c)部分問及，據知政府已計劃就援引《消除對婦女一切形式歧視公約》訂立若干保留條文，及中英聯合聯絡小組會進行有關磋商，政府會否就有關保留條文諮詢婦女團體意見；若否，原因為何？但政務司的整個主要答覆都沒有觸及這個問題，請問政務司可否再答覆這項質詢？

政務司答：主席先生，其實我在主要答覆的最後一段已交代這方面的情況。主要是在七條保留條文中，六條是按照現時英國相應的有關保留條文制定，只有一條是關於《中英聯合聲明》所容許的租金優惠安排及小型屋宇政策。我們在一九九四年宣布將該公約援引至香港時，已經向市民解釋保留這項特別條文的原因，即我們已就這方面向所有香港市民，包括婦女團體作出交代。

梁耀忠議員問：主席先生，政務司在主要答覆最後一段提到，政府在一九九四年已經宣布將這公約援引至本港，請問政務司，這項援引工作現時的進展如何；又能否確保在九七主權移交前，完成這項工作呢？

政務司答：主席先生，正如我剛才所說，在我們宣布將該公約援引至香港後，英國就公約所訂的原有保留條文作出全面檢討，該項檢討已於去年九月

完成。我們其後按照英國這方面的條文檢討是否適用於香港。我們在今年一月完成這項工作後，將決定建議適用於香港的七條保留條文以說帖形式連同有關資料交給中方，我們現正等待中國的回應。由於中方本身是該公約的締約國，所以我們預料該公約援引至香港的問題應該不大，但實際工作仍須視乎中英聯合聯絡小組的工作進度而定。

何俊仁議員問：主席先生，李卓人議員質詢的(d)部分問及，中英聯合聯絡小組磋商上述(c)項條文的時間表為何，我相信政務司認為答說“一月交去”已是回覆。我想請問，香港政府是否一定要在獲得具體答覆後，才可以採取下一步行動？換言之，是否如果沒有答覆，或一直拖延下去的話，港府就不會採取任何進一步的行動？

政務司答：主席先生，所有工作都必須在中英聯合聯絡小組進行。我們已將有關資料交給中方，預料它在看過我們的資料後，如有問題就會在中英聯合聯絡小組上徵詢我們的意見。因此，所有工作都是在那裏進行，我認為事情是不會在那裏無限期擱置的。

PRESIDENT: Mr HO, are you claiming that your question has not been answered?

何俊仁議員問：是的，我想政務司清楚答覆，是否一定要中英聯合聯絡小組同意或達成協議後，才可能採取進一步行動，將該公約援引至香港？我只想得到一個答案，究竟是抑或不是。

政務司答：主席先生，簡單的答案是“是”。

劉慧卿議員問：主席先生，有關援引該項公約所涉及的七條保留條文方面，我相信政府也知道有些議員是反對政府這樣的做法。不過，政府說除了有關小型屋宇的條文外，其他都是英國本身所保留的條文。請問政府，是否宗主國所保留的條文，殖民地在援引公約時都要保留？現時的進展這麼緩慢，日後中國作為我們的宗主國時，是否又要顧及中國有多少保留條文呢？我們現時跟隨英國的做法，如果中國完全沒有保留條文的話，我們怎樣做，究竟情

況如何？

政務司答：主席先生，正如我剛才所說，英國在去年九月已完成有關保留條文的檢討。我們不是將英國的所有保留條文悉數採納，而是視乎英國現時最新的保留條文對香港是否適用，我們才決定是否採納。因此，現時香港的七條保留條文只是英國保留條文的其中一部分。英國有些條文，我們並沒有引進香港。

至於有關中國方面，據我們所了解，中國的保留條文是很簡單的，只有一條，但香港本身有需要實施現時所建議的幾條保留條文，以確保我們現時的一些規例及措施在援引公約後得以繼續實施。

李卓人議員問：主席先生，請問政務司，較《性別歧視條例》還要遲通過的《個人資料（私隱）條例》同樣在未招聘得主席的情況下，已經展開了公開宣傳活動，包括印製宣傳單張，以及在地鐵站燈箱刊出廣告等，相較之下，政務科似乎無心向公眾宣傳平等機會委員會這個擬定的架構。政府是否歧視平等機會委員會？我希望政府解釋一下，在法例通過後的宣傳準則為何？

PRESIDENT: The supplementary is outside the scope of the original question.

Executive-led System

2. 曾健成議員問：主席先生，總督和布政司曾多次描述現行體制為“行政主導”體制，政府可否告知本局：

- (a) “行政主導”體制為何，及其具體內容包括甚麼；
- (b) 立法局議員根據《常規》提出議員條例草案，是否與“行政主導”體制相違背；
- (c) 總督在去年的施政報告中表示，在某種情況下會拒絕簽署議員條例草案，這是否為了維護“行政主導”體制；及
- (d) 政府如何確保“行政主導”體制不會阻礙本港民主政治的發展？

CHIEF SECRETARY: Mr President,

- (a) The political system of Hong Kong is built on the principle of "separation of powers" with an executive-led Government. The executive, legislature and judiciary have different and independent roles, which check, balance and support each other. Under our executive-led system of government, the executive is responsible for formulating and implementing policies and providing various services to the community. In line with this, it is the Administration's role to put its legislative and expenditure proposals to the Legislative Council for consideration. In short, the Administration proposes and the legislature disposes.
- (b) The Legislative Council Members have a constitutional right to introduce Member's Bills provided that their proposals do not have the object or effect to disposing of or charging any part of the public revenue. But a proliferation of Member's Bills on important issues of public policy would undermine the present division of responsibilities between the executive and the legislature. It would also upset the Administration's own legislative programme, which has been carefully drawn up to take account of the views and aspirations of the various sectors of our community, including the Legislative Council. As the Governor said in his policy address, we believe that the public interest would be better served if we moved forward on an agreed basis, rather than on parallel tracks.
- (c) The Governor's statement in his 1995 policy address was no more than a recognition of the constitutional position. The Governor also emphasized that the Administration is committed to working together with Members of this Council on behalf of the community we all serve.
- (d) The principle of "executive-led" Government does not mean that the executive can do whatever it wants. In the Hong Kong system, the legislature and the executive perform distinct roles and provide

checks and balances to each other. Thus, the Administration's legislative and financial proposals all have to be approved by the Legislative Council, in which we have no votes.

曾健成議員問：主席先生，由於香港的行政首長並非由選舉產生，沒有民意授權，司級官員是公務員，無須負上施政失誤的政治責任。政府可否告知本局，在這制度下，“行政主導”會否演變成“行政獨裁”？

CHIEF SECRETARY: I do not think there is any danger, Mr President, of the executive becoming a dictatorship. The roles of the executive are very clear and clearly laid down. At the end of the day, the executive is of course fully accountable to the legislature and if there are any situations in which the legislature wishes to question the executive, then of course we would be very happy to explain our position.

楊森議員問：主席先生，根據 *Blackwell Encyclopaedia of Political Science* 的政治科學百科全書只有議會制度、選舉制度、獨裁主義，從來沒有提及一種“行政主導”的制度。請問政府提出這個“行政主導”的體制，其實基於甚麼理論基礎？

PRESIDENT: Under Standing Order 18(1)(h), I think, Dr YEUNG, you are seeking the expression of an academic opinion, which is not the Government's responsibility. (*Laughter*)

楊森議員問：主席先生，雖然我在大學教書，但我每個問題並非都是學術性問題的。因為政府常常說“行政主導”，我相信市民大眾都很想知道政府是基於甚麼基礎提出這點，又或有甚麼理論基礎？

CHIEF SECRETARY: Mr President, I think that the term "executive-led" is fairly self-explanatory. It does no more than to set out the roles of the executive, which as I have said are clearly laid out, and distinguishes the role of the executive from the role of the legislature. But I do emphasize that at the end of the day, the executive remains fully accountable to the legislature.

MR EDWARD HO: *Mr President, I refer to the last sentence of the Chief Secretary's reply:*

"Thus, the Administration's legislative and financial proposals all have to be approved by the Legislative Council, in which we have no votes."

Under that situation, will the Chief Secretary reply how can the Government maintain an executive-led government, or is that an academic situation that cannot be attained?

CHIEF SECRETARY: Mr President, the executive-led Government has so far worked extremely well. We have a fully elected and a very responsible legislature and as the Governor has said, we hope to discuss our proposals with the legislature and to persuade the legislature as to the reasonableness of our proposals, whether they are financial or non-financial.

張文光議員問：剛才布政司在回答曾健成議員時否認政府是“行政獨裁”，但如果政府可以用總督的否決權去否決一個民選立法機關通過的議員條例草案，這樣“行政主導”與“行政獨裁”實質上有甚麼分別？因為立法局顯然因為總督的否決權而失去用議員以立法的方式制衡政府的機會，又如何實現政府所謂的“三權分立”？

CHIEF SECRETARY: Mr President, the Governor's power to refuse assent to any bill passed by the legislature is of course a constitutional power. That power, the Governor will obviously exercise very judiciously and sparingly. But the Governor does have very distinct and clearly laid down constitutional responsibilities. At the end of the day, he is responsible for the well-being of this community. He has to satisfy himself that any proposals that may be passed by the legislature are in the best interests of the community and that the practical and financial considerations involved in any legislation passed by the legislature are acceptable.

馮檢基議員問：主席先生，根據《常規》，議員有權提出一些無須動用公帑的議員條例草案。但布政司在答覆的(b)部分提到：“如果議員就公眾政策的重要事項大量提交議員條例草案，不但有違現時行政機關與立法機關各司其職的原則.....”。這句的重點在“大量”，這“大量”是否可以影響議員根據《常規》而擁有的權力，政府覺得“大量”便會影響他們。那麼甚麼是“大量”？現在算不算“大量”？

CHIEF SECRETARY: Mr President, let me stress again that the Administration fully recognizes the constitutional right of this legislature to introduce Member's Bills. But it is a fact that the number of sittings in any Session are limited. We do have a very full legislative programme initiated by the Government which takes into account the aspirations expressed by the community and also takes into account priorities expressed by this legislature. And so we very much hope that in considering advancing Member's Bills, Members will, bearing in mind the limited time available, give some priority to government legislative proposals.

I also stress at the same time that we are always very willing to listen to Members' proposals for legislative changes, and to the extent that we have not taken them into account in our legislative programme, we would be very happy to discuss a way forward with Members of this Council.

PRESIDENT: Mr FUNG, are you claiming that your question has not been answered?

馮檢基議員問：是的。我的問題是這一屆的議員條例草案是否算“大量”？

CHIEF SECRETARY: Mr President, I have nothing to add to my previous answer.

MRS ELIZABETH WONG: *Mr President, I shall not ask an academic*

question. I shall ask a simple relevant question. I have checked against the Standing Orders and think they are all right. My question is: To lead implies that there are followers who are led, for example, a shepherd leads a flock of sheep. Can the executive-led Government explain who are the flock of sheep who are prepared to be led by the executive-led Government?

PRESIDENT: It is not academic but it is certainly very biblical. (*Laughter*)

CHIEF SECRETARY: Mr President, I do not think I want to get into a debate about who is leading whom, other than to clarify once again that the roles of the executive and the legislature are distinct and very clearly set out.

詹培忠議員問：主席先生，在布政司的答覆中再次提及“互相制衡”這四個字，足證政府有關部門“互相制衡”是十分重要的。請問布政司，既然有這種情形，證券及期貨事務監察委員會的互相制衡權從何而來？哪個政府部門可作出制衡？

PRESIDENT: I do not think I can allow this supplementary. It is outside the scope of the original question.

何敏嘉議員問：主席先生，在答覆中的(b)段提到議員條例草案有沒有或如何影響“行政主導”時，指“大量”和“擾亂……立法議程”。政府可否在此舉出一些具體的例子，以證明政府曾指控謂會影響“行政主導”的議員條例草案是如何“大量”和“擾亂……立法議程”？

CHIEF SECRETARY: Mr President, I think it would clearly disrupt the Government's legislative programme if the number of Member's Bills going forward makes it very difficult or impossible for Members of this legislature to devote sufficient attention to scrutinizing and looking at government bills. But I do stress again, we do wish to agree a way forward; we prefer to proceed on this basis rather than on parallel tracks.

蔡根培議員問：主席先生，政府可否告知本局，政府有沒有具體方法來避免行政和立法各走極端，影響平穩過渡？

CHIEF SECRETARY: Mr President, I think the best way forward would be for the executive and the legislature to be prepared to discuss with each other our proposals, to give full weight to each others views, and whenever possible, to reach a consensus on the way forward.

李永達議員問：主席先生，從答覆(b)段，我看到的清楚信息是布政司似乎不會同意提出議員條例草案是違背“行政主導”，若然，我希望布政司清楚向司級官員表示別再向新聞界說議員提出條例草案是違背“行政主導”。主席先生，從答覆(b)段最後數句看來，布政司的意思似乎是政府每年提出立法議程有一定程度的諮詢和了解公眾意見。請問布政司，在一九九六至九七年度政府提出的每一項條例草案的時間和程序表，有沒有徵詢立法局的意見？

CHIEF SECRETARY: Mr President, I think I have made it quite clear in my main reply that the Administration recognizes the constitutional right of this legislature to introduce Member's Bills. I have simply urged that in putting forward Member's Bills that this legislature gives some priority to the Government's legislative programme.

I am not aware that any civil servant has at any time suggested to the media or otherwise that this constitutional power to move Member's Bills is not within the right of this legislature.

As regards the second part of Mr LEE's question, I agree that in the legislative programme put forward as part of the Governor's policy address, it may not be the case that with each and every piece of legislation we have individually sought the views of Members of this legislature. But they do, nevertheless, generally reflect what we believe to be community aspirations, and take into account views previously expressed by this legislature. Of course,

Members of this Council have further opportunities to scrutinize draft legislative items when they are put before Members for consideration.

張炳良議員問：主席先生，在布政司答覆(a)部分提到“行政主導”的體制有權力分立的特色，三方面即行政、立法、司法互相制衡，相輔相成，也提到最終來說，制度是政府提出建議，立法機關作主（這是答案中文本的字眼）。假如定義是這樣的話，布政司是否同意與其說這是“行政主導”的體制，不如更加確切形容這個是“行政倡議”的體制？

CHIEF SECRETARY: Mr President, I am not quite sure that I get the drift of that question.

PRESIDENT: I think Dr CHEUNG is suggesting that you ought to change the term into something else.

CHIEF SECRETARY: I have explained earlier on that the term "executive-led Government" simply does no more than to describe the distinct roles of the executive and the legislature.

曾健成議員問：主席先生，剛才布政司並沒有答覆我的問題。我的問題是行政首長和行政議局的議員是否由直選產生？並且問布政司是否贊成行政首長和行政局議員由直選產生會有民意的基礎？

PRESIDENT: I am afraid it is outside the scope of the original question which was asked by Mr TSANG Kin-shing himself.

And I am most pleased that Members have been most prolific in a fairly academic question. I wish I were wearing the other hat. (*Laughter*)

Police Force Disciplinary System

3. 周梁淑怡議員問：主席先生，鑑於海外督察協會批評警隊對涉嫌貪污

的高級警務人員的處理手法，政府可否告知本局：

- (a) 根據目前警隊內部的紀律體制，高級與初級警務人員所依循的紀律規條是否劃一；如果不是，原因為何；
- (b) 目前有多少高級警務人員並非受一般警隊內部紀律守則所規限，其職級為何；及
- (c) 過去三年，警務人員因涉嫌貪污或其他罪行而被調查的人數及職級，以及最終被處分的人數及職級分別為何？

保安司答：主席先生：

- (a) 所有警務人員，不論職級高低，一律須遵守《公務員事務規例》及警隊內部通例所訂明的紀律和操守要求。與督察或以下職級警務人員有關的紀律事宜，會根據《警隊條例》第45條所制定的《警隊（紀律）規例》處理，並且由警務處處長全權負責這類事案。與警司或以上職級警務人員有關的紀律事宜，會根據《警隊條例》第13條而按照《殖民地規例》處理，並由總督全權負責這類事案。

這兩套規例同樣採用公平公正的基本原則，研訊過程中的聆訊、處分及上訴程序亦相似，以確保所有事案都得到徹底和公正的處理。由於高級警務人員職位較為重要，涉及他們的事案理應由較高層人士處理。不過，他們並不會因而獲得較寬大的對待；他們與其他警務人員一樣，應堅持廉潔的操守。

- (b) 正如我在(a)段所答，所有警務人員，不論職級高低，一律須遵守同樣的紀律和操守要求，所以並無警務人員不受內部紀律守則所規限。
- (c) 我們的統計數字，只涉及因貪污或其他罪行而接受調查，並且最後遭受到紀律檢控及處分的人員，在過往三年，共有87名警員因被指稱貪污而遭紀律處分，而有32名警員則因被指稱其他刑事罪名而遭處分。有關的人員數目及職級分類，已經載於書面答覆的附件。

此外，過去三年，共有82名警務人員因觸犯刑事罪行（包括貪污罪行）被判有罪。根據《警隊條例》第37（5）條的規定，其中69

名人員無須進行正式紀律研訊即被革職、12人受到譴責；另外有一宗事案正進行上訴。有關人員數目及職級分類，亦載列於書面答覆的附件。

附

件

過去三年因被指稱
貪污或其他刑事罪名而接受調查
並遭紀律處分的警務人員數目
(按職級劃分)

(I) 因被指稱貪污而接受調查並遭紀律處分的人員

職級	年份			總數
	一九九三	一九九四	一九九五	
警司及以上	—	—	—	—
督察級	4	5	3	12
員佐級*	15	30	30	75
總數	19	35	33	87

(II) 因被指稱其他刑事罪名而接受調查並遭紀律處分的人員

職級	年份			總數
	一九九三	一九九四	一九九五	
警司及以上	—	—	—	—
督察級	—	—	1	1
員佐級*	4	7	20	31
總數	4	7	21	32

* 員佐級：包括警員及警長職級人員

過去三年被判刑事罪名的
警務人員數目分類

(III) 被判貪污罪名的人員

職級	年份			總數
	一九九三	一九九四	一九九五	
警司及以上	—	—	—	—
督察級	—	3	—	3
員佐級	6	3	8	17
總數	6	6	8	20*

* 20名人員全部被革職

(IV) 被判其他刑事罪名的人員

職級	年份			總數
	一九九三	一九九四	一九九五	
警司及以上	—	1	—	1 (*)
督察級	—	3 [1] <2>	—	3 [1] <2>
員佐級	21 [21]	28 [18] <10>	9 [9]	58 [48] <10>
總數	21 [21]	32 [19] <12>	9 [9]	62 (*) [49] <12>

[] 被革職的人員

< > 受譴責的人員

(*) 正在上訴的事案

周梁淑怡議員問：主席先生，近日有報章報道警隊反貪污策略督導委員會，曾經就高級警務人員的品格作出討論，而海外督察協會特別要求警隊要防止高級警官利用繁複的程序去避免處分。答覆中的數字亦反映了紀律處分，除其中一個例外，差不多全部都是警司級以下的中或低級警務人員。保安司可否清楚說明，剛才所講的兩套規則究竟有甚麼差異？為何不能劃一以確保沒有雙重標準或者被高級人員利用去逃避處分？

保安司答：主席先生，首先我想藉¹⁹這個機會向大家澄清，處理警務人員的紀律問題，無論涉及警務人員的職級高低，都是用同一的標準，不會對不同職級的警務人員採取不同的標準。在我的主要答覆中，我已經解釋過，雖然根據兩種不同的規例處理督察級和以下職級的人員，但亦有不同的規例處理警司或以上的職級，但它們的原則及內容是大約相似的。我在正文中也解釋過，因為警司或以上的較高級的警務人員，他們的紀律處分問題由更高層次決定，也是合理的。當然，這些警司級以上的人員現在是受《殖民地規例》的管轄，是有其歷史背景的。

涂謹申議員問：主席先生，整條問題的前設是海外督察協會曾經批評警隊對涉嫌貪污的高級警務人員的處理手法。

我的問題反而想問關於這前設：究竟海外督察協會是否最近曾批評警隊對涉嫌貪污的高級警務人員的處理手法？如果有，這些批評是甚麼呢？如果沒有，政府是否否認這個前設是錯誤呢？

PRESIDENT: I am not sure you can ask the Government, which is not responsible for the actions of the Expatriate Inspectors' Association. However, the last part of the supplementary was interesting in that if the Government had received a complaint from the said Association. Is the Government prepared to clarify the situation?

涂謹申議員問：主席先生，我問題的意思是因為整個問題是鑑於一個前設而質詢政府的。我的問題是政府是否同意這個前設所說的批評有發生過呢？如果政府認為是沒有的，或者有的，又或可能不知道的話，可以說不知道。

PRESIDENT: Thank you for rephrasing your supplementary.

保安司答：警務處處長和警務處的管理階層在研究用甚麼策略來防止和減低貪污的工作上，是不斷和從多方面與警察部門的各個員方組織互相討論和互相交換意見的。但我可以重申一句，據我所知，這個海外督察協會是全力支持警務處處長杜絕貪污的政策。

周梁淑怡議員問：剛才保安司提到用《殖民地規例》去處理高級警務人員的操守，是鑑於歷史的原因。既然在九七年之後這規例便會不適用的，現在究竟政府或警隊方面將會有何取替的安排？

保安司答：規例包含的範圍，當然不單止是警隊的人員，由於九七年七月一日政權移交關係，《殖民地規例》在九七年七月一日以後也不會繼續生效。至於因為這個原因而須採取的相應措施，是由我們的同事公務員事務司負責的。主席先生，能否批准將這問題交由公務員事務司回答？

公務員事務司答：我們了解到有需要維持一套制度，在九七之後，當《殖民地規例》不再適用時，我們仍然有一套規章去處理這些紀律的事案，我們目前正研究各個可行的方案，其中包括以一項法例取代這規例，但主席先生，我們目前仍正考慮各類方案而未有定案。

Study on Penal Institution at Lo Wu

4. 張漢忠議員問：鑑於政府在一九九五年公布的政策大綱中，提及研究可否將羅湖的一個舊軍營改建為監獄，政府可否告知本局：

(a) 目前該項研究的進展如何；

(b) 北區區議會反對上述計劃的議案獲得通過，政府在得不到地方支持下，會否繼續進行該計劃；及

- (c) 由於本港尚欠三千多個懲教宿位，而羅湖軍營改建為監獄的建議，亦只能提供 300 個懲教宿位，政府有否解決這問題的全盤計劃？

保安司答：主席先生，

- (a) 根據我們研究所得，將羅湖舊軍營改建為低度設防獄是可行的。自從去年十二月起，我們一直就這項建議諮詢北區區議會，區議會已曾向我們提出一些他們關注的問題，而我們亦於上個月向區議會提交詳細答覆。至今，我們仍未收到區議會的進一步意見。
- (b) 我們會繼續就我們的建議諮詢區內人士，包括北區區議會在內。但我不準備在今天揣測最終的結果，或推測政府會作出怎樣的決定。我們仍在跟進這項建議，並且會盡力解決區內人士所關注的問題。我想藉此機會促請北區區議員以開明的態度，考慮政府的建議，合力解決監獄過於擠迫這一個全港市民共同關注的問題。
- (c) 當然，羅湖軍營計劃只是解決監獄擠迫的其中一項計劃。在過去五年來，我們已重建多個現有的懲教機構，將懲教宿位增加大約 1 250 個，但現時仍欠缺大約 3 000 個宿位。現正在芝麻灣及赤柱監獄等地區，進行其他重建工程。一九九七年年初，芝麻灣留中心（下營）將會改建為一個女性戒毒治療中心，以容納從現有女性懲教機構轉介的囚犯，人數可以多達 250 名。赤柱的重建計劃，將於一九九八至九九年間分兩階段進行，可以增設大約 700 個懲教宿位。我們亦正研究重建大欖懲教所的可行性，預期重建後可增加達 260 個額外宿位。雖然這些計劃可大大紓緩現時極度擠迫的情況，但卻仍未足夠。所有可供重建的現有懲教機構，都已施工進行重建或已重建，因此，我們現正另覓新的地點，以增加大約 2 000 個宿位。但興建新的懲教機構需時數年之久，因此，在短期內改建羅湖軍營計劃雖然規模細小，卻可提供額外 300 個宿位，稍為紓緩目前擠迫的情況。

張漢忠議員問：主席先生，現時全港仍然欠缺3 000個懲教宿位，請問是基於何種因素，導致出現這種錯誤估計？第二，除了興建多些監獄外，有否其他辦法和策略解決這問題？

保安司答：主席先生，監獄擠迫不獨是今天的情況，過去也是這樣。雖然現時擠迫的程度很嚴重，但較以前來說，也不是相差得太遠。現時監獄這樣擠迫，主要是因為過去這兩、三年來，新判監的囚犯數目大增，所以我們需要興建多些懲教機構，以容納這些新囚犯。

廖成利議員問：主席先生，主要答覆(c)段提到現時監獄已很擠迫，請問監獄內囚犯的平均居住面積為多少；又何謂擠迫呢？

保安司答：主席先生，我手邊沒有目前監獄每名囚犯或每所懲教機構內住宿者的平均居住面積。不過，我可以這樣回答這項質詢，在九五至九六年度，所有懲教署的宿位只有10 404個，但是住在監獄和其他懲教機構內的實際人數達一萬三千多名。由此可見在九五至九六年度，入住懲教機構的犯人超額28%之多。

PRESIDENT: Mr LIU, are you claiming that your question has not been answered?

廖成利議員問：主席先生，是的，因為如果沒有一個標準的居住面積或監獄面積，那如何得知監獄是否擠迫呢？

保安司答：主席先生，我們是有一個標準的，我們是根據國際的通用標準來釐定現時監獄可以容納多少人。正如我剛才所說，在九五至九六年度，我們的監獄應可以容納10 404人，這是一個相當詳細的標準。如果廖議員有興趣的話，我稍後可以書面方式將詳細資料交給廖議員，解釋我們採用何種國際認可標準來量度懲教宿位的可用程度。(Annex I)

葉國謙議員問：主席先生，張漢忠議員的質詢(b)點要求政府告知本局，在不能得到地方支持的情況下，會否繼續進行該計劃。作為一名由選舉委員會產生的議員，我非常關心政府會否尊重區議會的意見。我很希望政府能夠告知本局，在得不到地方議會支持的情況下，會否繼續進行該計劃？

保安司答：主席先生，我在主要答覆中已提到，我不準備在今天揣測我們諮詢區議會的最終結果，或政府將會作出何種決定，因為諮詢區議會和地區的工作仍在繼續進行。我們也希望藉此機會促請北區區議員以開明的態度，考慮我們的建議，攜手合作解決監獄過於擠迫的這一個全港市民共同關注的問題。

周梁淑怡議員問：主席先生，在越南船民問題方面，保安司似乎會有好消息告知我們，說會很快進行遣返。在完成遣返所有越南船民後，應該有一些地方可以騰空出來。政府有否考慮利用那些地方，而不用再另覓新地點興建懲教機構，以致該區內居民感到較難接受呢？

保安司答：主席先生，我在主要答覆中也提到，我們仍然要覓取新地點興建新懲教機構。在這方面，我們已經與規劃署的同事一起，手尋覓新地點。在我們尋覓新地點興建新懲教機構時，我們不會忘記越南船民營日後可以騰空出來的地方。但據我所知，一些越南船民營已經規劃作其他用途，未必可以撥給我們興建監獄。

涂謹申議員問：主席先生，鑑於囚犯當中應有很大比例是非法入境者，他們是在現行檢控政策下而遭監禁，而我們一直與外國都有互換囚犯制度，在囚犯自願的情況下進行，請問政府是否覺得我們與中國，特別在九七年後，互換囚犯使其在原居地服刑這制度是否可行，以紓緩擠迫及囚位不足的情況？

保安司答：主席先生，我想藉此機會澄清一下相當多人的誤解。他們誤會現時監獄擠迫的情況，主要是由非法入境者導致。其實情況並非如此。以我們的做法，幾乎90%以上在香港捕獲的非法入境者都是即捕即解的，只有一些犯了其他刑事罪行，或在工作地點做“黑工”而被我們捕獲的非法入境者才會予以檢控。

我們在去年年中曾經進行一項研究，結果顯示當時在監獄服刑的大約13 000名囚犯當中，只有大約1 500人或11.5%是那些所謂非法移民或逾期居留人士。他們是因為犯了非法勞工的罪案而被我們拘留。同時，我們也發現到本地囚犯的數目由一九九三年的6 200人大幅增加至一九九五年八月的8 600人。因此，雖然非法入境者在監獄內當然也有一個相當的數目，但我不認為這是導致監獄擠迫的主要原因。

至於涂議員問有否安排將這些囚犯送回中國大陸服刑，我可以告訴他，我們現時沒有這個計劃，也沒有這個安排。

Buildings Department's Processing of Food Premises Licence Applications

5. 陳榮燦議員問：主席先生，近期有多間食肆的負責人向市政局申請食物業牌照或許可證時，因屋宇署的審批程序需時，以致該類牌照及許可證遲遲未能批出，阻延店舖開業。為此，政府可否告知本局：

- (a) 屋宇署審批食物業牌照或許可證，平均每宗需時多久；
- (b) 該署負責審批工作的人手編制為何，是否足夠應付現時的工作量；及
- (c) 有否考慮增聘屋宇測量師以加快審批食物業牌照或許可證的申請？

規劃環境地政司答：主席先生，

- (a) 市政總署及區域市政總署是兩個市政局的執行部門，負責處理普通或小食菜館牌照的申請。在處理這些申請時，這兩個部門會就各項問題，徵詢政府其他部門的意見，例如，就有關樓宇的結構是否適合經營食肆，逃生設施是否足夠，以及有沒有危害安全的違例建築工程等問題，請屋宇署給予意見。

兩個市政局於一九九三年採用中央申請審查小組系統後，屋宇署已能在30天內，就所有新的申請給予意見。不過，如申請人須提交經修改的圖則或基本結構圖則、進行改建工程、清除違例建築工程，或有必要再次視察有關樓宇，則處理申請所需時間，有時可能長達六個月。

- (b) 屋宇署的牌照小組負責處理菜館牌照申請、公眾娛樂場所牌照申請，以及根據《教育條例》和《幼兒中心條例》，就樓宇是否適合用作教育用途場所或幼兒中心發出證明書。

該小組目前的編制包括一名高級屋宇測量師、五名屋宇測量師及五名測量員。此外，並有一名高級結構工程師及兩名結構工程師輔助小組的工作。

- (c) 鑑於近期牌照申請的數目有所增加，由今年一月起，屋宇署從其他小組暫時調派兩名屋宇測量師，以處理所增工作。此外，下月將會另外調派一名高級屋宇測量師和兩名屋宇測量師往牌照小組工作。

長遠來說，我們將與兩個市政局以及政府其他部門商討，考慮應否對現行制度作進一步修改。若磋商沒有成果，我們將要考慮在整體資源限制下，應否永久調派更多人員至該小組工作。

陳榮燦議員問：主席先生，我不同意政府(a)部分的答覆。規劃環境地政司說處理牌照申請需時，有時可能長達六個月，意思是不會超過六個月或九個月，但這與事實不符。我曾接獲多宗投訴，其中一宗個案有關食肆於九四年十月已開始申請食物業牌照，並在九五年七月至八月先後獲發消防證書和通風證書，即其他部門都認為這間食肆沒有甚麼問題，唯獨屋宇署說防火門規格有些問題。申請人隨即進行修改，但經申請人多番催促，屋宇署仍遲遲未能再到食肆視察和檢查，.....

PRESIDENT: Mr CHAN Wing-chan please come to your question.

陳榮燦議員問：主席先生，直至九五年十一月該食肆仍未獲發牌照。我的質詢是，為何會出現這種情況，屋宇署官員的工作效率是否奇差？

規劃環境地政司答：主席先生，屋宇署去年共處理大約三千多宗這類申請，前年也是大概這個數目，如果陳議員現時向我提出一宗個案，我也不知道該如何作答，不知錯誤是否真如他所說全出於部門，抑或是申請人本身延誤了工作。因此，如果陳議員能向我提供這宗個案的詳細資料，也許我可在會議以外進行有關個案的審查。

另一方面，發牌與否並不是屋宇署的工作範圍，實際上是市政局牌照部門的範圍，而屋宇署只是向市政局的發牌部門提供意見，說明申請人和申請樓宇是否適合作該用途。

PRESIDENT: I have a similar case, but I will refer that to you in private.

李華明議員問：主席先生，我有第二頂帽子，我是市政局議員，所以我應該有資格談論這問題。問題是延遲發牌真的很多時是屋宇署的問題。主要答覆(c)部分提到，長遠而言，屋宇署會與兩個市政局商討應否對這制度作進一步修改。請問規劃環境地政司，現行制度是否真的出了問題，因而須作出修改？若是的話，是甚麼問題；又打算如何修改？

規劃環境地政司答：主席先生，現時屋宇署處理有關新申請的菜館牌照，可於 30 天內將意見交給兩個市政局。何時工作才會拖慢下來呢？就是如果申請樓宇有違例建築物，或申請人需要更改樓宇結構或其他裝修的時候，當然也包括防火設施問題在內，申請人首先必須將問題解決，然後再把修訂圖則或申請交回屋宇署，屋宇署隨後才視察經修改的情況，特別是就違例建築物是否已經拆除作出意見。因此，有時出現拖延，便要視乎由何時開始計算。如果申請人本身在六個月內沒有拆除違例建築物，屋宇署便無法在六個月內處理申請，所以責任是兩方面的。

此外，有關市政局方面，我相信李議員也很清楚已於去年年底實行的臨時牌照制度。根據該制度，飲食業經營者可以要求一位認可人士證明他已遵守屋宇署的規定，使他可以取得臨時普通或小食菜館牌照，而這臨時牌照的有效期為六個月。在這制度下，如果我沒有記錯的話，我相信約有 78%的申請已可藉臨時牌照的安排開業。然後，經營者有六個月的額外時間把樓宇的情況修正。

我剛才所說的與兩個市政局進行檢討，是指研究有否可能將邀請認可人士證明這方法進一步擴展或改善，將證明樓宇已符合《建築物條例》的規定的部分工作交回申請人和認可人士負責。不過，現時我們仍未達致這階段，因為兩個市政局均表示要在今年年中才可以開始進行這項檢討，所以我們現正留意臨時牌照和經認可人士證明這些安排的進展。

莫應帆議員問：主席先生，這顯然是屋宇署人手不足的問題。主要答覆(b)部分所提及的屋宇署現有編制在何時開始實施？屋宇署或政府有否真的盡快檢討人手是否不足，而無需再借調其他測量師？

規劃環境地政司答：主席先生，我在主要答覆中提到的屋宇署人手編制一直沿用至一九九五年。以往問題不大，為何最近卻出現這些情況？我們一方面從報章得悉很多食肆結束營業，但另一方面，去年兩個市政局所接到的酒樓牌照或小食館牌照新申請卻增加幾達 30%。因此，一個現有的編制根本沒可能處理突然增加的申請，所以我承認人手可能出現一個短期的短缺，而屋宇署署長也因而在部門內其他部分調派人手，處理這些新增的申請，我們也會注視情況的發展。屋宇署署長在下個月將會如我剛才所說，再增派人手到該小組。不過，我們來看看申請會否長期增加，如果是的話，我們就會研究應否永久調派更多人手至這個小組的編制。但如果現時仍未處理的申請已經處理妥當，而申請又沒有繼續增加的話，當局會再進行檢討，是否須回復本來的編制。

陳婉嫻議員問：主席先生，我的質詢與莫應帆議員的相似。請問政府，除了因為飲食業牌照的申請增加外，會否因為程序上問題而出現延誤？剛才規劃環境地政司說如果建築物有問題時，可能是因申請人長時間未有答覆，所以拖慢了申請。政府會否給申請人一個期限，例如規定他在三個月內必須答覆是否繼續進行申請？請問可否作一些具體上的更改？

規劃環境地政司答：主席先生，處理食物業牌照的政策並不是屋宇署，而是兩個市政局的管轄範圍。如果要給申請人定下期限答覆是否處理個案，我認為應交由兩個市政局決定。

PRESIDENT: Miss CHAN Yuen-han, are you claiming that your question has not been answered?

陳婉嫻議員問：主席先生，我覺得他未答覆我的質詢。我的質詢是，現時屋宇署告知申請人一些不妥善之處，但對方卻拖延了時間，所以我建議屋宇署可否給予申請人一個時間限制，這與兩個市政局是否有關？

規劃環境地政司答：主席先生，我其實已經解釋，屋宇署的角色是向兩個市政局提供意見，指出申請人的樓宇在《建築物條例》下是否適合作為食肆。我們只是提供意見，告知兩個市政局有關樓宇是否沒有防火通道或建有違例建築物，但屋宇署無權要求申請人，除非他的牌照申請在三個月內辦妥，否則我們不會處理他的申請。因為實際上，處理飲食業牌照的政策和權力都在兩個市政局手上，如果兩個市政局願意修改本身的條例，規定申請人如不能在三個月內達到這些要求，便把他的申請當作無效，我們當然樂意考慮，但決定始終由兩個市政局作出。

詹培忠議員問：主席先生，規劃環境地政司的答覆提到，一般的酒樓根本不可能一次申請便獲發牌，故此，經常要等六個月。依我的了解，屋宇署事實上有很大責任。因此，規劃環境地政司可否大膽承諾，他會檢討這事，使其得到解決，而不是像剛才回答各項質詢時，不斷推卸責任？我認為這樣做法很不應該。他可否承諾一定會花心思解決這問題？

規劃環境地政司答：主席先生，我可否首先徵求你的同意，我不知詹議員的質詢有何證明或證據？

詹培忠議員問：主席先生，我自己在十多年前曾申請酒樓牌照，問題確是來自他的部門，情況甚至令一些人可以利用機會收取利益。在十多年前，這些事並不受廉政公署限制。因此，我希望他能承諾屋宇署真的會進行檢討，因為的確是該部門拖延了申請.....

PRESIDENT: Mr CHIM, you have made your point and I am glad your point has been turned into a question.

詹培忠議員問：他要我拿出證據，他只要肯承諾作出檢討不就可以嗎？

PRESIDENT: Secretary, are you prepared to undertake to review the way you process applications on behalf of the Urban Council as far as buildings are concerned?

規劃環境地政司答：如果我沒有聽錯，詹議員舉出了一個十多年前的例子，而我現時很難就十多年前的事作答。不過，我想指出一點事實，其實現時屋宇署收到的新申請中，大約平均有 50% 在開始的 30 天內，屋宇署已經說沒有問題，可以開業。餘下的 50% 就是涉及樓宇的問題，所以需要進行進一步的工作。我們都覺得兩個市政局現行的臨時牌照制度引用認可人士的協助是具有成效的。兩個市政局認為應讓這制度實行六個月後，看看效果如何，我們才會與他們一起進行檢討。我們是會這樣做的。

何俊仁議員問：主席先生，我想規劃環境地政司作出澄清，他的主要答覆(c)部分第二段提到，第一次批准申請的時間是 30 天，但如果有修改，例如修改圖則等，再交回部門審批時，即從交回部門那天開始計算，可能達六個月之久。如果我沒有理解錯誤，部門收到圖則後再審批需時六個月，即第二次的審批需時六個月。請問規劃環境地政司，第一，對六個月或更長的審批時間是否滿意，或可以接受？若否，屋宇署應否定下服務承諾或準則，需時多久才算合理？無論部門的服務對象是市政局、區域市政局抑或申請人，應否定下一個服務承諾？

規劃環境地政司答：主席先生，在申請人的角度而言，六個月才獲批准當然並不滿意。不過，申請人也要研究一下自己實際用了多少時間進行樓宇結構的更改，以符合《建築物條例》的要求。屋宇署其實正在考慮可否作出一些行政安排，以加快工作，例如可否接受申請人以相片證明已做妥有關修改工作，如清拆違例建築物或樓宇更改的程序，又或做妥消防設施等，那便可以節省再次驗樓的需要。雖然屋宇署目前已調派了人手，下個月會再增派人手至該小組，但也會考慮在處理數類牌照的轉介申請時，能否暫時優先處理菜館牌照的個案。屋宇署署長現正考慮這一連串的工作。

PRESIDENT: Mr HO, you are asking whether or not the Secretary will make a performance pledge.

何俊仁議員問：其實我想問，從政府的角度而言，六個月審批時間是否合理？應否縮短？

規劃環境地政司答：主席先生，如果大家看過屋宇署的服務承諾，也知道該署希望盡量在 30 天內就新申請提供意見，而其實他們是做得到的。現在問題出於一些不是直接的個案，是有其他麻煩和枝節的，而各個情況都不相同，所以拖延了時間。

周梁淑怡議員問：主席先生，剛才我們看了一場乒乓球賽 — 由規劃環境地政司與身兼市政局議員的本局同事談論責任誰屬的問題。但今天答覆我們質詢的是規劃環境地政司。食肆的牌照申請以慢馳名，投訴已經很多，規劃環境地政司會否負責或與兩個市政局負責進行切實的檢討，改善一些不理想的程序，以及在多個部門中，（不獨屋宇署）加入一些可能節省時間或簡易的程序，以縮減整個發牌程序的時間，真正為申請食肆牌照的人士服務？

規劃環境地政司答：主席先生，其實我已經解釋，兩個市政局和有關政府部門在進行檢討後，已經做了周梁淑怡議員剛才建議的工作，那就是推行臨時發牌制度。在臨時發牌制度下，申請人在 30 天內取得臨時牌照便可開業，即使有其他樓宇上的問題，也可以有六個月的時間進行修改。我不知道周梁淑怡議員為何認為我們沒有做這方面的工作。兩個市政局已告知我們，這臨時發牌制度在首三個月內運作良好。這新措施去年十二月才推行，至今只有三個月，我們可待其運作多三個月後，看看情況如何，如果有改善的話，有關部門和兩個市政局當然會再作考慮。

WRITTEN ANSWERS TO QUESTIONS

Air Time for Government Programmes

6. **MR HOWARD YOUNG** asked: *Will the Government inform this Council:*

- (a) *of the respective amounts of air time set aside by commercial television and radio broadcasters for government programmes as well as the respective utilization rates; and*
- (b) *whether the Government will consider allocating part of the time set aside for such use to the Preparatory Committee Secretariat to facilitate them to broadcast public affairs programmes relating to the setting up of the Special Administrative Region (SAR)*

Government during the transition period?

SECRETARY FOR RECREATION AND CULTURE: Mr President, radio broadcasters are not required to broadcast government programmes, but may be required by the Broadcasting Authority to broadcast Announcements of Public Interest (APIs) for periods not exceeding one minute in each hour. During 1995, the percentage of the available time used for broadcasting APIs averaged 41%.

As regards television broadcasters, the Broadcasting Authority require ATV and TVB to broadcast such programmes, announcements and other material as the Authority may specify. Section 8A (which is annexed) of the Television Ordinance sets out the time which may be used for broadcasting government programmes. During 1995, the percentage of available time used for broadcasting government programmes (including APIs) averaged 53%.

We are, of course, committed to co-operating with the Preparatory Committee, within the parameters announced by the Governor in his 1995 policy address. However, neither we, nor the Broadcasting Authority, have received any request from the Preparatory Committee Secretariat to facilitate the broadcast, during the transition period, of public affairs programmes relating to the setting up of the SAR Government. I am sure that the Broadcasting Authority would give careful consideration to any such request.

Annex

8A. Restriction in respect of commercial television broadcasting

(1) In the case where material, pursuant to a condition attached to a commercial television broadcasting licence under section 8(2)(b), is required to be broadcast at any time between the hours of 7 p.m. and 10 p.m. in any period from Monday to Friday inclusive, it shall not, without the consent of the commercial television broadcasting licensee concerned, on any day either exceed, or exceed in aggregate, 30 minutes in duration.

(2) The periods during which broadcasting material, pursuant to a condition attached to a commercial television broadcasting licence under section 8(2)(b), is required to be broadcast shall in aggregate not exceed any of the following —

- (a) 2.5 hours in any period of 24 hours commencing at 6 a.m.;
- (b) 2.5 hours in the 15 hours between the hours of 7 p.m. and 10 p.m. in any period from Monday to Friday inclusive in any week;
- (c) in case the programme service is a Chinese service, 12 hours in any week; and
- (d) in case the programme service is an English service, 6 hours in any week.

Registration of Proprietary Chinese Medicines

7. 羅叔清議員問：據悉，今年一月醫務衛生署曾拒絕處理一種用以戒毒的中國成藥的註冊申請。政府可否告知本局：

- (a) 現時有否機制處理中國成藥的註冊申請；若有，詳情為何；若否，原因為何；
- (b) 政府是否對中藥及西藥的註冊及規管採取不同態度；若然，原因為何；及
- (c) 政府對市面流通的中國成藥，有否進行測試檢定及規管；若有，政府採用甚麼標準選出哪些成藥須進行測試檢定及規管？

SECRETARY FOR HEALTH AND WELFARE: Mr President,

- (a) The Pharmacy and Poisons Ordinance provides for the registration and control of pharmaceutical products and medicines that are to be sold in Hong Kong. Section 37 of the Ordinance provides for the exemption of this requirement for traditional Chinese medicines as listed in the Chinese Herbal Materia Medica or which are made from herbs customarily used by Chinese people. Hence Chinese proprietary medicines not containing western drug ingredients are

- not required to be registered.
- (b) The mode of control of western medicine stipulated under the Pharmacy and Poisons Ordinance follows international practice, which is not directly applicable to Chinese medicine. Regulation of Chinese medicine in the long term is a subject which will be considered by the Preparatory Committee on Chinese Medicine.
 - (c) The Department of Health regularly takes random samples of proprietary Chinese medicines to analyze for the presence of western drug ingredients and the level of heavy metals. Medicines containing western drug ingredients are required to be registered as in the case of western medicines. The level of heavy metal is checked to ensure that it does not exceed the safety limit.

Disciplined Services Staff Involved in Crimes

8. 張文光議員問：鑑於近期發生的多宗案件，均涉及紀律部隊成員觸犯刑事法例和違反內部紀律的行為，當局可否告知本局：

- (a) 過去三年，紀律部隊成員被指控觸犯刑事法例的數目，並請按罪案類別臚列成功檢控和判罪的數字；
- (b) 過去三年，按紀律部隊成員違反內部紀律的類別，臚列被指控和受處分成員的數目；及
- (c) 政府有甚麼策略維持紀律，防止紀律部隊成員因經常接觸犯罪活動而與犯罪者共同犯罪，以及如何防止紀律部隊在執行任務時，藉執法權力進行非法勾當？

SECRETARY FOR SECURITY: Mr President, the answer to the three parts of the question is as follows:

- (a) Statistics on the number of staff in the main disciplined services (including the Independent Commission Against Corruption (ICAC)) who have been accused of committing criminal offences are not available. Statistics on the number of cases in which staff of the disciplined services were prosecuted for criminal offences, and the respective number of convictions in the past three years are as

follows:

No. of cases of Disciplined Services Staff Prosecuted for Criminal Offences
and the Respective No. of Convictions (1993-1995)

<i>Offences</i>	<i>1993</i>	<i>1994</i>	<i>1995</i>
Corruption related offences	42(21)	49(17)[10]	31(4)[15]
Perverting the course of Justice	2(1)	13(1)	18[14]
Theft	16(7)	16(8)	8(3)[3]
Assault/Wounding/ Intimidation	21(8)	24(3)	19(1)[8]
Sexual Offences	8(4)	8(5)	7[5]
Gambling	0	1	11[9]
Deception and Related Offences	1(1)	5(4)[1]	8(3)[3]
Robbery	2(1)	2(2)	3[3]
Driving Offences	5(5)	3(3)	5(4)[1]
Others	14(5)	9(5)	19(12)[4]
Total	111(53)	130(48)[11]	129(27)[65]

- Note:
- (i) Disciplined Services here include the Customs and Excise Department, Correctional Services Department, Fire Services Department, Immigration Department, Royal Hong Kong Police Force, and the Independent Commission Against Corruption;
 - (ii) The above figures are based on the number of counts of offences and an officer can be accused of more than one offence in some cases

(iii) figures in () indicate the number of convictions

(iv) figures in [] indicate the number of cases still under court proceedings

- (b) The number of cases in which staff in the disciplined services who were accused of breach of internal discipline, and the number of staff who were subsequently disciplined for such breaches in the past three years, are as follows:

No. of cases of Disciplined Services Staff
Accused of Breach of Internal Discipline and the
Respective No. of Disciplinary Actions Taken (1993-1995)

<i>Nature of offences</i>	<i>1993</i>		<i>1994</i>		<i>1995</i>	
	<i>Accused</i>	<i>Disciplined</i>	<i>Accused</i>	<i>Disciplined</i>	<i>Accused</i>	<i>Disciplined</i>
Late/Absent from duties and related offences	81	78	99	91	82	80
Neglect of duty/Fail to carry out orders	100	93	121	116	131	113
Conduct to the prejudice of good order and discipline	21	18	32	29	40	36
Disobedience of orders	35	30	71	62	38	33
Conduct calculated to bring the public service into disrepute	37	31	31	25	43	32
Breach of regulations/working procedures	146	140	275	265	260	250
Making a false statement	52	43	64	51	63	47
Others	22	16	15	14	38	36
Total	494	449	708	653	695	627

- (c) We take a very serious view on cases where staff of the disciplined services are involved in criminal offences. Measures have been taken by the various disciplined services to maintain discipline of their staff and to prevent them from collaborating with criminals, or abusing their power in the course of their work. These measures may vary to suit the particular requirements of the respective disciplined services. Nevertheless, the strategies adopted are similar and cover the following areas:

(i) *Integrity Checking*

Integrity checking is conducted on all new recruits to ensure only persons of good integrity are taken in. In addition, serving officers will also be "integrity checked" again before they are posted to occupy certain sensitive offices.

(ii) *Education*

A strong sense of good conduct and discipline is developed among new recruits and serving officers through induction courses, in-service training courses, day-to-day management practices, and reinforced through various internal orders.

(iii) *Clear Guidelines and Procedures*

There are clear guidelines and orders for all major aspects of the work of members of the disciplined services, such as conducting an investigation, making an arrest, taking statements and manners towards members of the public. These procedural controls are designed to prevent officers from abusing their authority in discharging their duties.

(iv) *Monitoring Performance*

There are well-established systems for the management to monitor the performance and discipline of officers. Regular inspections and spot-checks are conducted and all officers are required to report to their supervisors immediately any misbehaviour or suspected offences coming to their notice.

(v) *Regular Review of Work Procedures*

Work procedures and organizational structure are regularly reviewed to minimize opportunities for corruption and abuse of authority. Some of these reviews are conducted jointly with the ICAC. In addition, proper checks and balances are incorporated in the work procedures where appropriate. For example, police officers from different units are allowed to conduct raids and make arrests in other Divisions, Districts and Regions.

(vi) *Turnover of Postings*

Officers, especially those in sensitive posts, are normally not allowed to remain in their posts for an excessive period.

(vii) *Channels of Complaints*

There are well-established channels for members of the public to report on any abuse of authority or illegal activities of members of the disciplined services. These channels include the Commissioner of Administrative Complaints, the Complaints Against the Police Office or the ICAC. For complaints against ICAC officers and police officers, the investigation results are monitored by the ICAC Complaints Committee and the Independent Police Complaints Council respectively, which comprise non-official members appointed by the Governor. The availability of various channels of complaint and monitoring by independent bodies ensure that all complaints are investigated thoroughly and impartially.

Crime Control in Hong Kong's Airspace

9. 詹培忠議員問：政府可否告知本局：

- (a) 屬於香港管轄的領空範圍為何；
- (b) 過去三年在香港管轄的領空範圍於航機上發生的刑事案件（劫機除外）有多少宗；及
- (c) 如何處理在香港管轄的領空範圍外發生於航機上的刑事案件？

SECRETARY FOR SECURITY: Mr President, the answer to the three parts of the question is as follows:

- (a) Hong Kong's jurisdiction extends to the airspace above the land and waters of Hong Kong. This is in accordance with the Chicago Convention on International Civil Aviation 1944, which applies to Hong Kong.
- (b) The police only started to keep separate statistics on crimes committed on flights within Hong Kong's airspace since June 1995. From June 1995 to February 1996, a total of eight such criminal cases were reported and the details are set out below:

Crime Committed on Flights within
Hong Kong's Airspace
June 1995 - February 1996

<i>Offence</i>	<i>No. of cases</i>
Serious Assault	1
Miscellaneous Thefts	4
Deception	2
Disorder/Fighting in Public Place	1
Total	8

- (c) The Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft provides for jurisdiction over offences and acts committed on aircraft to be exercised by the authorities of the place where the aircraft is registered. Therefore, where an offence is committed outside Hong Kong's airspace, the jurisdiction is exercisable under international law by the state of registry of the aircraft. Where an offence is committed on a Hong Kong registered aircraft outside Hong Kong's airspace, the jurisdiction is therefore exercisable by the courts of Hong Kong under the Tokyo Convention.

Tertiary Education Fees

10. 張炳良議員問：政府最近提出學位課程的學費與大專院校的平均學生單位成本掛鉤，並在一九九七至九八年度達致收回 18%經常費用的目標；而學位以下程度課程的學費，則訂於學位課程學費 75%的水平。就此，政府可否告知本局：

- (a) 現時大學教育資助委員會資助的各間院校提供同類課程的單位成本的差額為何；若有明顯差異，會否考慮採取具體辦法縮小差額；
- (b) 不同學科（如文科、理科、工程科、醫科、社會科學科、法律科等）的單位成本的差額為何；若有明顯差異，會否考慮採取具體辦法確保學費得以反映不同課程的不同單位成本；
- (c) 目前各院校所開辦的學位以下程度課程的平均單位成本，是否相當於學位課程平均單位成本的 75%；若否，會否檢討資助學位以下程度課程的政策；及
- (d) 有否資料顯示本港目前學位課程的平均單位成本和從學費收回成本的比率，與歐美及亞洲區等其他國家相比，情況如何？

SECRETARY FOR EDUCATION AND MANPOWER: Mr President,

- (a) The average unit cost per full-time equivalent (fte) student in the University Grants Committee (UGC)-funded institutions for the academic year 1994-95 is given by institutions in the table attached at Annex A. The differences in unit cost for comparable academic programme categories may be negligible or large between institutions for a variety of reasons such as:
- (i) different mix of subjects — the range of subjects for an academic programme category may vary from institution to institution. Moreover, the number of students taking the same subject will vary in different institutions;
 - (ii) different levels of studies — the mix of different levels of studies also varies from institution to institution. A course at sub-degree level is normally cheaper than the same course at first-degree level which, in turn, is normally cheaper than the one at postgraduate level. This contributes to the relatively higher unit costs at institutions which focus on first-degree and postgraduate studies;
 - (iii) different staffing structures — student to staff and senior to junior staff ratios are different at different institutions, as they have different emphasis on higher degrees and research. At a micro-level, an older faculty/department usually has more "senior" staff remunerated at higher salary points than a younger faculty/department; and
 - (iv) institutions may choose to invest more heavily in certain programmes which it hopes to develop as areas of excellence.

The above examples are intended to be illustrative rather than exhaustive. They demonstrate, however, that unit cost figures are affected by a variety of factors and should accordingly be interpreted with caution.

For the purposes of assessing institutions' funding requirements for programmes at the same level in the same academic programme category, the UGC adopts the same cost weighting for the teaching element.* Yet in view of the variety of reasons for cost differentiation and the need for institutions to be allowed the flexibility in internal allocation of resources to meet specific developmental needs and other circumstances specific to the institutions, it is not desirable for the Government or the UGC to seek to narrow the differences in unit costs for individual courses offered by the institutions.

- (b) The average unit cost per fte student in the UGC-funded institutions by academic programme categories are also given in Annex A.

Before 1974-75, differential fees were charged at the University of Hong Kong (HKU) and the Chinese University of Hong Kong (CUHK) and between faculties. A single uniform fee for degree courses at HKU and CUHK was introduced in 1974-75 to avoid the negative effect of higher fees on the supply of manpower in some of the higher-cost specialities. It was also felt that differential fees for comparable courses at different institutions might perpetuate a pecking order among higher education institutions in Hong Kong.

This principle of uniform fees was re-affirmed in the reviews of tuition fee policy in 1986 and 1991. When consulted in 1991, both the University and Polytechnic Grants Committee (UPGC) and the heads of institutions were opposed to charging differential fees as being impractical and socially unacceptable.

* Footnote : The funding requirement for the research element for the same type of course at the same level is not assessed on a uniform basis. It varies in accordance with the number of staff and their research activeness. Other extra-formulaic considerations also produce differences to the assumed costs of the same type of courses, for example, new institutions and newly developed subject disciplines will attract front-end loading to different extent.

In response to recent interests in the re-introduction of differential fees, the Government has invited the UGC to tender advice on the feasibility and desirability of charging differential fees for different courses, and will further consider this issue in the light of the UGC's advice.

- (c) Under the existing accounting/reporting system, unit costs are calculated with reference to academic programme categories by broad disciplines, without differentiation by sub-degree, degree or taught postgraduate levels. Notionally, however, average unit costs for sub-degree programmes are about 75% of those of the degree programmes in the same academic programme category.
- (d) The Administration has not located any published comparative statistics on the costs of undergraduate education specifically. However, some information is available from the Organization for Economic Co-operation and Development based on the United States Department of Education statistics published in 1995 on the public expenditure per student by level of study for selected countries from 1985 to 1992. A table, incorporating similar statistics compiled by the Administration, is at Annex B. The comparison gives the public education expenditure per student in the higher education sectors of selected countries in Europe, America and Asia, and includes recurrent and capital expenditure on students studying at sub-degree, degree and postgraduate levels. Direct comparisons are difficult to make in view of the very different economic and social systems and the different mix of sub-degree, degree and postgraduate provision.

Annex C, on the other hand, sets out the recovery rates of the recurrent cost of public undergraduate education in public universities in Hong Kong and several other advanced economies in the Asia Pacific Region. The figures were gathered from the consulates or commission of these countries in Hong Kong. Direct comparisons based on these figures may not be entirely appropriate due to possible differences in the calculation of unit costs, cost recovery rates and student financing in different countries.

Annex A

Student Unit Cost for UGC-funded Programmes by
Academic Programme Category by Institution (Academic Year 1994-95)

Cost: Hong Kong\$'000

<i>Academic Programme Category (APC)</i>	<i>CityU</i>	<i>HKBU</i>	<i>LC</i>	<i>CUHK</i>	<i>PolyU</i>	<i>HKUST</i>	<i>HKU</i>	<i>ALL</i>
A. Clinical medicine	-	-	-	837	-	-	524	669
B. Clinical Dentistry	-	-	-	-	-	-	562	562
C. Pre-clinical Studies	-	-	-	301	-	-	283	291
D. Subjects and Professions allied to medicine and dentistry	-	-	-	214	152	-	261	167
E. Biological Sciences	186	189	-	187	166	423	225	238
F. Physical Sciences	205	184	-	209	155	382	280	230
G. Engineering and Technology	169	-	-	185	150	330	213	193
H. Built Environment	112	-	-	171	137	-	196	146
I. Mathematical Sciences	126	161	-	139	120	251	161	155
J. Information technology and Computing Science	106	138	59	155	143	263	192	143
K. Business and Management	92	123	110	132	118	245	142	134
L. Social Sciences	108	139	106	138	133	243	169	139
M. Languages	93	128	91	149	124	-	141	117
N. Humanities (Ex languages)	127	122	-	135	-	239	181	158
O. Art, design and performing arts	-	157	-	187	149	-	219	162
P. Education	97	139	-	133	102	-	169	145
Q. All APCs	116	142	105	193	139	297	219	172

Public Education Expenditure per Student in
Higher Education and Selected Countries

<i>Selected countries</i>	<i>1992 (US\$)</i>
Austria	5,820
Belgium	6,590
Denmark	6,710
France	6,020
Japan	11,850
Ireland	7,270
Norway	8,720
Spain	3,770
Sweden	7,120
Switzerland	12,900
United Kingdom	10,370
United States	11,880
Hong Kong	10,886

Note:

- (1) Figure for Hong Kong includes public expenditure per headcount student for the UGC-funded institutions, the Hong Kong Academy of Performing Arts, and the Technical Colleges of the Vocational Training Council. The figure was converted to US\$ by applying an average exchange rate of 7.741 for 1992.
- (2) Figures for other selected countries were extracted from the "Digest of Education Statistics 1995" published by the United States Department of Education and based upon full-time equivalent students.
- (3) Expenditure includes current and capital expenditure. The expenditure for Hong Kong excludes capital expenditure for large scale projects. The coverage of "current" and "capital" expenditure between countries may differ.

Annex C

Recurrent Cost Recovery Rates of
Public Undergraduate Education in the Asia Pacific Region

<i>Country</i>	<i>Year</i>	<i>Cost Recovery Rate</i>
Hong Kong ¹	1994-95	14.7%
Singapore ²	1994-95	20.6%
Japan ³	1995	9.0%
South Korea ⁴	1994-95	36.7%
Australia ⁵	1994	28.0%

Source

1. University Grants Committee
2. Singapore Commission in Hong Kong
3. Japan Information and Cultural Centre, Consulate-General of Japan
4. Consulate General of the Republic of Korea
5. Australian International Education Foundation, Australian Consulate General

Closed Road Permit System on Lantau

11. 陳偉業議員問：運輸署代表曾於一九九四年六月向本人表示會檢討大嶼山私家小型巴士申請禁區證制度，但直至目前為止仍未有結果。政府可否告知本局：

(a) 運輸署為何遲遲未能完成有關檢討；及

(b) 完成該項檢討的確實日期為何？

SECRETARY FOR TRANSPORT: Mr President, the Closed Road Permit System on Lantau was introduced in 1973 to regulate the number of vehicles on Lantau Island because of limited road capacity on the island. The system applies to all classes of motor vehicles.

For private light buses, permits are only issued where the need for such vehicles has been justified, for example, for school transport or to cater for tourist groups. The Commissioner for Transport also takes into account other factors such as the availability of parking facilities and the adequacy of public transport.

The Closed Road Permit System on Lantau is reviewed periodically. The latest review was completed at the end of February this year and the conclusion reached, having regard to the prevailing traffic conditions and the afore-mentioned factors, was that the present Closed Road Permit System should continue. This review could not be conducted earlier because of other priorities of work in the Transport Department.

Review of Health Care Financing

12. 陳鑑林議員問：政府可否告知本局：

(a) 健康醫護資助制度檢討的進展為何，該檢討將於何時完成及檢討結果將於何時公布；

(b) 醫院管理局轄下醫院目前徵收的十項“自費購買的醫療用品”的收入，佔整體醫療開支的百分比為何；及

(c) 會否考慮增加資源以取代(b)項所述的收費政策？

SECRETARY FOR HEALTH AND WELFARE: Mr President, the Government recognizes the need to devise a set of strategies on the long-term development of our public health care system, taking account of community sentiments along the way. The *"Towards Better Health" Consultation Document* published in 1993 represents a major step towards addressing the issues involved.

While public views expressed during the consultation exercise indicated general support for the introduction of semi-private rooms and the implementation of a co-ordinated voluntary insurance scheme, these new initiatives must be complemented by other funding options to achieve a balance between affordability, equity and quality in line with our established policy that no one should be prevented from obtaining adequate medical treatment through lack of means. We currently estimate our deliberations on this subject may take a period of some 18 months.

As I explained to this Council on various occasions, the historical practice of requiring patients to purchase certain medical items for their own use during the course of treatment is a means to provide them with access to new, expensive or non-standard appliances not covered under the inventory of public hospitals. Since it does not involve any revenue either on the part of the Government or the Hospital Authority, it is misleading to compare the cost of privately purchased medical items with overall health care expenditure.

The list of privately purchased medical items will evolve with advancement in technology and availability of new products in the market. The Hospital Authority has undertaken to review this list on a regular basis and has recently added to its inventory some items required by chronic patients. The Government has also injected \$20 million into the Samaritan Fund, relaxed its assessment criteria and simplified its application procedures with effect from 1 December 1995 to strengthen the safety net for those in financial need.

Temporary Staff of Hospital Authority

13. 梁耀忠議員問：本人近日接獲投訴，指醫院管理局（“醫管局”）聘用

大量臨時人員。對此，政府可否告知本局：

- (a) 現時醫管局轄下各間醫院共僱有多少名臨時人員；這類人員在各間醫院的人數、職位分布、平均工資及平均僱用期為何；
- (b) 醫管局基於甚麼準則，決定某些職位由臨時人員填補，而非以常額人員擔任；及
- (c) 醫管局依據何種準則，決定臨時人員的續約及工資調整幅度？

SECRETARY FOR HEALTH AND WELFARE: Mr President, although it is the Hospital Authority's corporate objective to maintain a core team of permanent staff to ensure the quality of patient services, employment of temporary staff is also necessary from time to time to meet short-term operational needs. Given the high turnover rate, it will be misleading to quote the number of temporary staff employed at any specific period. It is, however, worth noting that the salary paid to temporary staff in 1995-96 represents less than 1% of the total expenditure on personal remuneration.

Employment of temporary staff to complement the core permanent workforce is governed by relevant provisions in the Hospital Authority Human Resources Policies and Administration Manual which can be made available for reference on request. As in government departments, the decision of whether or not to engage temporary staff is made taking into account the job nature and prevailing circumstances to meet organizational requirements.

Temporary staff in the Hospital Authority are informed on appointment of their expected duration of employment and given prior notice if extension of their services is necessary. They are eligible for annual adjustment approved by the Authority in line with its personnel policy. At present, this follows the rate of salary revision awarded to civil servants.

Space Shortfall of Hong Kong Polytechnic University

14. 李家祥議員問：大學教育資助委員會秘書處較早前宣稱香港理工大學欠缺用地約達 9 700 平方米，政府可否告知本局：

- (a) 已採取甚麼措施解決理工大學土地不足的問題；及
- (b) 會否考慮在英軍撤走後把理工大學附近的槍會山軍營的土地撥予理工大學；若否，原因為何？

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, a review of the space and accommodation provision at the University Grants Committee (UGC)-funded institutions undertaken by the UGC Working Group in 1994 showed that space provided at the Hong Kong Polytechnic University (PolyU) fell about 7% or 9 700 sq m net short of the assessment of space requirements based on the United Kingdom UGC norms. These norms are adopted by the UGC for the purpose of making a global assessment of the space requirements of the local institutions and are meant, therefore, to provide a guide only.

To help relieve the problem of space shortage at PolyU, the Government has recently given approval in principle for the University to proceed with the planning of its Phase VI Development Project. Under this project, redevelopment will take place within the University's existing campus so that an additional 8 700 sq m would be provided to the University in three years' time for general and specialist teaching, research, staff and communal accommodation. Following the approval of initial funding by the Finance Committee of the Legislative Council on 15 December 1995, planning, site investigation and preliminary design work have already commenced. In addition to the above project, the UGC will shortly be considering two minor capital works proposals from PolyU which would provide the University with additional space of 1 200 sq m for academic activities in about two years' time.

It is not possible to allocate the land occupied by the Gun Club Hill Barracks to the PolyU as under the Defence Lands Agreement reached in the Sino-British Joint Liaison Group in June 1994, the Barracks will be one of the 14 sites to be handed to the Chinese garrison for use from 1 July 1997. It would also not be cost-effective for the University to make use of the site temporarily given that the accommodation in the Barracks is old and somewhat dilapidated and not really suited for use by tertiary level students.

JP's Service as Witness to Signature

15. **MRS ELIZABETH WONG** asked: *Will the Government inform this Council what is the procedure for obtaining the services of a Justice of the Peace to witness the signature of a member of the public who wishes to have certain documents signed and witnessed?*

CHIEF SECRETARY: Mr President, on certain document, for example, under the Adoption Ordinance, the attestation of a signature by a Justice of the Peace is specifically required by law. Members of the public who have difficulties in locating a Justice of the Peace to witness their signature on such documents may approach the nearest District Officer of the Home Affairs Department.

Justices of the Peace are also at liberty to volunteer their service to attest the signature of a member of the public on other documents. Requests for attestation of signature by a Justice of the Peace where this is not specifically required by law will be considered on a case by case basis.

East Kowloon Ambulance Services

16. **李華明議員**問：在“緊急救護車服務顧問研究”報告中，指出九龍東的救護車服務較其他分區更低於服務承諾的標準。就此，政府可否告知本局：

- (a) 有何原因導致九龍東的救護車服務未能達致服務承諾的標準；
及
- (b) 有何即時措施改善及加強九龍東的救護車服務，以達致服務承諾的標準？

SECRETARY FOR SECURITY: Mr President,

- (a) According to the survey conducted by the Consultant, emergency

ambulance services in East Kowloon in the first quarter of 1995 met 89.2% of all calls within the target travel time of 10 minutes, which came close to the overall performance of the territory in the same period (that is, 89.8%). The reasons for failing to meet the performance target are mainly due to the increased number of emergency calls, deteriorating traffic conditions, and disruptions caused by bad weather.

- (b) The Director of Fire Services is already taking action on those measures recommended by the Consultant to improve ambulance services that can be implemented quickly. The measures include: the stationing of ambulances in fire stations to extend emergency ambulance coverage; streamlining of operational procedures for ambulance deployments; transfer of residual non-emergency cases to another agency; and the redeployment of ambulances and their crews from stations with relatively adequate manning to those where manning is inadequate to meet local demand.

On 1 January 1996, two additional ambulances were deployed to Ngau Tau Kok Ambulance Depot and Tseung Kwan O Ambulance Depot. The Lam Tin Ambulance Depot is scheduled to be completed at the end of the 1997.

Child Sexual Abuse

17. 葉國謙議員問：兒童受性侵犯的個案數字最近有上升的趨勢，而被性侵犯的程度亦日益嚴重。有鑑於此，政府可否告知本局：

- (a) 個案數字出現上升趨勢的原因；
- (b) 因侵犯者與受害兒童有直系親屬關係而沒有舉報的情況是否普遍；及
- (c) 除警方和社會福利署在去年十二月特別成立的虐兒專責調查小組外，政府有何特別措施幫助受害兒童？

SECRETARY FOR HEALTH AND WELFARE: Mr President,

- (a) The number of child sexual abuse cases handled by the Social Welfare Department (SWD) and non-governmental organizations (NGOs) increased from 61 in 1993 to 77 in 1994 and to 116 in 1995. The rising trend is probably mainly due to enhanced public education and publicity efforts by the Government in recent years to promote early identification and reporting of child abuse cases.
- (b) In the past, children were usually reluctant to disclose incidents of abuse perpetrated by family members. It is also possible that abusers were not necessarily aware that their treatment of their children could be termed abuse. Reporting of child abuse by family members was, therefore, not common. The situation, however, is improving. Of the child sexual abuse cases handled by the SWD and NGOs in 1994, 18% were reported by the child or a member of his/her family. In 1995, this increased to 23%. It is anticipated that the situation will further improve as a result of continuing public education and publicity programmes.
- (c) Apart from the establishment of the Child Protection Special Investigation Team, the Government has also put in place the following measures to help abused children:
 - (i) a new set of procedures for handling child sexual abuse cases to provide guidance for and to improve co-ordination and co-operation among multi-disciplinary professionals who help abused children;
 - (ii) additional staffing for the Child Protective Services Unit and Clinical Psychology Units of SWD to strengthen the services for victims of child abuse;
 - (iii) enhanced training for frontline professionals including social

- workers, police officers, doctors, clinical psychologists and educators on the skills and knowledge needed to handle child abuse cases through a series of training programmes conducted by expert trainers from overseas;
- (iv) compilation of a "Child Witness Pack" to prepare victims of child abuse for court procedures so as to reduce the stress involved;
- (v) the establishment of multi-disciplinary committees on child abuse in the five districts with the highest incidence of child abuse to tackle the problem on a district basis; and
- (vi) a wide range of supportive services for victims of child abuse, such as child care, foster care, and small group homes.

Government Policy on Energy Conservation

18. 羅祥國議員問：政府可否告知本局：

- (a) 其所採取的節約能源政策為何；
- (b) 是否知悉中華電力有限公司和香港電燈有限公司有何具體的節約能源措施；若然，該等措施詳情為何；及
- (c) 有否考慮成立能源管理局，以處理一切有關本港能源供求的事宜？

SECRETARY FOR ECONOMIC SERVICES: Mr President,

- (a) The Government's policy on energy efficiency and conservation is to promote such practices as far as possible without impeding either economic growth or improvement in the community's standard of living. This involves promoting public awareness of, and providing advice on, energy saving opportunities and benefits through education and publicity programmes and establishing energy saving standards for the design of buildings and building

services.

- (b) The two power companies have either undertaken, or are drawing up, various pilot energy conservation schemes as precursors to large-scale demand-side management programmes. These include pilot schemes to introduce energy-efficient lighting to housing estate residents, schools and the commercial sector. The companies have also revised their tariff structures so as to phase out incentives to consume more electricity and to provide incentives to shift electricity demand to off-peak hours as a means of deferring purchase of additional plant to meet growth in peak demand for electricity. They also provide energy audit services to commercial and industrial customers seeking to save energy. In addition, the two power companies are promoting public awareness of energy efficiency and conservation. They have prepared teaching kits for use in primary schools, visited secondary schools and donated \$11 million to the Urban Council for developing an Energy Efficiency Display Centre, which will be opened later this year. As members of the Energy Efficiency Advisory Committee, they have provided useful advice on development of energy codes and sponsorship of various energy efficiency campaigns and schemes developed by the Committee.
- (c) The Government has decided that an Energy Advisory Committee should be set up this year to advise it on energy policy and other related matters referred to it by the Government. The new committee will absorb the functions of the Energy Efficiency Advisory Committee, be chaired by a non-official and be composed of professional, academic and business people knowledgeable about energy management in their respective fields as well as other interested persons. The Government will review the need for an energy commission after several years of working experience with the Energy Advisory Committee.

Progress of Bus-only-lane and Freight Transport Studies

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

the present progress of the Bus-only-lane Study and the Freight Transport Study now being carried out by the Transport Department, as well as the expected completion dates of these studies?

SECRETARY FOR TRANSPORT: Mr President,

- (a) Our proposal to give greater priority to buses in the use of road space received widespread support, including that of this Council, during the consultation exercise on Measures to Address Traffic Congestion early last year.

To enable us to identify and implement large-scale bus-only-lane schemes, we need to study in detail their impact on the major traffic corridors and the surrounding road network and also take into account the need for other associated traffic management measures. We intend to engage consultants to carry out this study to assist us in assessing the feasibility of such schemes. If these schemes are considered practicable, we will also ask the consultants to design and implement them. The Transport Department is working on a study brief and we will be seeking funding from the Finance Committee shortly. Subject to funds being made available, the study will start in August this year with a view to implementing bus-only-lane schemes during 1997 and 1998.

- (b) The Freight Transport Study was completed in June 1994. It identified key problems in the freight transport industry and recommended both short- and long-term measures to improve the efficiency of that industry, together with an implementation programme. Many of these have land and planning implications and need to be carefully assessed by the Government. Following consultation with the freight trade and other concerned parties on the study's recommendations, a Freight Transport Strategy is now being drafted which we aim to finalize by around the middle of this year.

Supply and Demand of Paramedical Personnel

20. 謝永齡議員問：有關臨床心理學家、教育心理學家、物理治療師、職業治療師及語言治療師等輔助醫療人員的人力供求情況，政府可否告知本局：

- (a) 目前及預計未來三年本港上述各類輔助醫療人員的人力供求情況如何；供應會否足夠；若否，不足的數目為多少；
- (b) 政府用以計算對上述各類輔助醫療人員需求準則為何；及
- (c) 政府目前是否有任何全盤計劃與措施，以滿足上述各類輔助醫療人員的需求？

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

- (a) There is a general shortage of allied health personnel (the term for paramedical staff preferred by the professionals concerned) including clinical psychologists, physiotherapists, occupational therapists, educational psychologists and speech therapists in both the public and subvented sectors.

The Health and Welfare Branch (HWB) has set up a working group to study problems stemming from a shortage in the first three professions mentioned and to propose solutions. A working group has been set up under the Education and Manpower Branch to review the supply and demand situation of speech therapists. The working groups comprise representatives from the relevant professions, non-governmental organizations and government branches and departments. The HWB working group has completed its study on clinical psychologists and reported its findings to a joint meeting of the Legislative Council's Panels on Welfare and Health Services on 8 December 1995. The studies on physiotherapists and occupational therapists are in progress. The working groups aim to finalize proposals on all the professions by this summer.

In addition, a Working Group on the supply and demand situation of Educational Psychologists was set up under the Subcommittee on Education and Personnel of the Rehabilitation Advisory Committee. The Working Group is now finalizing its recommendations and will forward them, through the Subcommittee, to the Education Department and the Education and Manpower Branch for consideration and follow-up action.

- (b) In assessing the demand for these allied health personnel, the Government takes into consideration shortfalls in existing strength, the anticipated expansion of existing services, the introduction of new services and any essential revisions of manning ratios.
- (c) On the basis of the projected demand for and supply of these allied health personnels, the Government will take appropriate action to meet the projected demand through various means. These could include increases in the number of student places for these professions in local tertiary institutions, better co-ordination in clinical placements for these students, overseas training and recruitment, as well as scholarships for training. The Government will also set up a mechanism to review regularly the supply and demand situation of these allied health personnel in future.

While the studies on the allied health personnel are still in progress, the Government has already taken certain steps to tackle problems so far identified. For example, at the request of the Government, the University Grants Committee has provided necessary funding to the University of Hong Kong and the Chinese University of Hong Kong to expand the number of places for their Master Degree courses for clinical psychologists for 1996-97. The University of Hong Kong has also, in view of community demand, initiated an increase in the number of first-degree places for speech therapists. The Government is now discussing with the Polytechnic University of Hong Kong the feasibility of expanding the number of places for its physiotherapy degree course. The Social Welfare Department has,

for the first time, co-ordinated the recruitment of clinical psychologists from overseas for both itself and for non-governmental organizations. Action is also in hand to identify appropriate sources of funding for training scholarships.

MOTION

PUBLIC FINANCE ORDINANCE

THE SECRETARY FOR THE TREASURY to move the following motion:

"That -

1. Authority is hereby given for a sum not exceeding \$49,596,849,000 to be charged on the general revenue in advance of an Appropriation Ordinance for expenditure on the services of the Government in respect of the financial year commencing on 1 April 1996.
2. Subject to this Resolution, the sum so charged may be expended against the heads of expenditure, and expenditure for each such head shall be arranged in accordance with the subheads, shown in the draft Estimates of Expenditure 1996-97 or, where such estimates are changed under the provisions of the Public Finance Ordinance as applied by section 7(2) of that Ordinance, in accordance with such estimates as so changed.
3. Expenditure in respect of any head shall not exceed the aggregate of the amounts specified in respect of each subhead in that head, by reference to percentages, in section 4(a) and (b).
4. Expenditure in respect of each subhead in a head shall not exceed -
 - (a) in the case of a Recurrent Account subhead, an amount

equivalent to -

- (i) except where the subhead is listed in the Schedule hereto, 20% of the provision shown in respect of it in the draft Estimates;
- (ii) where the subhead is listed in the Schedule hereto, that percentage of the provision shown in respect of it in the draft Estimates which is specified in relation to that subhead in the Schedule; and
- (b) in the case of a Capital Account subhead, an amount equivalent to 100% of the provision shown in respect of it in the draft Estimates,

or such other amount, not exceeding the provision shown in respect of the subhead in the draft Estimates, as may in any case be approved by the Financial Secretary.

SCHEDULE

[s. 4]

	<i>Head of Expenditure</i>		<i>Subhead</i>	<i>Percentage of provision shown in draft Estimates</i>
22	Agriculture and Fisheries Department	452	Royal Society for the Prevention of Cruelty to Animals (Hong Kong)	25
		456	World Wide Fund for Nature (Hong Kong)	25
26	Census and Statistics Department	149	General departmental expenses	70
28	Civil Aviation Department	170	Airport insurance	100
31	Customs and Excise	292	Seizure management	39

Department			
34	Internal Security: Miscellaneous Measures	195	Defence Costs Agreement: cash contribution 30
40	Education Department	325	Direct Subsidy Scheme 30
		326	Kindergarten Subsidy Scheme 30
		330	Assistance to private secondary schools and bought places 35
		350	Refund of rents and rates to kindergartens, private schools and study rooms 30
		489	Miscellaneous educational services 30
46	General Expenses of the Civil Service	013	Personal allowances 40
50	Government Land Transport Agency	225	Traffic accident victims assistance scheme - levies 100
60	Highways Department	273	Highways maintenance 30
76	Inland Revenue Department	002	Allowances 25
		007	Job-related allowances 25
		149	General departmental expenses 25
		189	Interest on tax reserve certificates 25
90	Labour Department	280	Contribution to the Occupational Safety and Health Council 25

		295	Contribution to the Occupational Deafness Compensation Board	25
91	Lands Department	221	Clearance of Crown land - ex gratia allowances	50
92	Legal Department	234	Court costs	25
		243	Hire of legal services and related professional fees	25
106	Miscellaneous Services	253	Expenses of refugees not in Correctional Services institutions	22
120	Pensions	015	Public and judicial service pension benefits and compensation	30
		017	Surviving spouses' and children's pensions, widows' and orphans' pensions and increases	30
		021	Ex gratia pensions, awards, allowances and increases	50
		026	Employees' compensation	30
130	Printing Department	002	Allowances	25
170	Social Welfare Department	176	Criminal and law enforcement injuries compensation	25
		177	Emergency relief	100
		179	Comprehensive social security assistance scheme	25
		180	Social security allowance scheme	25
		184	Traffic accident victims assistance	40

		scheme	
		412 Refunds of rates	30
176	Subventions : Miscellaneous	437 Hong Kong - Japan Business Co-operation Committee	25
		446 Duty Lawyer Service	25
		475 Outward Bound Trust of Hong Kong	25
		502 Hong Kong Archaeological Society	30
		503 Subventions to voluntary agency camps	25
		504 Hong Kong Council on Smoking and Health	25
		521 Skills centres	25
177	Subventions : Non- Departmental Public Bodies	429 Consumer Council	25
		441 Hong Kong Productivity Council	25
		443 Hong Kong Tourist Association	25
		444 Hong Kong Trade Development Council	25
		520 Vocational Training Council	25
		525 Hong Kong Arts Development Council	50
178	Technical Education	001 Salaries	25

	and Industrial Training Department	002	Allowances	29
188	Treasury	002	Allowances	30
		163	Write-offs	50
		187	Agents' commission and expenses	84
		190	Other miscellaneous items	100
		191	Payment to Cross-Harbour Tunnel Company Ltd.	100
		192	Refunds of revenue	100
190	University Grants Committee	002	Allowances	25
		149	General departmental expenses	55
		169	Visitation	40
		492	Grants to UGC-funded institutions	28
		496	Refund of rates - UGC-funded institutions"	25

庫務司致辭：主席先生，我謹依照議事程序表提出我名下的議案。

這項議案旨在申請臨時撥款，以便政府能夠在一九九六年四月一日新財政年度開始至《撥款條例草案》通過的一段期間，繼續提供各項現有服務。這項議案是依循本局慣常的程序提出的。

就每一分目所申請的臨時撥款額，是按照決議案第四段的規定，根據預算草案所列撥款按適用的百分率而計算。倘若財務委員會或獲轉授權力的人員將預算草案修改，則按各個百分率計算出來的撥款額亦會作出相應更改。因此，每個總目之下的臨時撥款額並不是固定，而是可能有所變動，但如任

何一個總目的臨時撥款額有所增加時，必須削減另一個總目相同的數額以抵銷。每一總目之下的初訂臨時撥款額載於我在三月一日提交的註釋內。所有總目的整體撥款總額為49,596,849,000元，這是一個固定的數額，未獲本局批准之前，是不得超逾的。

此外，根據這項決議案，財政司可將任何開支分目下的臨時撥款額更動，但更動後的款額，不得超過在預算草案中，有關分目所要求的撥款額或有關開支總目下的臨時撥款額。

財政司會向庫務署署長發出臨時支款授權書，授權他按照本議案所載條件支付款項，直至議案所指定的數額為限。在《撥款條例草案》獲得通過後，批准的撥款額將取代臨時撥款額，而按該條例所發出的常年支款授權書，將會取代臨時支款授權書。

主席先生，我謹提出議案。

Question on the motion proposed, put and agreed to.

BILLS

First Reading of Bills

EVIDENCE (AMENDMENT) BILL 1996

KADOORIE AGRICULTURAL AID LOAN FUND (AMENDMENT) BILL 1996

LEVERAGED FOREIGN EXCHANGE TRADING (AMENDMENT) BILL 1996

SECURITIES AND FUTURES COMMISSION (AMENDMENT) BILL 1996

BANKRUPTCY (AMENDMENT) BILL 1996

Bills read the First time and ordered to be set down for Second Reading

pursuant to Standing Order 41(3).

Second Reading of Bills

EVIDENCE (AMENDMENT) BILL 1996

THE ATTORNEY GENERAL to move the Second Reading of: "A Bill to amend the Evidence Ordinance."

ATTORNEY GENERAL: Mr President, I move that the Evidence (Amendment) Bill 1996 be read a Second time.

The purpose of the Bill is twofold. First, it proposes to enhance the powers of the High Court to obtain evidence for the purpose of criminal proceedings in other jurisdictions. Secondly, it proposes to abolish the corroboration rules in respect of sexual offences.

Obtaining of evidence for overseas jurisdictions

I will deal first with the provisions relating to obtaining of evidence for overseas jurisdictions. Under the existing law, the courts in Hong Kong may, on the request of another jurisdiction, take evidence here for use in criminal proceedings in that jurisdiction. However, before the court can assist in obtaining evidence for proceedings in another jurisdiction, it must be satisfied, firstly, that the request was made by or on behalf of a "court or tribunal" and, secondly, that the evidence in question is to be obtained for proceedings which have been instituted or which are likely to be instituted if the evidence is obtained.

Mr President, these two criteria severely restrict the power of the courts in Hong Kong to respond to requests for assistance from other jurisdictions, and cause particular difficulty in relation to civil law jurisdictions. To give an example, in a recent case relating to a request from Italy, the High Court held that it did not have jurisdiction to respond to the request because it was issued by a Magistrate who, under Italian law, was performing the function of a public

prosecutor. Therefore, the request was not one made by or on behalf of a court or tribunal. Moreover, the restrictions prevent evidence from being obtained for the purposes of proceedings before an examining magistrate who, under the civil law system, conducts the investigation. In such cases, it cannot be argued that the evidence to be obtained is for the purpose of proceedings which are likely to be instituted.

It is important for Hong Kong to play a full part in the world effort to combat crime. However, it cannot now do this because of the restrictions I have just referred to. Our inability to respond satisfactorily to requests for legal assistance could damage Hong Kong's reputation as an important legal, commercial and financial centre. It could also cause problems when Hong Kong seeks to enter into agreements with other jurisdictions in respect of mutual legal assistance.

The Bill proposes to overcome these difficulties by enhancing the powers of the High Court to assist in obtaining evidence for use in other jurisdictions. It does this by allowing a request for assistance from another jurisdiction to be made not only by a court, tribunal or other juridical authority, but also by a prosecuting authority. It also provides that the evidence in question may be obtained for the purposes of a "criminal matter", which is defined to mean a prosecution, an investigation, or an ancillary criminal matter, such as the restraint or confiscation of the proceeds of crime.

The Bill does, however, place restrictions on the power of the courts to obtain evidence. In particular, a person cannot be compelled to give evidence which he could not be compelled to give in Hong Kong on the ground that to do so might tend to incriminate him, or which he could not be compelled to give in the other jurisdiction in the criminal matter for which the evidence is being obtained.

Corroboration rules in respect of sexual offences

I now turn to the proposed abolition of the corroboration rules in respect of sexual offences. Under our law, the general rule is that a court may act on the evidence of a single witness to decide whether or not an accused is guilty.

However, in respect of sexual offences, there are special rules of corroboration. The evidence of a witness is corroborated if there is independent testimony implicating the accused. The reason for the corroboration rules in respect of sexual offences is said to be that sexual allegations are easy to make but difficult to refute. The alleged victim's evidence may have been the result of fantasy, spite or remorse.

There are two different rules of corroboration in respect of sexual offences. One rule requires that, where the allegation against an accused is supported by the evidence of one witness only, that witness' evidence must be corroborated by some independent evidence tending to prove the guilt of the accused. Without such corroborative evidence, the accused cannot be convicted of the offence alleged, even if the judge or jury is convinced that he is guilty of the offence. There are seven types of sexual offences under the Crimes Ordinance to which this rule applies. These include procuring a person by threats or intimidation to do an unlawful sexual act, and procuring a person to become a prostitute.

The other rule applies to all other types of sexual offences. It requires a judge to give a warning of the dangers of convicting a person on the uncorroborated evidence of a victim of sexual offence. If a judge fails to give such a warning, this may result in the accused's conviction being overturned on appeal, even though the evidence was, in fact, corroborated.

In many common law jurisdictions, the rules governing corroboration have been criticized as unsatisfactory. They work particularly to the disadvantage of victims of sexual offences whose evidence is characterized as inherently unreliable. In addition, the rules are extremely difficult to explain and apply, and are rigid in their application. The corroboration rules applying to sexual offences have already been abolished in England, Canada, New Zealand and some Australian states.

I would remind Members that, in Hong Kong, the corroboration rules that used to apply to the evidence of an accomplice and a child witness were recently abolished. This Bill now proposes to abolish the corroboration rules applying to sexual offences. I would add that the abolition of the rules would not prevent a judge from giving a warning about the reliability of the evidence of any witness

in proceedings for a sexual offence if, on the particular facts of the case, the judge considered this necessary.

Clause 2 of the Bill introduces a new section 4B into the Evidence Ordinance to provide for the abolition of the rule requiring a corroboration warning to be given in proceedings for a sexual offence. Section 4 of the Schedule to the Bill repeals the requirement for corroboration in respect of seven sexual offences under the Crimes Ordinance.

Mr President, the proposed enhancement of the powers of the High Court to obtain evidence is consistent with the bilateral legal mutual assistance agreements that Hong Kong is negotiating, and with international practice. The proposed abolition of the rules of corroboration applying to sexual offences is consistent with developments in other common law jurisdictions and with Hong Kong's recent reforms to the law regarding accomplices and children. Both measures will improve the administration of justice. Mr President, I commend the Bill to this Council.

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).

KADOORIE AGRICULTURAL AID LOAN FUND (AMENDMENT) BILL 1996

THE SECRETARY FOR ECONOMIC SERVICES to move the Second Reading of: "A Bill to amend the Kadoorie Agricultural Aid Loan Fund Ordinance."

經濟司致辭：主席先生，我現謹動議二讀《1996年嘉道理農業輔助貸款基金（修訂）條例草案》。

這條條例草案旨在改善嘉道理農業輔助貸款基金的管理。

《嘉道理農業輔助貸款基金條例》於一九五五年制定，藉以設立嘉道理

農業輔助貸款基金。基金款項由已故的嘉道理勳爵及已故的嘉道理爵士捐贈以及由政府撥捐，目的是透過貸款予農民或農民團體，促進或改善本港的農業。

該條例訂明該基金由一個六人委員會管理，成員包括嘉道理勳爵及嘉道理爵士。嘉道理勳爵及嘉道理爵士已先後逝世，令嘉道理家族與貸款基金委員會之間的聯繫中斷，而委員會的成員人數亦由六人減至四人，以致貸款基金委員會的運作不及以前出色。

本條例草案建議，將成員人數增至七人，其中一名新增成員由嘉道理父子有限公司指定的人士出任，其餘兩名新增成員，則由總督委任。本草案亦訂明總督委任成員的任期，由三年縮短至兩年。這些修訂，可確保嘉道理家族與貸款基金委員會重新建立聯繫，亦讓農業界不同代表有更多機會參與委員會的工作。

此外，本草案亦修訂該條例“農業”一詞的定義，該項定義已包括養魚業，現建議將之擴大至包括各種形式的水產養殖業，藉此說明塘魚養殖戶和海魚養殖戶均可申請基金的貸款。

主席先生，本草案的建議，可改善從嘉道理農業輔助貸款基金貸款給農民時的批核安排，從而促進本港農業及水產養殖業的發展。我謹向本局推薦本條例草案。

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).

LEVERAGED FOREIGN EXCHANGE TRADING (AMENDMENT) BILL 1996

THE SECRETARY FOR FINANCIAL SERVICES to move the Second Reading of: "A Bill to amend the Leveraged Foreign Exchange Trading Ordinance."

財經事務司致辭：主席先生，我謹動議二讀《1996年槓桿式外匯買賣（修訂）條例草案》。

本條例草案旨在規定根據《槓桿式外匯買賣條例》獲發牌照的買賣商在出售或發行大量所持股份前，必須徵得證券及期貨事務監察委員會（“證監會”）同意。本條例草案亦旨在修訂該條例，使高等法院根據條例第13條作出的命令不只適用於持牌人，對任何人士均適用。同時，任何這類命令均可指明貨幣以外的資產。

根據現有條例，槓桿式外匯買賣牌照只可發給有限公司及其代表，至於在該條例實施前已開業的買賣商，在等候證監會審批其申請期間，可繼續營業。目前，該條例並無明文禁止不“適當”的公司，包括曾被拒發槓桿式外匯買賣商牌照的公司收購持牌買賣商的股份，藉此取得該持牌公司的控制權。本條例草案的擬議修訂，旨在堵塞這可能出現的漏洞。

此外，該條例第13條授權高等法院針對已違反或即將違反該條例及附屬法例的規定或其牌照任何持牌條件的持牌人作出命令。根據第13條作出的命令只適用於持牌人，對申請人並不適用。同時，該條例第13條亦授權高等法院作出命令，限制任何人取得、處置或以其他方式處理命令內指明的任何貨幣。為了向投資者提供更佳保障，“貨幣”一詞應同時涵蓋資產，因為買賣商可能會以欺詐手法挪用客戶的款項而獲取資產。當局有需要修訂有關條文，使根據第13條作出的命令適用於任何人士，而任何這類命令均可指明貨幣以外的資產。

主席先生，本條例草案的整體目的，是為加強有關的風險管理制度及提高對投資者的保障。

謝謝主席先生。

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).

**SECURITIES AND FUTURES COMMISSION (AMENDMENT) BILL
1996**

THE SECRETARY FOR FINANCIAL SERVICES to move the Second

Reading of: "A Bill to amend the Securities and Futures Commission Ordinance."

財經事務司致辭：主席先生，我謹動議二讀《1996年證券及期貨事務監察委員會（修訂）條例草案》。

本條例草案旨在修訂《證券及期貨事務監察委員會條例》，規定獲證券及期貨事務監察委員會（“證監會”）註冊為證券或商品交易商或投資顧問公司，在大量出售或發行所持股份前，須徵得證監會同意。

《證券及期貨事務監察委員會條例》的擬議修訂，與我剛才動議通過的條例草案所載有關《槓桿式外匯買賣條例》的相類修訂，都是基於相同理由而提出的。換言之，現時《證券及期貨事務監察委員會條例》沒有明文禁止並非“適當人選”的人士，收購已註冊為交易商或投資顧問的公司的股份，從而取得該公司的控制權。本條例草案旨在堵塞這漏洞。

謝謝主席先生。

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).

BANKRUPTCY (AMENDMENT) BILL 1996

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

SECRETARY FOR FINANCIAL SERVICES: Mr President, I move the Second Reading of the Bankruptcy (Amendment) Bill 1996.

The Bankruptcy Ordinance is based on obsolete English legislation of 1914. It embodies procedures and practices that are cumbersome and outmoded. In the United Kingdom and in certain other jurisdictions the insolvency

legislation of which has had similar origins, such as Singapore, insolvency laws have been modernized.

The Bankruptcy Ordinance is an important element in our legal framework for the operation of business and it is therefore important for Hong Kong as a major commercial and financial centre to bring our regulatory regime into line with the changing needs and expectations of the community.

This Bill largely implements the recommendations of the Law Reform Commission's "Report on Bankruptcy" which took on board many of the changes implemented in the United Kingdom and in Australia. These changes have shifted the emphasis more towards rehabilitation than punishment. In the one or two places where we have differed from the Law Reform Commission's recommendations, this has been for technical reasons which emerged during the drafting of the Bill. Our proposed approach on these matters has either resulted from subsequent discussion with the Commission's Insolvency Subcommittee or has been accepted by the Chairman of the Subcommittee.

May I briefly mention some of the more significant proposals contained in the Bill:

- (a) Acts of Bankruptcy, which constitute the grounds on which a bankruptcy petition may be presented, are mostly obsolete and will be abolished;
- (b) bankruptcy notices issued to creditors, which are based on court judgments and require a debtor to pay a debt due or make some other arrangements satisfactory to his creditors and the court, will also be abolished and replaced with a simpler procedure;
- (c) the current procedures will be replaced by more straightforward arrangements which will entail the issuing of a statutory demand requiring a debtor to pay his debts, then due, within 21 days. Failure to comply with this will enable a bankruptcy petition to be presented, as will an unsatisfied execution of a judgment against the property of a debtor. If a debtor departs from Hong Kong or intends to do so knowing that his departure would delay or thwart his creditors, this will also be grounds for presenting a petition;

- (d) a single bankruptcy order will replace the present two-stage system of a receiving order followed by an adjudication order, thereby simplifying procedures and reducing costs;
- (e) the present requirement that a bankrupt must apply to the court for discharge from bankruptcy will be repealed and provisions will be introduced for an automatic discharge, subject to there being no objections from the trustee of the bankrupt's estate or any creditor;
- (f) the present procedures for compromises or schemes of arrangement that a debtor can make with his creditors will be replaced by new provisions based on the individual voluntary arrangements procedures under the United Kingdom Insolvency Act. These provide a more flexible procedure which will encourage debtors to sort out their financial difficulties in a structured way without having to become bankrupt;
- (g) arrangements for holding meetings of creditors will be made more flexible and the Official Receiver given great discretion to determine the need of such meetings;
- (h) the present monetary limits of \$3,000 on the total value of tools of trade and domestic goods that a bankrupt can retain will be abolished. The bankrupt will instead be allowed to retain such equipment as will enable him to continue his trade or occupation so as to earn a reasonable living for himself and his dependants. Excess earnings will continue to be paid into the bankrupt's estate. The bankrupt will be able to retain such domestic equipment as may be necessary for satisfying his and his family's basic needs; and
- (i) new "anti-avoidance" provisions will be introduced to enable the trustee of the bankrupt's estate to challenge disposals of property made prior to the commencement of the bankruptcy, when the trustee considers the bankrupt may have acted contrary to the interests of his estate by conferring benefits on some other persons.

Mr President, this Bill also generally will streamline the procedures

associated with insolvencies and will help to reduce the time and costs involved in their administration.

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).

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

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

Question on Second Reading proposed.

DR SAMUEL WONG: Mr President, a Bills Committee, chaired by me, was formed on 20 October 1995 to study the Gas Safety (Amendment) (No. 2) Bill 1995. The Bills Committee has held three meetings with the Administration.

The Bills Committee is in support of the Bill. In connection with the Bill, it has also examined the Gas Safety (Gas Supply) (Amendment) Regulation and the draft Code of Practice to be introduced after the enactment of the Bill.

I would like to highlight four major issues considered by the Bills Committee.

First, Members seek clarification on the definition of "vicinity" as it appears in "works in the vicinity of gas pipes" in regulation 23A of the proposed Gas Safety (Gas Supply) (Amendment) Regulation. They request the Administration to consider providing, in the Code of Practice, some objective references (for example, distances) to define what works are considered to be "in

the vicinity" of gas pipes. In response to their request, the Administration agrees to put in the Code of Practice a table stating a range of safety distances for various types of work in the vicinity of gas pipes.

Secondly, Members are concerned that in practice it presents too high a standard of proof for the defendant to show that "all reasonable steps" are taken to ascertain the location and position of gas pipes before starting the works.

Upon the Attorney General's advice that a court would look to the Code of Practice for guidance as to the expected standard of practice, the Administration agrees to set out in the Code of Practice all the steps that the Gas Authority considers reasonable for works contractors and gas supply companies to take in the interests of avoiding damage to gas pipes. The Administration will also amend regulation 49A of the proposed Gas Safety (Gas Supply) (Amendment) Regulation to provide for a defence to a charge under regulation 49/23A(2) where a defendant shows that he has complied with the relevant approved Code of Practice.

Thirdly, Members hold the view that it is unfair to criminalize works contractors for their negligence without subjecting gas supply companies to criminal liability for failing to provide promptly and accurately the information required by works contractors.

The Administration's considered view is that the circumstances do not require provision for criminal liability on the part of the gas supply companies. It is sufficient to stipulate in the Code of Practice performance requirements for gas supply companies to provide information required by works contractors.

Fourthly, Members hold divided views on the penalties proposed in the Bill. Some Members suggest to provide for a lighter penalty for a first conviction, or to provide for conviction of a summary or an indictable offence depending on the seriousness of a case. Other Members are of the opinion that it is necessary to take into account the deterrent effect of the proposed penalties and to tally them with similar provisions in other safety-related regulations.

After considering Members' views, the Administration maintains the view that, taking into account the potentially serious consequences (explosion, fire,

damage to property and personal injury) of an offence under the proposed regulation 49(1A)(b), the court should be able to impose up to the proposed maximum penalty (a fine of \$200,000 and imprisonment for 12 months) for a first offence; and that the proposed penalties should remain unchanged.

In closing, I would like to thank Members of the Bills Committee for their contribution and representatives of the Administration for their co-operation in the study of the Bill.

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

SECRETARY FOR ECONOMIC SERVICES: Mr President, may I first thank Dr Samuel WONG and Members of the Bills Committee for the detailed and thoughtful work they did on the Gas Safety (Amendment) (No. 2) Bill 1995, and the supporting regulations.

I also would like to confirm that we are now working on the regulations which will be circulated shortly. In addition, later on in Committee stage, I shall be amending clause 2 and I shall explain the reasons for the amendment at that point.

Thank you, Mr President.

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

Bill read the Second time.

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

PNEUMOCONIOSIS (COMPENSATION) (AMENDMENT) BILL 1995

Resumption of debate on Second Reading which was moved on 6 December 1995

Question on Second Reading proposed.

DR LEONG CHE-HUNG: In July 1993, this Council passed the Pneumoconiosis (Compensation) (Amendment) Bill 1993. During the passage of the Bill then, it was obvious that the details of the amendments did not meet all the aspirations or the needs of those sufferers. Yet, the consensus then was that the Bill should be passed as soon as possible to ensure that the pneumoconiotics be given as much assistance as early as possible, and that the Government should review the situation and come forth with further amendments in the near future.

It is in this light that I would like, on behalf of the Bills Committee, to thank the Administration to come out with further amendments to seek to make a number of improvements on the compensation scheme, the details of which have been explained by the Secretary for Education and Manpower when he introduced it into this Council on 6 December 1995.

Mr President, the Bills Committee formed supports the Bill. Yet there are still areas of reservation and areas which Members are unhappy about and which we do hope the Administration can touch on today and hopefully make improvements for the future.

With your permission, Mr President, I would like to highlight first of all some major areas of concern in the course of the Bills Committee's deliberation.

This Bills Committee welcomes the proposal to make the monthly payment of compensation for pain, suffering and loss of amenities a separate compensation item, irrespective of the degree of incapacity of an pneumoconiotic. On the calculation of compensation, the Administration has explained to us that a review on the compensation scheme is conducted once every two years and the monthly payment to the pneumoconiotics is adjusted each year in January in line with the inflation.

The Bills Committee has sought clarification on why lung functions of some pneumoconiotics were found to have improved by the Forced Vital Capacity (FVC) test and raised concern whether the monthly compensation to such patients would be reduced accordingly. The Administration has explained that their lung functions could be improved if they were to recover from

complications which they might have had during the initial tests. Thus in some cases, and its improvement will be shown, the pneumoconiotic's lung functions were actually found to be better than originally assessed. The Administration, however, assured the Bills Committee that such improvement in lung functions will not constitute a reduction in the monthly compensation. I do hope the Administration will further confirm this in their reply.

Members are still concerned whether the assessment of incapacity using the FVC test is good enough. Clause 13 of the Bill provides a certain flexibility for the Pneumoconiosis Medical Board to take into consideration of other lung functions tests or clinical findings and make necessary adjustment of no more than 5%. It would be important for the Secretary for Education and Manpower to reassure Members that such adjustment would be on the side of benefit to the sufferers.

Another area of concern is the proposed increase in rate of levy from 0.3% to 0.4% for construction work and quarry production. The Administration has explained that this has been endorsed by the Labour Advisory Board and discussed by the Pneumoconiosis Compensation Fund Board where there are representatives from the building and construction and quarry industries.

Mr President, whilst Members welcome the expanded function of the Fund Board to include conducting and financing programmes for rehabilitation of pneumoconiotics, the Fund Board has reservation on the lack of expertise and resources to fulfill this additional responsibility. Furthermore, the Hong Kong Construction Association raised concern on the likely further rise in levy. The Administration stresses that the legislative intent is to enable the Fund Board to assess the rehabilitation needs of the pneumoconiotics or to consider the appropriate programmes rather than to compel the Fund Board to conduct these programmes beyond its capability, and this will depend whether there are needs for further increase in levy. Nevertheless, the Fund Board has expressed its concern that more resources will definitely be needed. I hope that the Secretary for Education and Manpower will further address this issue.

On the possibility of pneumoconiotics being appointed to the Fund Board, the Administration's response was that the Fund Board has considered the request and felt that the patients' representative could serve best in the steering

committee on Education and Publicity of the Board.

Mr President, the main area of reservation of Members is that there is still a lack of flexibility to the sufferers and the families, in particular compensation for family members of pneumoconiotics whose cause of death are in the "grey areas".

Under the compensation scheme, Mr President, if a pneumoconiotic is determined not to have died of pneumoconiosis, the family members of the deceased pneumoconiotic will not be eligible for compensation for death. The Bills Committee has expressed deep concern that since pneumoconiosis can easily cause complications and in some cases, it is difficult to determine whether the death of a pneumoconiotic is attributed to pneumoconiosis. In considering the statistical analysis on cause of death of pneumoconiotics during July 1993 to December 1995 provided by the Administration, the Bills Committee is particularly concerned that the family members of the patients died of lung cancer and chronic obstructive airway disease were determined by the Pneumoconiosis Medical Board as not to have died of pneumoconiosis and therefore not eligible for compensation for death.

The Administration responded that the Pneumoconiosis Medical Board has already adopted a lenient approach in determining the relationship between the actual cause of death and pneumoconiosis on individual cases basis. If the patient is assessed to have died of lung cancer in asbestos-related disease, the deceased's family would be eligible for death compensation. However, if a pneumoconiotic who died of lung cancer is found to be a chronic and heavy smoker, the Pneumoconiosis Medical Board would determine that the cause of death is not pneumoconiosis-related. Similarly, in the case of chronic obstructive airway disease, if it is established that silicosis is more prominent than chronic obstructive airway disease, the deceased would be assessed to have died of pneumoconiosis.

Mr President, the Bills Committee however has reservations on the Administration's explanation since there is no direct proof that smoking can cause cancer and clinically it is difficult to clearly define the cause of chronic obstructive airway disease. The Bills Committee has suggested that greater flexibility should be accorded to cases where the cause of death is associated

with the pulmonary or respiratory system, and they should be considered as resulted from pneumoconiosis.

The Administration has agreed to discuss with the Pneumoconiosis Medical Board along these lines suggested by the Bills Committee. The Administration has however emphasized that should an pneumoconiotic die of disease of the lung or respiratory system which is clearly unrelated to pneumoconiosis, it will be difficult to justify for death compensation.

We would urge the Administration to give it a further consideration as the total amount could well be a small sum.

Turning now to the pre-1981 pneumoconiosis cases which are not covered by the Ordinance, I am glad that the Secretary for Education and Manpower has undertaken to explain later on today during her reply, the improvements to compensate those cases by adjusting the *ex gratia* payments on 1 July each year and extending payments to cover medical appliances that will take effect at the same time as the coming into operation of the Bill.

Finally, Mr President, on a personal basis and on behalf of the medical profession, I have to state my extreme disappointment that statutory pre-employment health check and regular on-the-job check-ups are still not instituted in such highly hazardous occupations. Such check-ups would definitely pick up people with basic respiratory problems, bar them from occupations that are predisposing to pneumoconiosis or to stop those found affected from further involvement in the occupations to prevent further deterioration.

Mr President, I would like to take this opportunity to thank Members of the Bills Committee for their active participation in studying this Bill and the Administration for its co-operation and efficiency in responding to Members' request. May I also add that this is one of the first Bills that have gone through the scrutiny of a Bills Committee to come up for resumption of Second Reading debate and hopefully Committee stage and Third Reading in this Legislative Session.

With these remarks, Mr President, and subject to the consequential Committee stage amendment to be made, I commend the Bill to this Council.

曾健成議員致辭：主席先生，去年年底，教育統籌科向立法局提出《1995年肺塵埃沉¹病（補償）（修訂）條例草案》（以下簡稱“條例草案”），這是繼八零年十一月頒布有關法例以來，經九三年首次作修訂後，第二度作出修訂。

平心而論，這是政府在改善勞工權益方面，較快作出檢討的“創舉”。民主黨希望奉行行政主導的政府，於日後繼續從善如流，以勞工階層的利益為大前提，對於過時、不合理，以及照顧老、弱、孤、殘的社會上不幸者及邊緣人士的條例，作出類似的果敢及有效率修訂，使香港除了產生經濟奇蹟令世人讚歎外，在保障勞工權益方面也令人羨慕及借鏡。

今次條例草案作出多方面的修訂，大部分都是從改善病患者的補償作為出發點，其中包括：傷痛和喪失生活情趣而每月領取的劃一補償額、向已故病患者家屬發放補償金、對喪失工作能力的人作出評估，以至為病患者提供康復計劃等。此等改善建議對於現正患上肺塵埃沉¹病的人士，有莫大幫助。

雖則如此，民主黨及本人認為政府應繼續檢討及修訂條例，使有關法例及措施能全面及公平地照顧病患者的需要。有關改善重點包括：（一）補償制度；（二）患病者的參與；（三）復康計劃；及（四）停止手挖沉箱。

（一）補償制度

主席先生，現時補償制度的最大漏洞在於不同時期患上肺塵埃沉¹病，將有不同的補償金額。如果我們將病患者作簡單的分類，則可分為八一年前的病患者、八一年至九三年七月的病患者以及九三年七月至今的病患者。

根據現時的法例，八一年前的病患者只可獲得一次過的補償金（由數千至數萬元不等）及每季的一萬多元特惠金，即平均每月3,000元的津貼。

其次，經九三年七月的修訂，八一年至九三年七月期間的病患者，其補償為平均每月收入+2,100元的補償金額，但問題在於要視乎病情有否惡

化而定。過往有40%的舊個案因被評定為沒有進一步喪失工作能力，故不能領取任何部分的數額。因此，相對八一年前的病患者，他們均獲得更少的賠償。現在將傷痛和喪失生活樂趣的補償額脫鉤，可算是政府進步的表現。但現今的建議沒有追溯效力，故此，劃一的傷痛和喪失生活樂趣補償額，對過往這一群在職工友沒有多大幫助。

至於九三年七月及以後的病患者，則可按平均每月收入×喪失工作能力程度 + 傷痛和喪失生活樂趣補償額來計算。

主席先生，這種近乎“一病三制”的補償制度，無疑可減輕補償基金的財務負擔，但特別對於八一年前的病患者極為不公平。事實上，八一年前的病患者，患病時間最長、健康情況較差，但卻不受修訂草案的保障。雖然八一年以前的病患者不屬條例草案的保障範圍，但教育統籌科應立即提出具體的保障措​​施，調整每季特惠金款額，考慮因素包括：通脹、生活指數及醫療費用支出。

再者，過往一次發放的補償金與現時按平均每月收入的數額相距甚大，故此，教育統籌科應盡快為八一年前及八一年至九三年七月期間的兩類病患者，作出另類的保障措​​施，以彌補不公平現象。

（二）患病者的參與

主席先生，病患者過去並沒有參與有關補償的商討，現時肺塵埃沉¹⁰病補償基金委員會的成員也沒有病患者代表，未能反映病患者的實際需要。作為檢討及建議有關政策的機構，絕無可能在建制內排除政策對象的參與。以往法例及補償額多番引起爭議，產生“政出多門”的現象，可見缺乏病患者的實質參與的漏洞。因此，透過實質的參與，病患者可以將他們的意見在基金會提出，大家可以研究，重申其重要性。

（三）康復計劃

主席先生，康復計劃是很重要的。作為病患者，除了得到社會的同情外，也不應該影響其健康和適當的賠償。政府應對有關病患者的康復計劃，作具體的承擔及策劃。若空喊康復計劃的口號是沒有用的。對有關計劃有具體規劃及財政承擔上的支持，康復計劃才可進行。如果沒有財政承擔，這個“康復計劃”只是口號而已。民主黨極希望教育統籌科拿出誠意，對康復計

劃作具體部署，並撥出足夠資源，令病患者能自力更生，重新投入社會工作，過有尊嚴的生活。

(四) 停止手挖沉箱

主席先生，要停止我們的市民繼續患上肺塵埃沉病，首先應停止所有手挖沉箱工序。民主黨認為保障工人職業安全及健康的不二法門，是政府採取“預防勝於治療”的政策取向。眾所周知，手挖沉箱是導致工人患上矽肺病的主要工序。若政府認為私人機構不應採用手挖沉箱，則政府部門更應該帶頭停止手挖沉箱，不應背道而馳，反其道而行。但政府至今仍不答應停止所有手挖沉箱。政府應該汲取以往工人失去生命、所滴的血汗及患病的教訓，停止所有手挖沉箱。若繼續手挖沉箱工序，即視工人的安全及健康如草芥。若政府仍不提出自我規管，立即停止手挖沉箱，即使我們的肺塵埃沉病保障如何能保障工人日後的事情，但肺塵埃沉病仍會繼續在香港出現。因此，如果有議員提出停止手挖沉箱的議案，我希望各位同事給予支持。

本人謹此陳辭。謝謝主席先生。

陳婉嫻議員致辭：主席先生，立法局今天恢復《1995年肺塵埃沉病（補償）（修訂）條例草案》的二讀辯論，本人期望本條例草案能盡快通過，使病患者盡早獲得更佳補償。

就本條例草案的情況，剛才有關審議委員會的主席已加以說明，我謹此再提出一些具體的意見。

首先，本人十分支持條例草案建議將痛苦補償定為獨立補償項目，使為數約1 800名肺塵埃沉病患者受惠。同時，當局能從善如流，接受病患者團體意見，將該項補償的2,100元金額與通脹掛鉤，調高至2,570元，這是正確的做法。但做了這幾項好事之後，令人遺憾的是，此項痛苦補償的改善，並未能同時惠及一九八一年前的病患者，使他們在喪失生活情趣補償方面得到一視同仁的保障。事實上，八一年前的病患者，患病時間最長、身體最差，其所受的痛苦程度並不低於八一年後的病患者。藉今次《肺塵埃沉病補償條例》的修訂，政府應該同時檢討及考慮加強對八一年前病患者的保障，使他們得到社會更多的關心和保護。

其次，對於如何判定一名肺塵埃病患者是否因該病去世，而作出有關補償的問題，本人曾徵詢有關工會及病患者團體的意見。他們普遍認為由於肺

塵埃沉¹病通常會產生其他併發症，所以難於界定病患者是否死於矽肺病。故此，本人希望政府對此應採取較為寬鬆的政策。換言之，任何患此病者，不論死因是何種疾病所引致，當他去世後，一律都應給予死亡補償。

第三，對於重新評估病患者喪失工作能力程度的方法，現時是根據最大肺活量去測試他們的情況。如果按照業內人士及有關團體所說，通常患上這病後都是“有壞無好”，同時現時採用的吹氣測試病患者肺部康復程度的方法並不客觀，往往因天氣情況差異而影響病患者測試結果。因此，本人擔心有病患者會在再度接受評估時，因為測試的誤差而導致其每月領取的補償金額被削減。

總括而言，對於港府今次就本條例提出修訂，工會團體及病者組織都表示歡迎，而且在一定程度上，政府是接受了有關行業工人和團體工會的意見，可以說條例是獲得一定程度的改善，並得到大家的支持。不過，仍有不完善之處，需政府繼續改善。其中最令人關注的是八一年前病患者並未得到一視同仁的關懷和保障。我想指出，這批八一年前病患者為數約400人。他們普遍年紀較大，身體情況也較八一年後的病患者為差。他們面對的傷痛程度及壓力，並不低於八一年後的病患者。我並不是想將八一年前及八一年後的病患者作比較，只是想將這事實告知政府，不能忽略八一年前病患者的問題。希望政府將來在這方面一視同仁，使他們能夠得到病理上及死亡上的照顧。我很希望政府在短期內迅速檢討這條例，使他們同樣享有一定的權利。

本人謹此陳辭。

李卓人議員致辭：主席先生，我代表職工會聯盟歡迎政府今次的修訂。

其實對那些病患者來說，他們等待今次的修訂已經很長時間，但我們還希望教育統籌司和政府有關決策部門盡快進行一事，就是剛才很多議員也提及到的八一年前病患者的問題。他們每月只能領取大約3,000元，而並沒有任何醫藥費保障或死亡補償。因此，我們很希望政府可以盡快令他們和八一年後病患者的保障劃一，同樣可享有醫藥費保障和死亡補償。

剛才我在外邊和請願的受害人傾談時，他們向我說出一個很大的問題，就是以前他們的會員有數百人，但現在人數一直減少，因為很多會員隨¹健康惡化而去世。我所不希望出現的一個情況，就是待政府改善了八一年以前病患者的保障，令他們受惠時，剛才陳婉嫻議員所說的400名病患者已經去世，這樣便沒有意思了。我希望政府真的要迅速進行這事，並希望政府稍後

會就此作出答覆。

謝謝主席先生。

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, first of all, I am grateful to Members for their support of this important Bill which seeks to make improvements to the Pneumoconiosis Compensation Scheme in a way which is broadly acceptable to both employers and employees. I should also like to thank the Chairman, Dr the Honourable LEONG Che-hung, and Members of the Bills Committee for their careful examination of the Bill and for their valuable views on it.

As Members are aware, this Bill is the outcome of the Government's conscious decision to bring about substantial improvements to the Pneumoconiosis Compensation Scheme. The most important improvement is the proposal to remove from the existing compensation formula the compensation amount intended for pain, suffering and loss of amenities (PSLA) but without being specified as such, and make it a separate compensation item so that all eligible pneumoconiotics will be entitled to this amount irrespective of their degree of incapacity under the Scheme. Another significant improvement is the introduction of a reasonable degree of flexibility in the assessment of incapacity under the Scheme, by two means, as set out in clause 13 of the Bill. First, it empowers the Pneumoconiosis Medical Board (PMB) to consider findings of not only the standard Forced Vital Capacity (FVC) test for assessment of lung function loss under the Scheme, but also other lung function tests or clinical findings relevant to a pneumoconiotic's loss of lung function, and as a result, to adjust the degree of incapacity as assessed by reference to the FVC test by no more than 5%. Second, it empowers the PMB to assess the degree of a pneumoconiotic's loss of lung function on the basis of other relevant clinical tests, or physical or radiological findings if he/she cannot perform the FVC test at all because of certain co-existing medical conditions.

In the course of examining the Bill, Members expressed concern that in a number of cases, the family members of the deceased pneumoconiotics were not eligible for compensation because the PMB had determined that the pneumoconiotics in those cases did not die of pneumoconiosis. Members considered that the criteria adopted by the Board in determining the cause of

death of pneumoconiotics might have been too stringent. While we appreciate Members' concern, I wish to stress the importance of ensuring that the compensation for death under the Scheme is strictly confined to family members of only those deceased persons whose death was really caused by pneumoconiosis. Nevertheless, we have conveyed Members' concern to the PMB, which will continue to take account all factors relating to pneumoconiotics in their assessment of the cause of of the deceased pneumoconiotics.

In addition to supporting this Bill, Members of the Bills Committee expressed the wish to see improvements to the Pneumoconiosis Ex-Gratia Scheme which is a separate administrative scheme providing benefits to persons who were diagnosed before 1981 to be suffering from pneumoconiosis. At present, the Scheme provides this group of pneumoconiotics with compensation payments which comprise quarterly *ex gratia* payments at the current rate of \$10,560 which are payable until death, and reimbursement of funeral expenses in respect of a deceased pneumoconiotic, subject to a maximum, which was increased from \$12,000 to \$14,000 from 1 January this year.

I would take this opportunity to inform Members that we have conducted a review of this Scheme and are planning to make a series of improvements to it. They include the arrangement for the Pneumoconiosis Compensation Fund Board to supply and pay for the expenses of medical appliances required by the pneumoconiotics including wheelchairs, oxygen concentrators and cylinders and their accessories to the pneumoconiotics. The other changes are the arrangement to make annual adjustment to the rate of *ex gratia* payments in accordance with changes in the CPI(A) on 1 July of each year, and the revision of the maximum amount of reimbursement of funeral expenses once every two years which is in line with our existing administrative arrangement of adjusting the corresponding ceiling under the Ordinance on a biennial basis. These improvements have been endorsed by the Labour Advisory Board and will take effect on the same date as all the proposals under this Bill.

Following the passage of a resolution by this Council on 13 December 1995, the amount of \$2,100 in the formula for the calculation of the monthly compensation for total incapacity in Part II of the First Schedule of the

Pneumoconiosis (Compensation) Ordinance was increased to \$2,570 with effect from 1 January 1996. It is therefore necessary to adjust the amount of \$2,100 in clause 12(b) of this Bill correspondingly to \$2,570. I shall move an amendment to effect this change at the Committee stage.

Thank you, Mr President.

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

Bill read the Second time.

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

Committee Stage of Bills

Council went into Committee.

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

Clauses 1 and 3 to 6 were agreed to.

Clause 2

SECRETARY FOR ECONOMIC SERVICES: Mr Chairman, I move that clause 2 be amended as set out in the paper circulated to Members.

The purpose of the proposed amendment is to define more comprehensively the type of works which may give rise to damage to gas pipes by defining such works to include works on footpaths, the extraction of material

from the land or the seabed, landfill works and reclamation works.

Mr Chairman, I beg to move.

Proposed amendment

Clause 2

That clause 2 be amended, in the proposed definition of "works", by deleting paragraphs (a) to (d) and substituting:

- "(a) building works within the meaning assigned to that term in section 2(1) of the Buildings Ordinance (Cap. 123), and for the purposes of this paragraph reference in that section to "ground investigation in the scheduled areas" shall be read as a reference to "ground investigation";
- (b) the laying out, construction, alteration or repair of any road, footpath, tunnel, airport runway, canal, reservoir, pipe-line, railway or tramway;
- (c) trench works carried out by or for any public utility;
- (d) the extraction of material from land or the seabed;
- (e) landfill works;
- (f) river training works; or
- (g) reclamation works."

Question on the amendment proposed, put and agreed to.

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

PNEUMOCONIOSIS (COMPENSATION) (AMENDMENT) BILL 1995

Clauses 1 to 11, 13 and 14 were agreed to.

Clause 12

SECRETARY FOR EDUCATION AND MANPOWER: Mr Chairman, I move that clause 12(b) of the Bill be amended as set out in the paper circulated to Members.

This amendment seeks to replace the amount of \$2,100 by \$2,570 in the proposed Part II(A) to be added to the First Schedule of the Pneumoconiosis Compensation Ordinance. This amendment is necessary as a result of the passage of a resolution by this Council on 13 December 1995 for increasing the amount of \$2,100 in the formula for the calculation of the compensation for total incapacity in Part II of the First Schedule of the Pneumoconiosis Compensation Ordinance to \$2,570 with effect from 1 January 1996. As clause 12(b) of the Bill seeks to remove the said amount of \$2,100 from the formula for the calculation of compensation for incapacity, and make it a separate item of compensation for pain, suffering and loss of amenities under Part II(A) of the First Schedule of the Ordinance, this compensation amount should be revised correspondingly to \$2,570.

Mr Chairman, I beg to move.

Proposed amendment

Clause 12

That clause 12(b) be amended, in proposed Part IIA of the First Schedule, by deleting "\$2,100" and substituting "\$2,570".

Question on the amendment proposed, put and agreed to.

Question on clause 12, as amended, proposed, put and agreed to.

Council then resumed.

Third Reading of Bills

THE SECRETARY FOR ECONOMIC SERVICES reported that the

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

had passed through Committee with amendment. He moved the Third Reading of the Bill.

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

Bill read the Third time and passed.

THE SECRETARY FOR EDUCATION AND MANPOWER reported that the

PNEUMOCONIOSIS (COMPENSATION) (AMENDMENT) BILL 1995

had passed through Committee with amendment. She moved the Third Reading of the Bill.

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

Bill read the Third time and passed.

MEMBER'S MOTIONS**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. 36(4) by adding ", subject to Standing Order No. 37(4)-(7) (Divisions)," after "and";
- (2) in Standing Order No. 37 by adding -
 - "(4) Immediately after the President has declared the result of a division on an amendment to a motion, or the Chairman has declared the result of a division on an amendment to a bill, a Member may move without notice that in the event of further divisions being claimed in respect of the motion or any amendments thereto, or in respect of any amendments to the bill, the Council or the committee of the whole Council do proceed to each of such divisions immediately after the division bell has been rung for one minute. Thereupon the President or the Chairman shall propose the question on that motion.
 - (5) When a motion under paragraph (4) has been agreed to the President or the Chairman shall order accordingly in respect of each of such further divisions, if any.
 - (6) Where there is more than one motion in respect of subsidiary legislation on the Order Paper (excluding motions referred to in Standing Order No. 21(1B) (Notice of Motions and Amendments)) then, immediately after the President has declared the result of the first division on any such motion or any amendment thereto, a Member may move without notice that in the event of further divisions being claimed at that sitting in respect of motions on subsidiary legislation, or amendments thereto, the Council do proceed to each of such divisions immediately after the division bell has been rung for one minute. Thereupon the President shall propose the question on that motion.
 - (7) When a motion under paragraph (6) has been agreed to the President shall order accordingly in respect of each of such

further divisions, if any."."

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

The purpose of the resolution is to amend Standing Order 36(4) to enable the moving of a procedural motion without notice during a Council sitting for the purpose of shortening the duration of the division bell from three minutes to one minute where many divisions are anticipated in respect of certain items of business on the Order Paper. It aims primarily at reducing the duration of a Council sitting at which many divisions may be claimed.

To ensure that Members attending the sitting will be made aware of any shortening of the duration of the division bell, such a motion may be moved immediately after the declaration of the result of the first division relating to a motion or a bill or an amendment to the motion or the bill at a sitting.

The House Committee endorsed the proposal and the draft amendments to the Standing Orders at its meetings on 15 December 1995 and 16 February 1996 respectively. I should add that Members fully understand that the purpose of such motions is to save time, hence any unnecessary debate on these motions would be self-defeating.

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

Question on the motion proposed put and agreed to.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MR RONALD ARCULLI to move the following motion:

"That in relation to the Hong Kong Airport (Traffic) (Amendment) Regulation 1996, published as Legal Notice No. 72 of 1996 and laid on the table of the Legislative Council on 14 February 1996, the period referred to in section 34(2) of the Interpretation and General Clauses Ordinance for amending subsidiary legislation be extended under section 34(4) of that Ordinance until the sitting on 27 March 1996."

MR RONALD ARCULLI: Mr President, I move the motion standing in my name on the Order Paper.

The Hong Kong Airport Traffic (Amendment) Regulation 1996 seeks to increase with effect from 1 April 1996 the fees payable for using car park facilities at the Hong Kong International Airport ranging from 14% to 23%.

The Subcommittee formed to study this Regulation has identified some issues of concern, such as the monthly utilization rate of the public car park at the airport and the feasibility of a half-hourly charge rate. To allow time for the Subcommittee to consider further information from the Administration on the issues identified, it is necessary to extend the time allowed for making amendment to the subsidiary legislation until the sitting on 27 March 1996.

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 two motions to follow and Members were informed by circular on 11 March. The movers of the motions will have 15 minutes for their speeches including their replies and another five minutes to speak on the proposed amendments. Other Members, including the mover of the amendment, will have seven minutes for their speeches. Under Standing Order 27A, I am required to direct any Member speaking in excess of the specified time to discontinue his speech.

PREPARATORY COMMITTEE OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION

MR LEUNG YIU-CHUNG to move the following motion:

"鑑於由中國當局委任的香港特別行政區籌備委員會（“籌委會”）成員並不代表港人，而籌委會在中國政府“以我為主”的方針下，實行封閉式運作，淪為被操控的工具，本局對此予以強烈譴責；此外，籌委會研究成立的臨時立法會，將會扼殺立法會的民主選舉，使中國政

府得以全盤操縱立法機關，本局為此堅決反對成立臨時立法會。”

梁耀忠議員致辭：主席先生，本人謹根據議事程序表所列，提出本人名下的議案。

傀儡角色

主席先生，我手上有一幅漫畫，或者可以作為今天辯論的引介。

相信各位同事會記得，在九二年總督彭定康政改方案剛提出後，中英爭議有關當年七封中英外長函件問題。不過，我想指出的是，九二年時，部分當年的基本法起草委員曾經公開承認在《基本法》草擬過程中，他們只是擔當“橡皮圖章”的角色，在中英兩國達成秘密協議後，他們就為《基本法》蓋章。當時草委的角色，就好像這幅漫畫的小丑一樣，只能淪為被主子操控的工具及傀儡。

我相信，一兩年後，這幅漫畫只要將“草委”的字眼改為“籌委”，則仍然有其現實諷刺意義！不過，今時不同往日，中英秘密協議的年代已改為中方“以我為主”的年代。

君臨天下

今年年初成立的特別行政區籌備委員會以“君臨天下”之勢登上政治舞台，主導九七後香港特別行政區的各項籌備工作，而當中不少決定是與港人的民主人權息息相關的，故此，我覺得有必要為籌委會“定性”，揭破籌委會完全不是面向港人只為中方操控的事實！

有同事曾經向我表示，籌委會只是剛剛開始運作，應該給予他們一點時間，看看他們做出甚麼才作出評價，而不應那麼快便說“強烈譴責”。我的回應是，如果由籌委會的組成、中方所宣示的工作方針、籌委會所通過的保密制以及集體負責制運作方式、籌委會過去兩個月來的工作等方面來看，我們絕對有理由在今天得出一個在我的議案中所提出的結論！

籌委組合

香港特別行政區籌備委員會內有150名委員，全部都是由中國政府委任。雖然籌委會當中有94人為香港人，但絕對不可以將他們看成由港人選舉產生的代表去欺騙港人！

籌委會港方委員大多以工商界為主導，中方居然表示因為香港要實行資本主義，所以要多一點工商界人士當籌委，這樣的理由簡直令人痛心。如果中方的講法是認真的話，那只能表示中方嚴重曲解資本主義，以為資本主義就一定是好像《共產黨宣言》所描述的十八、十九世紀時的原始資本主義模式——即工人必須像奴隸般被強迫勞動。如果中方真是這樣就認為這不是資本主義，或者如果香港有太多福利的話，就認為這不是資本主義，則實在令人感到中方今次要以工商界為主導的籌委會，其實根本只不過是想藉此拉攏大資本家和大商家，以維持工商界壟斷局面作出藉口。

籌委的組成還有另一問題，就是當中的港方委員不少就是當年基本法草委以及預委會成員，但草委、預委過去的“業績”如何不被港人接受已經是大家有目共睹的。我由過去聽其言、觀其行，相信我們已經可以想像籌委會的工作成果將會是甚麼樣子！

以我為主

籌委會最大的問題是中方宣稱的所謂“以我為主”方針。“以我為主”，姑勿論是否包括港人在內，總是不包括中方所不喜歡的港人。問題是，那個“我”是可大可小的，當中方認為一個人不聽話時，他就再不是他們的“我”的一部分，更不會是他們面向、依靠的港人！“以我為主”方針成為當權者任意遏制不同意見的依據。在“以我為主”下，長官所說所做的一切都變成最合理。如果不聽話就會被打成“不愛國、不愛港”的被專政對象，一切的詮釋權都在中國當權者手中！

黑箱作業

就在“以我為主”的方針下，籌委會的運作被保密制以及集體負責制所緊握。總之，一切由中央定調，籌委例行“拍板”。籌委會黑箱作業方式層出不窮，不但小組委員會曾經連議程也視為機密，近來籌委會屬下推選委員會小組的分組會議更連開會日期也神神秘秘，見不得光。馮檢基議員在上個月發表的《給香港的信》曾經指出，第一次籌委會大會通過的內容連討論的機會也沒有，清楚反映出籌委會只是一個橡皮圖章！

違法惡行

籌委會淪為被操控的工具最明顯的例子就是設立臨時立法會小組。人大代表廖瑤珠女士和梁愛詩女士都曾經指出，由於未獲人大授權，因此臨時立法會仍是一個非法組織。而鄭耀棠議員雖然認為無須人大再授權，但亦指

出由於籌委會未通過決議接納預委會建議，因此臨時立法會小組是有問題的。很清楚，無論是昨天的預委會和今天的籌委會，都只是中方的工具。只要中方認為要成立臨時立法會，就理所當然要籌委會“蓋章”。試問，那些自稱獨立的籌委，當籌委會第一次會議決定成立臨時立法會小組時，又能否提出異議之聲呢？

事實勝於雄辯，籌委會的本質是中國政府加強控制日後特區政府及特區事務的工具。作為香港人，我們無理由再甘心受騙、無理由再啞忍無聲，我們必須對由中方所操控的籌委會作出強烈譴責！各位同事，如果你們知道籌委會的本質，但仍然“睜開眼講大話”，高唱“明天會更好”，我只能夠表示失望。但請大家記着，現時人民再不是愚不可及的了，即使謬誤講了一百次，也不要奢望可以成為真理！而對於一些委曲求存，企圖在籌委會內進行體制改革的朋友，我亦只能對他們的“投降主義”表示痛心。存在決定意識，我相信不單止香港市民不會期望極少數籌委能夠改變這些現象，即使連那些籌委們，我也希望你們撫心自問，你們能不能夠或敢不敢站出來說籌委會一定能夠不會順應中方意願，而真心真意為港人利益服務！

民主倒退

主席先生，談到臨時立法會，似乎已經不是甚麼新話題。近十年來，香港的立法機構已經慢慢走向民主化，普羅市民開始擁有一人一票選出他們的立法局議員的權利。雖然我們認為現時的民主步伐只是牛步，而原功能團體及選舉委員會更是違反人人平等原則的政治小圈子政治，因此全體立法機關成員應該以一人一票直選方式選舉產生，但臨時立法會的設立，更剝奪了廣大市民選舉產生立法機關代表的權利。事實上，是開民主的大倒車，這實在是不容否認的事實！

我無意爭論由400人的推選委員會選出60名臨時立法會成員是不是真正的“選舉”，但事實上，根本推委會的400人中的四大分類本身就不民主，例如為何是工商界100席、專業界100席、基層100席、原政界100席呢？推委會這樣的組合比例根本不能夠全面合理反映整體港人意願，更不可能有甚麼“廣泛代表性”。其實怪獸始終是怪獸，即使如何給牠包裝也沒法將牠說成是人！

全面操縱

歸根究柢，之所以要成立臨時立法會，扼殺港人選舉產生立法會，正正因為中國政府希望全面控制九七後的特區立法機關！由被控制的籌委會產生推委會、由沒有代表性的推委會產生臨時立法會，又怎能令港人相信臨時立法會的議員不會作為中方“自己友”，令臨時立法會的運作及決策均受到“黑手”的幕後操縱。臨時立法會的遺害，絕對不單止是對特區成立的頭一年，因為臨時立法會至少會為第一屆立法會訂立選舉法，而由中方所操縱的臨時立法會制定選舉法，我們又怎能期望將來立法會的選舉是民主、公平和合理呢？

因此，我促請本局能夠清清楚楚表達這個立場，明確反對設立臨時立法會！

人民力量

主席先生，由香港前途談判、《聯合聲明》、《基本法》、籌委會的組成，以至未來推選委員會、行政長官、臨時立法會等，試問，有那一樣涉及全港市民前途利益的決定和代表組織，是由香港市民民主參與決定的呢？沒有，一樣也沒有！港人的前途，過去由殖民地長官決定，將來就被大陸官僚所操縱。港人（我說的港人並不是94人或是400人的“自己友”）的民主權利一直遭踐踏和剝奪，今天大家應該清醒，起來取回我們應有的權利！我重申，香港的政治制度必須由港人民主地決定，行政長官以及全體立法會議員必須由一人一票平等選舉產生。

爭取民主的人不會隱瞞自己的觀點和意圖。我們要公開宣布：我們的目的是要確立包括香港、中國甚至全世界的全面民主制度。讓害怕民主的官僚將我們痛罵吧！民主運動過程中失去的只是鎖鏈，而獲得的將會是整個世界！

人民，只有人民，才是推動歷史前進的動力！

主席先生，本人謹此陳辭，提出議案。

Question on the motion proposed.

PRESIDENT: Mr Bruce LIU has given notice to move an amendment to this motion. His amendment has been printed on the Order Paper and circularized to Members. I propose that the motion and the amendment be debated together in

a joint debate.

The Council shall debate the motion and the amendment together in a joint debate. I now call on Mr Bruce LIU to speak and to move his amendment. After I have proposed the question on the amendment, Members may express their views on the motion and the amendment.

MR BRUCE LIU's amendment to MR LEUNG YIU-CHUNG's motion:

"刪除“鑑於”以後所有文字，並以下列文字取代：

“香港特別行政區籌備委員會（“籌委會”）已經成立並展開工作，本局促請籌委會廣泛諮詢及聽取港人意見，加強其運作及決策程序的透明度，並按照《基本法》的規定，推選有廣泛代表性的推選委員會，以民主方式推選第一任行政長官，籌組香港特別行政區第一屆政府和立法會，無需成立臨時立法會。此外，本局促請香港政府與籌委會充分合作，向籌委會提供所需的協助”。”

廖成利議員致辭：主席先生，我動議修正梁耀忠議員的議案，修正案內容一如議事程序表內在我名下所載者。

主席先生，我代表民協提出修正案，有三個重點：第一，對於籌委會，民協的態度是“仍然有期望，仍然有要求”。

籌委會是根據《基本法》而產生的組織，有別於預委會。它的成立，標誌香港回歸中國的最後一個階段。它的任務，是要按照《基本法》的規定，籌備成立特區的有關事宜，規定第一屆政府和立法會的具體產生辦法。

恢復主權過程中，收服人心是最困難的挑戰。民協所堅持的，是“民主回歸”，是“港人民主治港”。

香港600萬人，大部分在九七後都會繼續留在香港，他們都希望在九七年後繼續安居樂業。面對中國，我們應該為香港人據理力爭，爭取香港在一國兩制之下落實高度自治，使香港成為一個民主自由的安樂窩。

民協對現時籌委會的組成及運作有很多不滿意的地方，我們曾經提出，

籌委會的整體組成不夠代表性，商家與基層代表比例不公平，重商家，輕基層，未能全面代表港人。

雖然如此，我們仍不適宜“睇死”籌委會，“睇死”他們會失敗收場，以這種態度來看籌委會是不健康及消極的。如果全港市民都以這種“註定失敗”的悲觀情緒來看籌委會，消極地不去據理力爭，那麼失敗的不但是籌委會，失敗的更是整個香港社會的未來。僅以憤世嫉俗，只懂譴責的消極方式處事，實在是於事無補的。

民協建議籌委會認真聽取港人意見，尊重港人利益，加強運作及決策過程的透明度，每次會議應准許記者採訪，每次會議後舉行記者會作出新聞發布，籌委會的程序應及早公布，讓社會人士有充分機會發表意見。籌委會秘書處香港辦事處亦應訂定會見市民計劃，並舉行公聽會及民意調查，廣泛而深入地收集市民意見。

梁耀忠議員的原議案，對於籌委會的態度，可以理解為“毫無期望，其心已死”，故此也不需等待籌委會的工作有任何表現，也無謂向它提出任何要求，就先提出強烈譴責，“先打八十大板”。可是，這個不給機會就先行譴責的議案，對於籌委會在籌備特區工作上，又有甚麼積極及正面的意義呢？

第二，關於“直通車”的問題，似乎“直通車”的車軌已經被拆毀了。但民協的態度是，仍未死心，繼續爭取“另類直通車”。民協認為無需成立臨時立法會。

臨時立法會可算是下策中的下策，籌委會理應重新考慮其他可能的上策，聽取港人有關解決沒有“直通車”的可行建議，無需採納臨時立法會作為唯一解決沒有“直通車”的方法。

民協曾大膽提出的“另類直通車”方案，是根據第七屆全國人大於九零年四月四日通過的決定而提出，簡單總結為“確認符合規定的議員、補選不符合規定的空缺”，以符合該項人大決定的條文及精神，達至最大程度的平穩過渡，避免社會的政治震盪，亦無需成立臨時立法會。

確立符合規定的議員

在九五年立法局選舉中，所有直選及功能團體選舉的議員皆符合《基本

法》的規定，只要他們願意宣誓效忠特區，都應該可以登上“另類直通車”。

補選不符合規定的空缺

在九五年立法局選舉中，有十名議員是經由全港區議員所組成的選舉委員會選舉產生。民協在九三年時提出的方案中，指出此“選舉委員會”並不符合《基本法》中所述的選舉委員會。名稱雖相同，但組成不相符，故此，建議解決方法是由一個符合《基本法》規定的選舉委員會補選出十位議員，登上“另類直通車”，過渡九七。

民協認為，籌組中的香港特區第一屆推選委員會可以兼任上述“選舉委員會”的角色，以民主方式補選出十位第一屆立法會議員，而現任的十位間選立法局議員均可全部成為候選人。

梁耀忠議員的原議案，對於“直通車”的態度，可以理解為“拒絕理會政治現況，只提出一個口號，夢想那不能實現的夢想”。

而民協的修正案，是要爭取“另類直通車”，爭取可能實現的生機。

關於推選委員會的產生，我只想補充一點，就是呼籲籌委會採取鼓勵港人有最大程度的參與模式，包括由界別內選舉產生的推選委員來產生真正有廣泛代表性的推選委員會，然後以民主方式推選第一任特區行政長官。另一方面，民協亦促請香港政府與籌委會充分合作，向籌委會提供所需的幫助。

主席先生，在民主社會中，存在多元化的政治立場是正常的現象。本人希望籌委會能參考本局今天各位同事的意見，認真聽取港人心聲，積極工作，以香港人的最大福祉為其工作的最重要考慮因素。

本人謹此陳辭，代表民協提出修正案。

Question on the amendment proposed.

朱幼麟議員致辭：主席先生，梁耀忠議員的議案內容，除了是沒有根據外，更無一些實質和建設性的建議。

多年來，大家都看到“一國兩制”是香港人將來成功的保證，《基本法》亦是根據這個精神而寫成的，而且得到廣泛的支持。《基本法》已經寫明籌委會成立的方法，我不能理解為何梁議員會強烈譴責根據《基本法》規定而產生的籌委會成員是中國政府的工具。

梁議員又似乎混淆了籌委會與立法局的性質。立法局是一個議會，籌委會是一個工作機構，好像香港的行政局或一個政府的內閣，又或一間上市公司的董事會。他們的工作是協助主權國去籌組第一屆特區政府，工作性質與立法局完全不同。事實上，籌委會成員包括四分之一本局同事，和四間大學的校長，我相信籌委會已經具有一定的代表性。

此外，梁議員堅決反對臨時立法會的成立，認為它扼殺民主選舉。其實“直通車”的構思是中方提出來的，不過它亦明確聲明，如果彭定康總督的政改方案在未有充分諮詢港人以及與中國政府磋商的情況下獲得通過，三級議會將不能夠直通，所以，梁議員要譴責的應該是當日投票支持彭定康總督方案的同事。

事實上，香港現時在很多組織還沒有完全發展成熟的時候，都會成立臨時的過渡組織，例如臨時機場管理局、臨時醫管局等。

籌委會剛開始工作，梁議員已經認定它是“封閉式運作”，並由“中國政府操控”；臨時立法會還未成立，梁議員就說它“扼殺將來立法會的民主選舉”，以及“使中國政府操縱立法機關”。梁議員的推論對中國和香港人都是不公平的。

近日，中英兩國關係有修好的現象，這點是我們大家都很高興見到的。香港人過去的成功是因為香港人群策群力，互相包容，在一個穩定的社會上發展。作為一位立法局議員，我不想見到香港人生活在爭拗和惶恐之中。

我們應該實事求是，面對將來。根據一九九六年一月政務總署所作的一項調查顯示，香港人最關心的是勞工問題。被訪者又說，最有效增強港人信心的方法是“與中國保持良好關係”。我誠心希望梁議員能聽取民意，以前瞻、中庸和合作的態度，與中國保持良好關係，因為只有這樣，港人才會對將來有信心，香港才會有光明的前途！

至於廖成利議員提出的修正案，我對他鼓勵香港政府與籌委會合作的精神是支持的，而籌委會亦正在諮詢港人的意見。不過，成立臨時立法會已經是必然的事實，再討論應否成立臨時立法會是不切實際的。

因此，本人將投票反對廖議員的修正案和梁議員的議案。

主席先生，本人謹此陳辭。

楊森議員致辭：主席先生，我發言支持梁耀忠議員的議案。梁議員的議案認為本局應強烈譴責籌備特區政府的籌委會，因其成員並不代表港人，以及在中國政府“以我為主”的方針下，以封閉式運作淪為被操縱的工具。此外，議案亦提出本局應堅決反對成立臨時立法會，因此舉會扼殺立法會的民主選舉。

主席先生，籌委會150人之中，可能亦會有一些人願意站在港人利益的立場，反映港人意見。梁議員的議案，將所有人一律視作淪為被操縱的工具，可能有“一竹篙打倒一船人”之嫌。

主席先生，平情來說，疑點雖然可以歸籌委會，但作為民意代表，至今我仍未能在傳媒報道之中了解有多少人可以站在港人的利益發言。在籌委會未正式開會之前，從傳媒報道之中，我知道有籌委提出某些期望和建議，以期提高籌委會的透明度。但在籌委會首次正式會議的議決中，卻沒有一名委員對籌委會的運作方式投下一票反對票。

主席先生，民主黨對籌委會的組成、權責和運作抱有極大保留。首先，在組成方面，民主黨曾公開指出籌委會的組成部分偏重工商界，更令人遺憾的是，籌委會排斥不同政見的人士，再加上設立的過程不民主，無怪乎市民對籌委會的代表性和公信力，至今仍表示高度的不信任。

在權責方面，根據《基本法》，籌委會的權責是負責籌組特區政府的事宜，但從預委會以至籌委會，籌委會的權責似乎極度膨脹，有違《基本法》本來的規限。有消息更指出，籌委會在九七年後仍會運作一段時間，於是九七年七月一日後，本港將出現行政長官領導的政府、臨時立法會和籌委會並存的局面。權責不清，架牀占屋的情況可見一斑。

主席先生，籌委會運作至今，受港人詬病的地方，除缺乏代表性之外，就是“黑箱作業”的運作方式。150人的籌委會竟然採取“內閣式”的集體負責制和保密制，而一般情況下的新聞發布會亦欠奉。市民根本無從了解籌委會的運作過程和籌委會成員的言行，無法監察整個籌委會的運作。

主席先生，現時籌委會可能只奉行中國政府的“以我為主”方針，只向中方負責，而不能和不敢面向港人，實在令人遺憾。

主席先生，有論者認為民主黨既然承認籌委會的合法性，並表示與籌委會合作和溝通，今次在本局支持梁耀忠議員的議案，無疑是自封後路。

主席先生，民主黨承認籌委會的合法性和願意與籌委會合作和溝通是一回事，對籌委會的組成、權責和運作表示保留，並加以譴責卻是另一回事。民主黨是就事件來議事論事，不會因為承認籌委會的合法性和表示願意合作，就對籌委會不是之處採取“視而不見，聽而不聞”的態度。至於是否因此而自封後路，則絕非民主黨之所能控制。

主席先生，中國政府一直強調本港的平穩過渡，但又準備推翻九五年以民主、開放方式產生的立法局，其實可謂自相矛盾。臨時立法會是非法組織，其組成是違反《中英聯合聲明》和《基本法》。民主黨對臨時立法會的立場保持不變，民主黨是反對成立臨時立法會的。

主席先生，從預委到籌委，都可見到中國政府“以我為主”的方針的問題。中國政府如果一直採取這種以我為中心的做法，不理會其他人的反應，縱使可以於九七年後恢復行使本港的主權，但後果仍令人憂慮。中國政府雖然可以收回本港的主權，但一定不能得到港人的民心。這點是值得中國政府和籌委深思的。

主席先生，面對前景，民主黨提出爭取高度自治，落實港人自治，反倒退、不撤退的方向，願與港人共勉。

主席先生，本人謹此陳辭，民主黨議員支持梁耀忠議員的議案。

主席先生，由於，民主黨要求第一屆行政長官由普選產生，而廖成利議員的修正案只提議以民主方式推選產生行政長官，故此，民主黨不支持廖成利議員的修正案。

倪少傑議員致辭：主席先生，英國大文豪狄更斯在其巨著《雙城記》中有句名言：“這是最好的時刻，也是最壞的時刻”，用來形容現時香港的一些政治現象，實在是最貼切不過。

對大多數渴望穩定繁榮的香港愛國愛港市民而言，最好的時刻很快便會來臨。還有不足500天，香港便要回歸祖國，港人現正積極投入參與過渡期工作，協力籌組九七年後的香港特區。為實現順利過渡，貢獻我們的力量，這是符合全港市民的利益和願望的。

香港特別行政區籌備委員會是按照《基本法》的規定成立，在全國人大的授權下，承擔起籌組特區政府這項重要的歷史任務。籌委會成立短短一個多月以來，市民對籌委會提出了很多有建設性的寶貴意見，社會上很多界別團體亦正在熱烈討論推薦提名代表加入將來的推選委員會。更多社會人士廣泛地關心和參與過渡期事務，證明籌委會工作已有一個好開始。

在這個關鍵時刻，對於那些以“民主派”自居的人士來說，恐怕是他們最壞的時刻了。長期以來，敵視《基本法》，唯恐天下不亂的所謂“民主派”人士，在“三違反”政改方案庇護下，一時間顯得沾沾自喜，得意忘形，更將立法局討論的議題一一加以政治化，鬧得天翻地覆。他們所做的一切，完全違背了香港人的整體利益，也漠視了香港人的意願。

這些只顧個人利益的人士，所走的歪路現在已經快到了盡頭。隨¹最近中英關係漸見緩和，英方聲言願意在香港問題上和中方恢復友好合作，在香港過渡形勢大局已定之下，他們驀然回首，才驚覺自己的處境仿如站立在懸崖邊緣，隨時可能跌進萬丈深淵，粉身碎骨。到了這最後關頭，也難怪他們顯得驚惶失措，有些大肆謾罵攻擊，有些到處搖尾乞憐，有些則孤注一擲，企圖作最後的掙扎。

主席先生，梁耀忠議員對籌委會的無理“抹黑”，軟弱無力，更顯出這位“政治新丁”對政治的無知幼稚。籌委會是全國人大授權下的權力機構，需要在籌組特區的問題上作出很多重要決定，故此籌委會實行集體負責制和保密制，在運作上有其實際需要，確保籌委會能有效地制訂各項政策。所謂“封閉式運作”的無理指控，是存心誤導港人。最重要的是，籌委會的內部運作是完全民主的，委員可以提出不同的意見。在作出任何決定後，更會向港人公布和詳細解釋。

至於臨時立法會問題，梁議員不會不知道箇中原因。眾所周知，彭定康

總督單方面推出政改方案，英方親手破壞了原有的“直通車”機制。中方在維護香港平穩過渡的大前提下，才有臨時立法會的建議。梁議員倒果為因，還公然提出與《基本法》不符的立法會全面直選，實在居心叵測。

現時人心思定，港人期望社會穩定，保持經濟繁榮。梁議員逆天而行，加上所謂民主派人士動輒以香港市民代表自居，常常上演自編自導自演的滑稽鬧劇，製造噪音，將港人利益作為賭注，正是小丑跳樑，我實在為他們感到悲哀和可惜。

至於廖成利議員所提出的修正案，內容為了兩面討好，卻喪失了最重要的原則性立場，本人也不能給予支持。

主席先生，本人謹此陳辭，對原議案及修正案同樣表示反對。

顏錦全議員致辭：主席先生，本人的發言會集中討論有關臨時立法會的問題。

原議案指臨時立法會“扼殺特區立法會的民主選舉，使中國政府得以全盤操縱”，因此要堅決反對。我們必須先弄清楚，究竟臨時立法會是在甚麼背景之下產生，不能無的放矢。

由於總督彭定康提出了違反《中英聯合聲明》、《基本法》及中英兩國外長就香港過渡期選舉安排所達成的外交協議的政改方案，全國人大宣布在英國管治下最後一屆立法局的組成，並不符合《基本法》中“關於香港特別行政區第一屆政府和立法會產生辦法的決定”，因此，所有在九五選舉選出來的立法局議員，都不能“直通”成為特區第一屆立法會議員。立法機關對特區政府運作的重要性是毋庸置疑的，但既然“直通車”的安排無法實現，在第一屆立法會無法在九七年前選出，於九七年七月一日開始運作的情況下，預委會才建議透過成立臨時立法會解決問題，因此可以說，成立臨時立法會是英方迫出來的。

除非我們願意看見九七年後香港出現一段不可預計的“立法真空期”，否則，我們必須設立一個臨時機制，處理由特區成立至第一屆立法會正式運作之間的迫切立法問題，這才是現實的做法。要解決這個問題，我們的選擇並不多，可以考慮的辦法只有：（一）由全國人大代特區立法；（二）由特區籌委會代為立法；（三）由特區行政長官會同行政會議代為立法；或是（四）

設置臨時立法會。

權衡上述四個方案，如果由全國人大代為立法，港人會有錯覺認為北京代香港立法，誤以為“高度自治”的原則不能落實。由籌委會代行立法更是超出其職權範圍，而且亦會因為籌委會成員並非全部均是港人而受到非議。至於由特區行政長官會同行政會議代行立法，雖與“高度自治”沒有牴觸，但卻會造成行政長官代立法機關立法的危險先例，因此亦非妥善辦法。

民建聯認為，設置臨時立法會是別無選擇下的辦法，這個做法亦明顯較其他方案可行，但要注意的是，臨時立法會的產生辦法及任期必須有明確而合理的界定，其法理依據必須是所謂“必要性原則”。一旦設置臨時立法會，其職能應只限於處理“迫切”及“極必要”的事項，即只能處理緊急而又非由立法機關解決不可的事項。

雖然有人批評《基本法》及全國人民代表大會關於香港特別行政區第一屆政府和立法會產生辦法的決定並沒有提及臨時立法會，但全國人大決定第二條規定由籌委會負責籌備成立特區的“有關事宜”。在沒有“直通車”的情況下採取其他必要的措施，應包括在“有關事宜”的範圍內，因此，成立臨時立法會是符合《基本法》及全國人大決定的精神的。

修正案提出，要求籌委會“推選有廣泛代表性的推選委員會，以民主方式推選第一任行政長官，籌組香港特別行政區第一屆政府和立法會，無需成立臨時立法會”。以後亦曾有人建議九七年前在本港舉行特區第一屆立法會選舉，任期由九七年七月一日起。由於九五年立法局選舉的條例並不符合《基本法》，中國政府才決意“另起爐灶”，加上中英雙方未能就香港問題充分合作，要在九七年前在港舉行第一屆立法會選舉的可能性根本微乎其微。

我們絕不能容忍特區出現任何程度的“真空”，立法機關“真空”不同立法機關休會。目前立法局休會期間，所有香港法律仍然有效，立法局亦可隨時復會處理緊急事務，但在特區立法會未產生的情況下，緊急及必要的立法事務便無法得到適當及迅速的處理。此外，一些因與《基本法》有牴觸而在九七年後不再有效的原有法律，亦可能由於趕不及立法取代，令法律上出現一段“空隙”。

綜合以上分析，以及港人對九七年後落實“高度自治”的期望，成立臨時立法會是唯一的實際可行辦法。

本人謹此陳辭。

DR LEONG CHE-HUNG: Mr President, many, within or outside this Council, would interpret the motion before us today as a machinery to identify the pro-China faction and the anti-Beijing faction in this Council. Those who support the motion would thus be labelled as anti-China while those who oppose it are the supporters. I have no idea what was behind Mr LEUNG Yiu-chung's mind when he set scene for this debate. To me, this motion however goes much more than these rather superficial observations. Rather it draws out the feelings of what the ordinary man in the street of Hong Kong wants. It reflects the frustration of the mass public. And this motion too puts a heavy onus on the members of the Preparatory Committee, especially those who are elected Members of this Council.

Preparatory Committee lacking representativeness

Mr President, the motion could be divided into two parts. In the first part, it criticizes the way by which China has set up the Preparatory Committee, that such an important organization constituted under the Basic Law could lack the credibility of its representativeness. It highlights the frustration of the Hong Kong public that this body formed to implement the change over of sovereignty, a move so vital to each and every members of the community, could work in such a secrecy, inside, as it were a black box to the suspicion of the public.

Mr President, the lack of representation of this body has been criticized and thrashed out both within and outside this Council to *ad nauseam*. In a survey done by the Asian Pacific Research Centre of the Chinese University of Hong Kong, over 50% expressed the fact that both the membership and the work of the Preparatory Committee are complete strangers to them. Even to the remaining group of less than 50%, they expressed doubt on the representativeness of the body and cast a shadow on whether the Preparatory Committee will work with fairness and equality.

Working under a "Godfather" System

Mr President, in a recent meeting of the Nine Professional Groups to discuss the way and measures to propose a list of membership for the professionals' sector of the future Selection Committee, a member of the then

Preliminary Working Committee and now the Preparatory Committee hinted that such may not be necessary because the way forward in the future in China's way will be a "Godfather" system. The Godfather will tell you whom and who should be on the list. How much do we need, how much do Hong Kong people need, to shatter their confidence? Worse, the same people who sat on the Preliminary Working Committee now occupy a vital role in the Preparatory Committee. One wonders how the Preparatory Committee can veto the suggestions of the Preliminary Working Committee such as repealing the clauses of the Bill of Rights, such as cancelling the Legislative Council Commission, such as setting up a provisional legislature, and so on, when they themselves are the masterminds behind these ingenuous proposals.

All these criticisms are therefore set on solid ground, and which any democratic institution should hasten to support.

Legislative Council Members in Preparatory Committee should not forget their accountability

Regrettably, Mr President, the words of the motion goes just one step too far in not giving the Preparatory Committee members the chance to show their worth. Would it be unfair to brand them at this stage to be part of an instrument under manipulation? Should a benefit of doubt be given to the members, in particular those who are also elected Members of this Council? For whilst they are appointed as Preparatory Committee members, they should not and hopefully would not lose sight of the fact that they have been elected by the people of Hong Kong to whom they are responsible and accountable, irrespective of what "hat" they are wearing and at what time.

The onus is therefore on Preparatory Committee members of this Council to show their worth. It would be up to them to show that they will widely consult the people of Hong Kong. It would be up to them to show that they have reflected the views of Hong Kong people and fight for their needs. It would be up to them to show that they could not be manipulated and to reassert China that it is China who repeatedly assured Hong Kong people that China will abide by our wish. It would be up to our Preparatory Committee members to push for transparency of the Preparatory Committee so that Hong Kong will not be kept in the dark on what basically is their own future.

It is not an easy job, but at least the Preparatory Committee members of this Council deserve a chance.

Objection to setting up Provisional Legislature

Mr President, the second part of the motion calls for objections to the proposed Provisional Legislature. Surely, Hong Kong people object to having a temporary legislature. When they cast their votes for us in the 1995 elections, their expectation must be for us to represent and serve them through the period of transition until the first legislature of the Special Administrative Region (SAR) Government is elected. To replace this fully elected and representative body and to substitute a temporary one constituted by appointment is definitely not the choice of the public, and surely not in the interests of the people of Hong Kong nor, for that matter, the interests of the future SAR Government.

Furthermore, whilst there are many interpretations of legal wordings, it would be very difficult to argue that the formation of an appointed legislature would not be against the Basic Law which categorically states that the first legislature shall be constituted by election.

Mr President, in my mind, it would be very difficult for the Preparatory Committee members of this Council to object to the objection of establishing a provisional legislature. For, like the rest of us, they too were elected into this institution with a full knowledge that the term is four years. Section 3 of Part II of the Legislative Council (Electoral Provisions) Ordinance states that "An election to elect all the elected Members of the Legislative Council shall be held in 1991; and in each succeeding fourth year after an election is held". It is the expectation of their voters that they should serve them and represent them as elected representatives, and not as appointed ones, until the first legislature of the SAR is established by election.

The onus is again on the Preparatory Committee members of this Council for it would be their duty to explain this to the powers in China and to repeal the suggestions of the Preliminary Working Committee.

Mr President, whilst I support the need of Hong Kong and the frustration of the Hong Kong people as signified by the motion, I cannot at this initial stage condemn the integrity of the members of the Preparatory Committee especially

those who are elected Members of this Council. I would therefore abstain from voting.

蔡根培議員致辭：主席先生，香港特別行政區籌備委員會是根據《基本法》及全國人民代表大會議決而設立的。籌委會是全國人大下的一個權力機構，負責籌備成立香港特別行政區。籌委會的成立完全符合既定的法律程序，籌委會150名成員中，港方成員超過六成，他們均是本港各行各業、各階層、各社群中具有相當代表性的人士。為此，籌委會是具有廣泛代表性的。通過這些港方成員，各行業及各階層的意見，將會有效地在籌委會得到充分反映。

在籌委會成立時，副總理兼籌委會主任錢其琛先生強調籌委會的工作將會貫徹“以我為主”的方針，這個方針是針對英國而言的。他曾指出，籌委會的工作當然希望獲得英方充分合作，但不對英方存有任何幻想，一切工作是以包括香港600萬居民在內的我等同胞，共同努力。

現在籌委會已經展開工作，本人呼籲本局各位同事與全港市民共同攜手合作，以積極態度，通過各種渠道向籌委會反映本港市民的意願。無論我們基於各自不同立場，對籌委會採取不同態度，然而，《中英聯合聲明》已很清楚說明，九七年六月三十日以後，中國將對香港恢復行使主權，籌委會是由中國全國最高權力機構——全國人大所任命的一個工作機構，以籌組香港特區。若我們採取消極以至否定的態度對待籌委會，這只是放棄了我們提出意見的權利，實屬駝鳥政策，完全無助於香港平穩過渡、港人治港。

此外，本人亦藉此機會談談有關臨時立法會。在《基本法》草擬期間，中國根據中英達成協議的精神，接納了英方的提議，考慮立法局採取“直通車”的形式過渡。十分遺憾，英方改變了對華及對港政策，違反了中英雙方所達成的諒解協議，提出了所謂“彭定康政制方案”，拆毀了“直通車”的路軌，因而令香港的政制不能坐“直通車”。在這種不幸的情況下，中方不得不“另起爐灶”，根據《基本法》的有關規定組成香港特區的立法機關。為了解決立法真空的問題及避免由中央政府為特區立法，影響港人治港，於特區初期的一個短暫時間設立臨時立法會，不失為一個較可取的折衷辦法。

主席先生，本人謹此陳辭。

劉慧卿議員致辭：主席先生，我發言支持梁耀忠議員的議案，反對廖成利議

員的修正案。

剛才梁議員在發言時展示了一幅漫畫，我也想提一提另一幅漫畫。那幅漫畫是在去年年底當籌委會快要成立時，在報章上刊登的。我認為一幅好的漫畫，其實可以說出千言萬語。那幅漫畫畫的是預委會閉幕的情景，寫着預委會閉幕，可是有人將一些字劃掉，改寫為籌委會開幕。當然，在數星期後，當籌委會成立時，我們可以看到當預委的那批人差不多原封不動坐在那裏，只是增加了一些其他人而已。

主席先生，我們老是說預委，預委究竟是甚麼意思呢？就是“預”了“位”吧！預備了籌委的“位”，日後再預備其他很多座位！他們這一群人踏上了青雲路，以後還有不少機會。問題是我們現在擔心，這批人會否代表香港人的意願。其實他們想賺錢，想做任何事情，都不會有什麼壞處，但是如果他們出賣香港人的利益，說一些話，令香港人覺得“頂心頂肺”時，我們就會感到無名的憤怒，主席先生，所以我們今天會支持梁耀忠議員的議案。

雖然有人說籌委會在《基本法》內是有基礎的，但我們可以看到，籌委會只不過是預委會“借屍還魂”，再增加一些成員罷了。以往預委會提出很多令人很不高興的建議，包括令殖民地的惡法還原，以及成立臨時立法會等，這些全是預委會的建議，而當時中國政府也說這些建議體現了中國的立場。我們遲些就可證實我的看法是對抑或錯，我認為籌委會很大可能將這些建議全部“照單全收”。

又有人想說服我們，說籌委會有它自己獨立的腦袋，它會辦事。我劉慧卿也很希望你們可以證實我的看法是錯的。如果籌委會真的為了香港人的利益，想，真是那麼獨立，可以推翻預委會當時作出的建議，可以說服中國政府，主席先生，屆時我會站出來道歉和認錯。不過，現時各方面的發展令我們感到很悲觀，覺得這批籌委只會做一個橡皮圖章，即使未必是100%，也會為預委會99.1%的建議蓋上印章，表示他們的支持。這令我們很擔心，所以即使在這麼早的階段，我們已經覺得可以支持梁耀忠議員的議案，表示我們對這一批人懷着極度悲觀的想法。因此，我希望各位籌委可以證明我們這想法是錯的，並證明你們不會被.....

PRESIDENT: Miss Emily LAU, please do not address Members of this Council or else I shall have to rule your comments out of order.

劉慧卿議員：主席先生，我希望透過你令籌委聽到，他們可以證明給香港人知道，他們不會被中共牽着鼻子走；他們有自己獨立的意見，獨立的腦袋，不是任何人的工具；他們可以真正反映香港市民的意願，反映香港人的利益。我希望透過你，主席先生，令這批籌委可以聽得十分清楚，並在未來數個星期、數個月內，讓他們的言論行動證明我們今天這樣悲觀的想法是完全錯誤的。

主席先生，我想再提一提籌委會的代表性。剛才梁耀忠議員已提到絕大部分籌委是工商界和專業界人士，我也無須多說。但我想提出一點，就是現在他們所有人的注意力都集中在“ 㗎仔”，希望入選400人推選委員會，特別是專業團體，現已競爭得如火如荼。不過，最近有些專業團體成員表示，中方叫他們不要公開提出他們想如何組成這400人推選委員會的方法。因此，他們也很心淡。他們以為自己很積極地爭取，但中國政府卻要求他們不要公開談論這個問題，他們自己都覺得可能沒有甚麼可做，因全都是由上而下。這批人雖然以為自己被欽點，但竟然也表示自己已心淡。

此外，籌委會說會聽取香港人的意見，並會在四月左右進行諮詢。但我們也得到消息，說可能在這一個月內，籌委會就會正式決定臨時立法會的問題。一方面說會聽取意見，但另一方面現在已經說會敲定，香港人會怎樣想呢？如果真是這樣的話，是否仍然想聽取香港人的意見呢？我相信其實籌委有很多事情可做，我希望他們在未來數個月內，真的切切實實幹一番，證明給我們看，今天我們全都是無的放矢，我們全部的憂慮都是多餘的。這樣我相信香港人會說對不起，我們當時說錯了，過早批評你們。這樣你們就不會給我們看扁了。

此外，主席先生，我反對廖成利議員的修正案。其實他的修正案就好像我在一月提出的普選行政長官和立法機關議案同樣用意。老實說，民協披¹民主的外衣，小罵大幫忙，替中國政府絕不民主的政策護航。民協主席曾說我是民主派唯一的民主派，所以我要在此大罵民協，你們不要欺騙香港市民了，.....

PRESIDENT: Miss LAU, please retract the last phrase.

劉慧卿議員：是否大罵民協那句？好的，.....

PRESIDENT: The last phrase was "lying". There are members of ADPL who are Members of this Council. According to Standing Orders, no Member may call other Members liars.

劉慧卿議員：我說他們披上民主的外衣，欺騙香港市民。你說我錯也沒法子了。我只好說不好意思。我現在想繼續發言，因為我的發言時限已經到了。你用了我數分鐘時間，我可否回應倪少傑議員的意見？

PRESIDENT: Have you retracted those words "lying"? You used the words "lying, cheating, lying"

劉慧卿議員：如果我自己有這樣的想法，主席先生，我應如何做呢？難道你要我在立法局撒謊嗎？

PRESIDENT: According to Standing Order 31(4), "It shall be out of order to use offensive and insulting language about Members of this Council." I shall instruct the Clerk to delete the reference to "lying" in Hansard. You may continue, Miss LAU.

劉慧卿議員：剛才倪少傑議員罵我們民主派，說我們做了一些爭取民主的事情，是掉下萬丈深淵，現在是最後掙扎或死亡掙扎。我可以告訴倪少傑議員，我們民主派中很多人不是好像一些人那樣有政治野心的，我們每晚都睡得很安樂，因為我們是為了香港人辦事。我們盡是氣定神閒，心安理得。你們這些人如果覺得自己能那麼代表香港人，大可出來與我們再選一次。

我謹此陳辭，反對修正案，支持原議案。

羅叔清議員致辭：主席先生，香港特別行政區籌備委員會根據《基本法》成立，代表中國負責籌組香港特別行政區。籌組香港特區是同時包括立法、行政及司法三方面的籌組工作。籌委會成員是由中國最高權力機構的常設機關

— 全國人大常委會所任命。換言之，籌委會是全國人大常委會屬下的一個權力機構。

本來，在一般情況下，一個政權的和平移交事宜是由兩個政府商討決定，而各自由政府有關部門執行。由於九七年政權移交中國後，香港將實行“一國兩制”，為了充分體現“港人治港”，因此，《基本法》規定籌委會港方成員佔一半以上；而目前的實際情況是，港方成員不單止超過半數，更超過五分之三。

中方委員當中大部分是由接收政權有關的中央政府有關部門的負責人出任，而港方成員則大部分來自各行各業、各界別、各階層及各社團中具有一定地位及代表性的人物。這個組成既可以使籌委會有足夠的能力籌組香港特別行政區，也可以在每一個決策的過程中，有足夠的渠道，充分反映港人的意願及意見。本人衷心希望，一方面香港廣大市民能夠積極地向籌委會表達意見，另一方面，港方籌委也能夠努力蒐集意見，如實反映其所屬行業內、界別內以至全港大多數市民的意願，而籌委會的決定也能充分尊重這些意見。這樣可以為九七年後港人治港、高度自治奠下一個良好基礎。

在此，本人也希望談談中方強調“以我為主”的問題。這是針對英國來說的，這是中方總結了與英國交手的經驗而制定的政策。回想《中英聯合聲明》簽署以來，中方一直以衷誠合作的態度與英方討論過渡期的種種問題及各項有關安排，包括政制“直通車”過渡的安排。我們還記得《基本法》政制部分在定稿的最後一刻，基本法草擬委員會還延遲了作決定，為的是等候中英就政制部分達成協議，以便安排“直通車”過渡。為此，《基本法》並沒有就特區第一屆立法會如何組成作具體規定。可惜，英方背信棄諾，違反了中英達成的有關協議及《基本法》和《中英聯合聲明》的精神，提出了一個“三違反”的政制方案。儘管如此，中方為了使香港能夠平穩過渡，仍本極大的合作誠意與英方談判。在差不多達成第一部分的協議時，英國卻一手推翻了談判桌，把其政制方案原封不動地提交了立法局通過。在這個情況下，“直通車”的安排一手被英國粉碎了。這個經驗使中方一再體會到英方是不可靠的。為了香港平穩過渡還需靠自己，還需要依靠包括香港600萬同胞在內的中國人共同努力去達到。這就是採取“以我為主”方針的背景。當然，在這個“以我為主”的方針下，依然歡迎英方及其他一切人士衷誠合作，以求香港平穩過渡，繼續保持香港繁榮安定。

香港從來都是中國的地方。根據《中英聯合聲明》，香港的政權將由英國直接移交回中國，香港600萬同胞將回歸到中華民族的大家庭。這將是任何力量、任何人也不能阻撓、不能改變的事實。本人謹此呼籲本局各位同事

不要無視這個事實、不要罔求違反《聯合聲明》。希望大家積極地與籌委會合作，為求本港平穩過渡、為求本港600萬市民的福祉而共同努力。

主席先生，本人謹此陳辭。

MISS CHRISTINE LOH: Mr President, I agree with very much of what Dr the Honourable LEONG Che-hong said, so I do not intend to repeat some of his reasonings for why the community is feeling extremely anxious about the utterances and actions of the Preparatory Committee.

I would like to say that I do find it impossible to disagree with the amendment to the motion, therefore for me it is a matter of whether I prefer the motion to the amendment, which will of course determine how I will vote.

As for the motion, I agree that the membership of the Preparatory Committee is unrepresentative of the people of Hong Kong. I agree that it operates behind closed doors, which is extremely unfortunate because it is conducting very important public business, namely, that of the transition, and that it should be much more open about its operation. I also object strongly to the idea of liquidating this elected Council and to replacing us with an appointed provisional body. This is not only unnecessary; it is also unconstitutional. The Joint Declaration and the Basic Law do not provide for such a body.

As for the principle of "以我為主", it is perhaps an unfortunate choice of words as it creates confusion as to exactly what it means. There are different interpretations of what it is supposed to mean. So, Mr President, in any case, this phrase is not crucial to me in deciding how I should vote. So let me move on.

The motion asserts that, because of its unrepresentativeness, its unfortunate mode of operation and this phrase "以我為主", the Preparatory Committee is degenerating into an instrument of manipulation, and that this Council should therefore condemn the Preparatory Committee. I also agree with Dr the Honourable LEONG Che-hung that perhaps this is just going a little too far at this moment. It may be preferable if the motion had expressed the public's fear that the Preparatory Committee could become an instrument of manipulation and hold off condemning it for the time being. There are

Members of this Council, including myself, and many community groups who are actively lobbying the Preparatory Committee sub-groups and the members to put their views across. It may be that on some of these issues at least, and I certainly hope that will be the case, the Preparatory Committee will make decisions which are in accord with public opinion. It seems inappropriate, therefore, to me to condemn the Preparatory Committee now when it is still at a fairly early stage of its deliberation.

I certainly hope the Members of the Preparatory Committee will open its door and make sure that they provide occasions to meet the public and meet Members of this Council. I do hope that the members of the Preparatory Committee will be objective and fair-minded when we are trying to be ourselves to them and be willing to discuss such important matters as the Bill of Rights, the rights of the indigenous New Territories women to inherit rural land and, the Provisional Legislature. There is no point for members of the Preparatory Committee and their supporters in this Council to deny and disregard the deep suspicion that the community has about whether they will rubber-stamp the former Preliminary Working Committee's recommendations and China's preferences.

Anyway, let the Preparatory Committee members show us what they are made of, as the Honourable Miss Emily LAU has suggested. So, for the time being, Mr President, I will support the motion and keep a watch on the Preparatory Committee, and I hope members of the community and members of the press will do so vigilantly and not be afraid to speak out and even to condemn the Preparatory Committee, if necessary.

詹培忠議員致辭：主席先生，今天的議案辯論可說是一系列議案的其中一項，包括九四年六月二十九日有關60席直選的議案；26票對26票的有關特區首長選舉的議案，這是第三集，可能以後還有第四及第五集也未可料。

本來我不想再就這些問題說得太多，因為大家的立場及看法已經很清楚，市民亦已了解。不過，作為一名立法局議員，如果事事不談，就會有人說詹培忠太低調，所以我要再次表達自己的看法。

首先，我們要就最近的國際形勢，包括台灣問題，作出一個理解。無可否認，自從中國共產黨解放中國後，台灣已經由國民黨直接管治了47年。之前它亦由日本政府管治了差不多50年，所以台灣部分人民是沒有中國根，沒有中國情和沒有中國心的。這導致李登輝為了使三月二十三日的選舉成功，

不得不將政策傾向於台獨思想。這件事，我們是了解的。

在香港來說，我們亦了解到政治的現實是，英國的管治更達一百五十多年之久，很多市民是在中國共產黨解放了中國後，陸續以不同途徑，無論是偷渡也好，直接申請也好，來到香港的，這造成了心態的不平衡。此外，部分年青人所接受的都是殖民地教育，很多香港市民，以及年青一代都說他們是香港人。但不要忘記，香港和台灣一樣，是絕對屬於中國領土不可分割的一部分。我們跟新加坡不同，當地大部分都是中國人的後裔，但他們可以理直氣壯地說，他們是新加坡人。因此，作為香港年青的一代，應該從歷史上和事實上吸收這經驗和事實。這樣對自己以後的就業、對各方面或社會事情的分析就可以較為正常、直接，也較符合事實。

世界的民主訴求不錯是很強烈，而我相信香港人是絕對不會反對的。但我們同時也必須對人權、對中國各方面的事情有更深切的理解。這樣大家未來會過得快樂一些，對前景也有更正確的認識。抱有鑽牛角尖及理想化政治政策，或自以為有群眾基礎的人，根本是在妙想天開，是經不起現實考驗的。

我曾經與中國有關的領導人士進行分析，九七年後香港須面對的是三個問題。第一，是政治問題；第二，是經濟問題；第三，是金融問題。當然，在政治方面，九七年根本是中國政府的囊中物，因為英國政府會將香港的管治權交還中國，而不是直接交給所謂“港人治港”的香港人，或希望能“港人治港”的香港人。管治權交回中國後，她交給誰是她自己的事。如果有香港人不能接受這事實，或不能忍受，又或不能理解，那便離開香港吧！跟管治了香港一百五十多年的偉大英國政府一起離開。中國政府絕對不會挽留任何在思想上或意識形態上反對中國的人。但中國政府絕對願意聽取香港人對某些事情的不同理解，但絕不是惡意的攻擊或中傷。

現時世界上所謂政治力量最大的美國政府，尚且不敢以政治手段強加諸中國身上。在最近的演習事件上，只能夠展示其軍事力量是強於中國，敢以軍事或經濟力量與中國對抗，但它絕對不敢以政治手段與中國對抗，所以何況是香港人呢？香港那些自認為是政治家的人，不應以這手段令市民受到這麼大的困擾。我們應該很清晰地告知中國政府問題所在，提出善意的意見，而不是如部分報章所說，要提出批評，改不改是中國政府的事。但他們只負責批評，而不是負責提意見。如果是這麼草率，中國政府怎會害怕呢？即使香港600萬人真的團結一致，也只不過是12億人口的0.5%，這又何苦呢？

第二，在經濟方面，自從中國17年前實行開放政策後，香港部分人士已經取得很多利益，以後也會更好配合。令人關心和擔心的是未來的金融事

務，擔心外國政府會在香港建立金融的“另類殖民地”。

有關今天的議案辯論，梁耀忠議員根本漠視了他兩位同事的意見，因為勞工界也有其他兩位代表。立法局議員當中有14位身兼籌委，佔的比例超過15%。提出這樣的議案，不是互相提供意見，而是互相攻擊，究竟想得到甚麼呢？我不是籌委會的成員，所以刺得不痛，因為針不是對¹我，而是對¹那14位議員。姑勿論如何，在政治的現實環境中，太多挑起市民不必要的互相敵視，對整個香港的未來絕對是不利的，對我們議會同事間的關係也是不好的。

主席先生，我謹此陳辭，反對原議案。

MRS ELIZABETH WONG: Mr President, I would like to speak on my view on the Provisional Legislature. My view today is the same as my view expressed on the subject before I was elected by my constituency, and I have been elected to this Council with the largest number of votes.

The cornerstone of Hong Kong's success is founded on the bedrock of the rule of law. This current legislature is based on the law passed by the legislature in 1994. Some Members of this Honourable Council today were also Members of that Council in 1994. It is my belief that the law currently in force today is entirely compatible with the Sino-British Joint Declaration and the Basic Law. The Sino-British Joint Declaration is a treaty lodged with the United Nations. It should be honoured. As provided under that treaty, we should all accept the transfer of sovereignty from Britain to China and also accept the concept of "one country, two systems" under the high degree of autonomy promised under the Basic Law. I submit that the proposed establishment of a provisional legislature is not provided for under Hong Kong Law or the Basic Law, and if accepted it will toss out the rule of law. This will be the worst of times.

We cannot afford to be equivocal about our stand. We should give clear signals to Hong Kong people. We cannot pussyfoot around to hope for the best. Time is running out. We should protect the interests of Hong Kong people even under Chinese rule. To hide behind any veil of secrecy and to reject this Legislative Council properly elected by the Hong Kong people is to punish Hong Kong people, based on the very slim excuse of the perceived wrongs done by

Governor PATTEN. This will not be the good fortune of Hong Kong people. This will also be the worst of times.

MR PAUL CHENG: Mr President, I was originally not planning to make any comments, but sitting here, listening to fellow colleagues debating this issue, I cannot help but ask myself the question: What would this debate lead us to? Is it going to be in the interests of Hong Kong? Are we doing Hong Kong citizens any favour by being so divisive, by arguing on an issue which is already partly past, and another part of the motion is in the future?

I think this Council really should re-focus our efforts more on passing legislation. We are behind schedule already. We seem to be spending a disproportionate amount of time debating a very divisive situation, polarizing the whole community. We are going through a very unique and very critical period in Hong Kong's history. I think it is time that we provide the leadership to unite Hong Kong and to make sure that we work on Hong Kong's future together rather than polarizing the community. And I feel that this in type of debate, I am against this motion because it is highly divisive and it really does not do Hong Kong any good, and therefore I will be opposing the motion.

何俊仁議員致辭：主席先生，十多年前，我記得是在八十年代初，我和民主派很多人士是第一批站出來支持香港民主回歸的。當時中英兩國還未就香港的前途問題達成協議。當時香港正在一片黑暗和紛亂中，很多人去超級市場搶購食米，港幣兌美元升至一兌九點五元。當時很多人對我們的行為不以為然，甚至攻擊我們，說我們左傾、幼稚，破壞香港的繁榮，甚至說我們親共、媚共。到了現在，我們仍聽到很多類似的言論。我有一種感覺是，今天罵我們最兇的人其實是在八十年代初罵我們的同樣一批人。也許今天他們成為愛國人士，但當日，即八十年代初，當香港面臨最大挑戰、最大危機時，他們走了去買美元，或辦理護照。是否他們今天一旦成為愛國人士，他們便覺得我們攪亂了香港，又或不愛國？各位，我相信公道是在市民的心裏的。

十多年來，我們一直很堅定地支持民主回歸，相信“一國兩制，高度自治”必須建基於民主的政治體制上。因為唯有這一個體制才可以維護人權和法治，才可以配合資本主義市場經濟的公平競爭和運作，能夠產生自治政府的人才，維護在一國兩制下我們所獨有的社會和法律制度。一直以來，我們爭取在過渡期內應該逐步建立一個民主體制，落實《中英聯合聲明》。民主

化和非殖民地化應該同步而行，同步結束。在一個民主的基礎上，帶領香港回歸中國。

不過，使我們遺憾的是，在這段日子裏，中國政府所走的道路不但偏離了以上目標，而且不斷倒退，甚至背道而馳。從八十年代中葉批評我們民主抗共，或批評我們建立獨立政治實體，以至後期反對八八直選，制定一個反民主的《基本法》。在九十年代初，預委會更提議刪除《人權法》，還原殖民地惡法，而最近籌委會更以封閉保守的形式運作，現時又再度堅持拆毀“直通車”，建立一個違反《聯合聲明》和《基本法》的臨時立法會，這些做法都令我們感到非常憤慨。

其實無論怎樣解釋，“以我為主”所反映出的是一種唯我最大，唯我獨尊的心態。這個“我”是不能容納不同政見人士和廣大市民的“我”，甚至在體制裏不能夠緊跟中央領導和旨意的人士，我相信也未必會包含在這個“我”之中。籌委會的封閉保守和其運作方法已經受到各界人士詬病，我也不想再次重複多位同事的意見。集體負責制更會窒息了不同的意見，不能繼續產生一種正面批判作用，使一些臨時取得多數意見的錯誤政策不能得到反省、檢討和糾正。其實集體負責制窒息了他們自稱要民主運作的精神和原則。

籌委會的工作已經有目共睹，我無須在此再作批評。但試問這樣的一個缺乏代表性的籌委會，我們還會對它有何期望呢？它會產生一個怎樣的推選委員會呢？它所產生的行政長官和臨時立法會是否真的能夠得到我們香港人的信任和支持，能夠維護我們香港人的利益呢？它日後所作的選舉是否真正的選舉呢？因此，總括來說，無論它如何做事，如何製作，這個臨時立法會必定是違反《聯合聲明》的一個產物。如果我們是支持法治制度的話，我們是沒有辦法能夠接受的。

各位，“一國兩制”這制度，我強調“兩制”必須建立在制度上的關係，而不是在人事上的關係。但不幸的是，中方所建立的制度指明他們只能夠容納愛國愛港，獲得中方接受的人士。其實他們要選擇可靠、可信，他們覺得是友好，可以接受的政治夥伴。再坦白的說，他們要求在關鍵時刻，在一些重大問題上，香港的領導，即他們所選擇的人，要明白中央的旨意，緊跟中央的路線，遵守中央的指令。試問這些領導怎樣能夠建立香港，維護“一國兩制”呢？

最大的一個問題是，如果建立在一個這樣的人事關係上，香港將來須面

對的情況是，如果出現重大事情，牽涉社會、政治和經濟矛盾時，香港這群在這樣的環境下所產生的領導有否勇氣、智慧和能力去作出決定呢？可能日後事事都要上達中央，地方的政治矛盾全部都要上達中央，要求中央解決，中央一定會忙個不了。另一方面，如果不幸中央再有政治路線的分歧，很多事可能也沒有辦法作出決定。中央的政治於是也會將我們的特區不幸地捲入了，一個所謂應該實行高度自治的體制。事事未能作出決定，要待中央解決，這並不是我們想見到的情況。

主席先生，基於上述原因，我支持梁耀忠議員的議案，反對廖成利議員的修正案。

THE PRESIDENT'S DEPUTY, DR LEONG CHE-HUNG, took the Chair.

陳榮燦議員致辭：代理主席先生，本屆立法局由去年十月“開鑼”至今，已是第三次就香港特區的預委會和籌委會提出議案辯論，包括何俊仁議員的“預備工作委員會法律小組的建議”及劉慧卿議員的“影子政府”，以及今天進行辯論的“香港特區籌委會”。不知是否巧合，這三個議題均對預委及籌委進行負面的立論。而今次梁耀忠議員的議案，又只是以一連串的假設為前提。

議案說“籌委會成員並不代表港人意願”。籌委會主任錢其琛先生在籌委會首次會議上已強調，指出籌委會是代表國家從事籌建香港特別行政區的工作。委員在參與決策、行使職權時，應當立足於國家和香港的整體利益，從國家對香港恢復行使主權的實際需要出發。在參與決策時，要眼於對國家和香港的長遠整體利益。他又在預委會閉幕大會上提出“以我為主”的方針，並指出在籌建香港特別行政區的過程中，必須“面向港人、依靠港人”，為“港人參與”創造條件。

中國政府說的“以我為主”方針這句話是相對英方來說的。其中的“我”，是指包括香港市民在內的中國人。這句話的意思是：籌備成立香港特別行政區，主要是靠我們自己，靠港人和中國政府合作，不能依靠英國人。在提出這樣一個方針的時候，中方官員亦同時強調，指出並不是不要和英方合作。英方的合作，對香港的平穩過渡固然有好處，但也不能把希望全部寄託在英國政府身上。這一點，我相信本局同事都會贊成的。梁議員卻將“以我為主”這句話解釋為中國政府漠視港人、排斥港人，是對原意的肆意

歪曲。

關於重組立法機關的問題，我亦想在這裏再次澄清一下。我們現在立法局的憲制地位是由《英皇制誥》規定的。香港特別行政區明年成立後，它的立法機關就按《基本法》的規定來產生和運作。九七政權交接前後的立法機關，是兩個不同性質的機構，它們的職權也不一樣，例如將來特別行政區的立法會與行政長官之間互相制衡的關係，跟現在立法局與總督之間的關係就不相同。因此，九七年前產生的立法局，不可能自動成為特別行政區第一屆立法會。

英國政府也十分清楚《中英聯合聲明》並沒有立法機關“直通車”的安排。但在起草《基本法》的時候，出於對平穩過渡的良好願望，提出了“直通車”的構想，即如果九七年前最後一屆立法局的產生辦法能和《基本法》銜接，它的成員只要符合《基本法》的規定，並經過特別行政區的一個確認程序，便可成為特別行政區第一屆立法會的議員。這就可避免在特別行政區一成立便要進行立法機關的選舉。

可惜，正如大家所見，過去數年的事態發展，使“直通車”這良好願望直告落空。中英兩國政府在一九九三年就三級議會的過渡問題舉行了17輪談判，結果不能達成協議。在這樣的情況下，英方根本無權把它管治下產生的立法局的任期定為超越九七。特別行政區成立後，必須按《基本法》規定選舉產生第一屆立法會。

中國全國人大已經宣布，九五年港英統治之下最後一屆立法局的組成不符合《基本法》關於香港特別行政區第一屆政府和立法會產生辦法的規定，故此，所有九五選舉出來的立法局議員不能直通成為特區第一屆立法會議員。

“直通車”安排既無法實現，第一屆立法會又無法在九七年七月一日成立，但立法機關在新政府的運作中不可或缺，所以預委會建議成立臨時立法會，以解決特別行政區成立初期的立法問題。因此，可以說，成立臨時立法會是英方對選舉安排採取單方面行動的一個結果，成立臨時立法會是迫不得已的做法。

民建聯一直以平穩過渡作為一項重要的努力目標，呼籲中英合作，並在中英談判期間提出銜接方案。使人遺憾的是，今天高叫要“直通”的人，當日卻不支持銜接，甚至反對銜接、反對中英談判。中英談判破裂時，他們拍手稱快。

代理主席先生，籌委會是由全國人大授權，負責籌備特別行政區成立有關事宜的機構。它的工作能否順利完成，關係到“一國兩制、港人治港”能否有一個良好的開端。梁議員以歪曲事實為前提，對籌委會採取對立態度，對港人絕對沒有好處。

香港回歸祖國，只餘下475天。在回歸的道路上，目前最迫切的事情就是要進行籌組香港特區工作。作為一個愛國愛港的香港市民，我們應該積極地、熱情地支持籌委會的各項工作。

謝謝代理主席先生。

任善寧議員致辭：代理主席先生，特區籌委會自今年一月成立以來，便受到各方的批評。

籌委會在組成方面，是先天不足，因為成員由中方欽點，缺乏廣泛代表性。中方代表很難有逆主之意，已是眾所周知，其中港澳辦成員只有幾位，其他人很可能是採取較保守的態度。而在94名香港籌委當中，大部分都是殷商巨賈及親中的專業及政界人士，他們大多數在中國大陸有直接或間接的利益，很容易傾向於說一些迎合中方意思的說話，而忽略了大部分港人的意願。他們通常大多事務繁忙，未必有時間去聽取各方面的意見。更由於接觸面的關係，可能缺乏與基層的溝通。一個有關的例子，就是當社會福利仍然不足的時候，有人向中方提供片面的見解，而引致出現“車毀人亡”的理論，由此推算，我們很擔心籌委會在反映港人意見方面所出現的偏頗。

籌委會在運作方面，是後天失調，會議採取保密形式，有時甚至連議程也不公開，會後的新聞消息亦受封鎖，傳媒及廣大香港市民根本無法獲悉這個擁有實質權力影響香港未來的籌委會，如何決定他們的未來，遑論作出某種程度的監察。

根據報章報道，已經有籌委證實收到警告，述及不可泄密的信息，但

隨即有籌委表示若事事保密，便無法徵集民意，可見這種高度保密是有問題的。當然，有人指出香港行政局也是集體保密制，但行政局是在一個有相當透明度的大架構下運作，市民知道它討論的是甚麼項目，觸及甚麼範圍，有關的政府政策及建議等，故兩者是不可相提並論的。

中國外長錢其琛先生曾說籌委會要廣泛諮詢民意，並提出“以我為主，面向港人”的口號，但籌委會現在似乎已變成“以我為主，背向港人，黑箱作業”。這種運作模式是很難體現“一國兩制、港人治港、高度自治”的精神和方針。

民協籌委馮檢基議員知其不可為而為之，勇氣可嘉，試圖突破籌委會一環扣一環的架構，力求於籌委會內表達另類意見，但卻似乎“無所施其技”。究竟是他技不如人，還是籌委的架構、運作實在不民主、太封閉？我相信是後者居多。

廖成利議員對梁耀忠議員的議案提出修正，將激烈字眼全部刪去，可謂用心良苦。我們同意這種婉轉的表達方式，有其實質上的考慮。但這種婉轉的方式，或者應該留待九七之後再運用。九七之前，我們不妨以忠言直諫。“忠言”當然“逆耳”，甚至“刺耳”，但中國歷代都有人大膽獻言，在世界民主潮流浩浩蕩蕩的今天，當然不能缺少像梁議員這樣的直言之士。

事實上，修正案一方面促請籌委聆聽港人聲音，增加運作及決策透明度，但另一方面又迴避指出籌委會的缺陷和失誤，實在可說是斟酌維艱。本人不會反對民協以技術取勝，不過，民協有關臨時立法會的修正，說無需成立臨時立法會。他們應該提出更明確的反對，尤其是有香港區全國人大公開指出籌委會根本不獲人大授權籌組臨時立法會，所以它可能會是非法組織。雖然，廖議員提出另一個理想，但如果以目前籌委會繼承預委會的方向性再弄出推選委員會，其實只是“換湯不換藥”，不能達到任何實質上的改變。

因此，本人將會對民協的修正案投棄權票，而梁耀忠議員的議案雖然較為激烈，但仍然值得支持。

謝謝代理主席先生。

劉漢銓議員致辭：代理主席先生，今天距離主權回歸只有475天，籌備成立香港特區還有很多工作需要港人的參與，我們應該團結一致，以積極的態度來協助籌委會根據《基本法》籌備成立符合港人利益的行政特區。

籌委會是由全國人民代表大會設立的一個決策機構，負責籌備成立香港特區有關事宜，其職權範圍和運作屬中國的內政。本局是根據《英皇制誥》所產生的，其功能是協助總督制定香港的法律。

本議案超越了本局議員的職權範圍去干涉中國主權和內政範圍內的事務，這是無事生非、興風作浪，企圖分化市民與中國政府的關係，企圖在港人之間、在港人與中國政府之間製造怨憤。宋代文學家蘇轍曾說：“不知至理之所在也，迷而妄行，於是有風波作於平地，親戚化為仇怨者矣。”這段話正是本議案的最好寫照。

“一時之強弱在力，千古之勝負在理。”英國政府自恃在九七年以前管治香港，單方面終止中英政制談判而破壞了“直通車”安排，因此中國政府和特區籌委會才不得不實行“以我為主”方針，進行籌建特區的工作，其中包括籌委會將研究成立臨時立法會。本人認為，英國政府逞一時管治之力而拒與中方合作，實屬不智，這違反了《聯合聲明》有關涉及平穩過渡和政權交接中英須密切合作的規定。

本人希望本局同事，從中英合作促進平穩過渡的大局出發，不要再迷而妄行，平地翻波。眾所周知，中方提出的“以我為主”的“我”，是指包括了全體港人在內的全體中國人。本局議員應積極以港人身分而不是以本局名義，向籌委會提出各種意見和建議。若有人自外於“以我為主”的“大我”者，是不了解其中所蘊含國家民族的涵義。

至於籌委會實行集體負責制和保密制，是由於籌委會是一個權力機構的性質所決定的。這可避免出現議而不決、決而不行、眾說紛紜、莫衷一是的情況，不可與所謂“封閉式運作”混為一談。香港行政局亦實行集體負責制和保密制，這是世界各地權力決策機構運作的一個通則，豈可妄加非議？

而籌委會研究成立臨時立法會問題，是由於英國政府破壞“直通車”安排，從而導致香港特區第一屆立法會難以在一九九七年七月一日及時產生。特區的籌備和成立有很多事須由立法會負責，如參與基本法委員會香港委員的聯合提名；同意終審法院法官和高等法院首席法官的任免；審核通過財政預算，批准稅收和公共開支，制定保證平穩過渡和正常運作必不可少的有關法律等。在第一屆立法會尚未產生時，上述事項如果由人大常委、籌委會或

行政長官代為處理，都存在着一定的問題。相比之下，成立臨時立法會是體現“港人治港、高度自治”的最合適選擇。體現“一個兩制、港人治港”有賴溝通和團結，我們知道至理之所在，便明白消極批判，只會造成“親戚化為怨仇”。我希望本局同事和全港市民積極協助籌委會共同建設美好的明天。

代理主席先生，本人謹此陳辭。

馮檢基議員致辭：代理主席先生，關於今次的議題，基本上廖成利議員已代表我和民協表明我們的立場和看法，以及我們對籌委會和中國的要求。

我想在此回應幾位同事對我和民協的批評，以及對我的看法的一些批評。希望大家保持冷靜，用客觀和理性的態度去看這個問題。首先，我想回應梁耀忠議員在議案演辭中所說的話。他說希望能夠加入籌委會的人不要委曲求全，做投降主義者。事實上，這問題是否那麼快便變成委曲求全或投降主義呢？現在的香港人包括我們的民主派在內，有的加入房委會，有的加入香港政府的福利諮詢委員會，有的加入教統會。這些會甚至包括立法局，都是英國殖民地的議會、制度和決策機關。我們也清楚知道梁耀忠議員幾年前決定是否參選區議會時，也曾與成員爭拗了很久。是否加入憲制？是否加入殖民地政府？加入殖民地政府是否變成投降主義？是否要向殖民地投降？這些問題，我相信梁耀忠議員都十分清楚。他也是身體力行，加入了區議會和立法局，是否加入一個制度後這麼快便可以說是委曲求全和投降主義呢？我希望他再想一想，然後再說一遍。其實，所有問題繫於是否承認這個建制，若承認這個建制，是否加入這個建制？如果不加入，應該如何做？如果加入，又應如何做？你能夠回答這個問題，便可以回答為何有些人加入，有些人不加入。不加入的人會有一番的工作和做法；加入的人也會有另一番的工作和做法，這並不等如剛才所說的委曲求全、投降主義。

第二位我想回應的是劉慧卿議員，劉議員多次說如果議員覺得所說的話民主，便到她的選區再選一次吧！誰贏出便是對。她的意思是這樣，但字眼未必一樣。我覺得這個說法不太好，這正如美國派艦隊去台灣，或是中共向台灣投擲飛彈，有些霸氣的意味。“勝者為王，敗者為寇”，有時候真理不一定是這樣的。耶穌是給人打死的，那麼耶穌是真理嗎？在基督徒的心裏，耶穌是真理，雖然祂是死了，但祂最後重生，祂並沒有死去。如果劉慧卿議員認為她是真理，她應該到那裏也可以獲勝，我十分歡迎劉議員到深水埗區競選。希望九八年深水埗見。劉慧卿議員曾經說過民協“小罵大幫忙”，又說我們披上民主派的外衣欺騙市民.....

PRESIDENT'S DEPUTY: Mr FUNG, I think the President has already asked that to be deleted from the Hansard.

馮檢基議員：只管批評，我們民協從來都說得清清楚楚，你可以同意或不同意；你可以接受支持我們，也可以不接受和反對我們。但每一次都用一些感性和煽情的字眼去“扣”在一個人或一個黨的身上，這是甚麼民主胸襟？我至少沒有這樣罵過劉慧卿議員，我從沒有說過劉議員抗共，也從來沒說她“親英”，更沒有說她是彭督的“馬仔”，我從來沒有說過這些話。為何不這樣說呢？其實民主的意義，便是大家說出自己的意見。我希望這會成為議會議事時尊重別人的一項基本原則。我希望我們的議會發展民主制度，而不是霸氣的制度。

第三位我要回應的是任善寧議員。關於他說忠言逆耳的一番話，我覺得忠言未必一定要婉轉，婉轉也未必不等如是忠言。如果大家看過《十事疏》便知道，中國歷史上的《十事疏》便是忠言，雖然很婉轉，但句句“有骨”，句句針對君主不適當的做法。我現在不是說要用《十事疏》說出對建制的看法，或是把建制當作君主。我只是想讓大家知道，忠言不在於表達方式，而是在於所表達的內容。不過，我肯定只是靠口號或一些憤世嫉俗的譴責，一定不是忠言。因為對方根本不肯聽，這又怎會逆耳呢？我相信自籌委會成立以來，民協對該會的成立、運作模式所提出的建議、批評和作出的爭取，以至就籌委會的集體負責制和保密制如何作出突破和改善所說的話和採取的行動，都可能對當事人和執政者來說是忠言逆耳。當然，能否達到任善寧議員美好的意願，這在技術和經驗方面都存在困難，我們也想大家在這方面給予意見。

最後，我想回應顏錦全議員提出的意見。顏議員說處理法律的真空只有四種形式，其實另外還有三種形式。

第一種形式是廖成利議員所說的民協方案，即另類直通車。

第二種形式是廖瑤珠人大委員所說在後過渡期的過渡立法會方案。由於時間問題，我不再作解釋。

第三種形式便是如報章公布，立法局60人全部直通，再加“拖卡”。

這些都是可行的方案，為何那麼快便說臨時立法會一定可行，為何不考慮其他方案呢？民協的立場正是如此，我希望說服我們尊貴的議員，支持民協的方案，多謝。

THE PRESIDENT resumed the Chair.

PRESIDENT: Honourable Members, earlier I requested Miss Emily LAU to retract her allusion to ADPL members of lying to and cheating the people and upon her nodding in consent to retract the same, I instructed that all reference to ADPL members lying be deleted from Hansard. I have reconsidered the matter. As Hansard is a verbatim record of the proceedings of this Council, words said at the Council should best not be deleted. I therefore retract my earlier instruction.

馮檢基議員：主席先生，對不起，你剛才不在場的時候，我曾經引用劉慧卿議員批評民協的幾句說話，即是指民協小罵大幫忙，披❶外衣欺騙市民的這些說話，作出回應。當時由於你不在場，代理主席先生說這些說話已經刪除，請我不要引用。現在既然你決定收錄這番話，我希望你也容許我這樣做。

PRESIDENT: Mr FUNG, I permit you to make reference to those remarks briefly for half a minute's time.

馮檢基議員：主席先生，關於劉慧卿議員批評民協和我小罵大幫忙和披❶民主派外衣欺騙市民這個說法，我覺得是大家看法不同，我想把這些加進去。

PRESIDENT: Those words will not be inserted in the speech itself but will be recorded in Hansard.

李卓人議員致辭：主席先生，正如梁耀忠議員剛才所說，過往中英秘密協議的年代現已變為中方“以我為主”的年代，而更令人擔心的是，九七以後會否變成“唯我獨尊，目中無港人”的年代。不論是中英秘密協議年代，抑或

是中方“以我為主”年代，香港普羅大眾對九七前後的安排其實一直完全無權過問。雖然《中英聯合聲明》和《基本法》均一再強調九七後“港人治港，高度自治”，但相信絕大部分的市民都已心中有數，知道所謂“港人治港，高度自治”，不過是空話罷了！

在整個過渡安排上，不論是草擬《基本法》、政制銜接、預委、籌委的成立和運作模式，以至於一些經濟、民生問題，例如基建、制定九七至九八年度財政預算案、社會福利、信義宗舉辦國際會議等問題，我們均可以清楚看到問題的核心，那就是中國政府將一貫的管治方法——“以我為主”的方針，套用在處理香港回歸的事務上。中國政府只顧從當權者的利益考慮，漠視港人的意願，實行“順我者昌，逆我者亡”的管治模式。聽命的可以升官發財，當草委、預委、籌委、推委，或成功過渡九七，保住司級官員或立法會議員一職；不聽命的不單止沒有做甚麼委員的份兒，連做議員的也要“下車”，做官的亦要“走為上¹⁰”，盡早轉到其他不用“下車”的官職。中方這“以我為主”的方針已大大影響民心，危害香港的平穩過渡。

事實上，正因為中國政府“以我為主”的方針，才造成今天海峽兩岸的緊張氣氛。中國政府因為台灣總統李登輝不聽命，一再違反中共當權者的意願，拓展台灣的國際空間，所以便發怒了。但令人感到震驚和可恥的是，中國竟然以導彈和實彈演習來威嚇台灣人民。然而，最終真正受罰的人不是李登輝總統，而是台灣人民，他們將要在經濟方面付出沉重的代價。

請大家不要以為中國處理台灣問題與香港無關，只要我們細心想一想，便發現中國的“以我為主”的處事手法若應用於香港，最終受害的亦會是香港普羅大眾的利益（包括經濟和政治利益），而不是中方所希望打擊的人，即港督彭定康先生。

主席先生，臨時立法會這個課題已經在本局討論多次，但我想在此一再重申，由籌委會成立臨時立法會這項建議是違反《基本法》的，全國人大在九零年通過決議，清楚指出九六年產生的籌委會要籌組的是第一屆立法會，並不是甚麼臨時立法會，人大決議中亦沒有規定第一屆立法會一定要有“直通車”。明顯地，這是中方當年的兩手準備，所以，中方沒有理由因為沒有“直通車”便推說不能於九七年七月成立首屆立法會，因而要成立臨時立法會達一年之久！

事實上，成立臨時立法會的建議完全只是中方基於政治方面的考慮，配合它“唯我獨尊”的最高指導原則，而毫無任何實質需要。假如中國政府

一意孤行成立臨時立法會，漠視港人的反對，那將會是香港民主進程的倒退，嚴重破壞“高度自治”的承諾。此外，中方一直偏重工商界利益，忽略勞工界及基層的意見，有關的建議只會對民生、勞工福利和基層利益造成壞影響。

本人謹此陳辭，支持議案。

李永達議員致辭：主席先生，我代表民主黨回應一些同事提出的意見。剛才有些同事說香港民主派和民主黨的人在搗亂、分化港人和中國的關係、分化港人回歸祖國的工作。有時候，我覺得說這些話的人其實應該想想這個論調是否真的正確。身為香港市民的一分子，我們是否這麼容易受人蒙騙？是不是民主派或民主黨的人說一些話便可以蠱惑人心？如果民主黨或民主派的人真的有這麼高的能力，我感到很詫異。我們相信每一個人都有自己獨立的思想。很多報章進行的調查研究顯示，受訪者認為中國政府的現行政策和籌委會的工作“不太好”。這明顯不是民主派或民主黨說一些話，便可以令這些香港的中國人擔心。希望大家想一想，是否中國政府的對港政策和籌委會工作本身有缺憾和缺點，才使香港人擔心。有些人可能總是把一些問題責任歸究於那些坦率表達意見的團體和人的身上。

剛才有些同事說我們現在不應這麼多罵戰，反而應該團結一致，以積極的態度處理問題。有些人、團體、政黨也想積極面對籌委會的工作。民主黨曾經寫信給籌委會辦事處和籌委會主任，希望以作為香港一份子的身分表達意見。可是，直至現在，我們似乎仍未聽到籌委會鼓勵香港那些不同政見的團體和人士這樣做。當然，民主黨亦沒有收到中國政府和籌委會秘書處的回覆。我們是以中國人的立場提出意見，我們並非乞求，也並非要做一些事，希望藉此得到中國政府的垂青。

作為民主的政黨，作為香港市民的代表，我們希望盡義務做這個工作。可惜，到了今天，這些所謂積極的工作也得不到甚麼回應。當然，我們會繼續提出要求，也希望民主黨派的人都提出同一個要求。

一個政府、一個組織是否聽取別人的意見？或正如很多籌委所說的“以我為主”，這個“我”字有否包括香港600萬的中國人？這並不單止靠言論和口號，而是要實踐工作中有否聽取每一個在香港居住的中國人的意見。如果籌委會，每次都排斥不同政見的人，那麼，別人把“我”這個字解作共

產黨或共產黨的追隨者，一點也不希奇，因為籌委實際上沒有聽取別人的意見。

其實，聽取香港人的意見是否很難？由八十年代談論政制改革開始，我們重複討論這個問題已不下數十次。坐在對面的政府官員在聽取民意這個問題上，已與立法局議員進行了多次辯論。方法其實很簡單——聽取團體意見、進行調查研究、舉行聆訊會、把意見收集、整理，然後看看哪些是大多數意見，再予以採納。如果不採納的話，便解釋箇中原因。這些標準的收集民意程序，我相信在座60位議員，很多政府官員和民間團體都懂得說。但現在不是“說”的問題，而是有沒有付諸實行。聽說籌委會一些主要人物會於四、五月左右來港，我們希望他所說的“以我為主”，是指聽取更廣泛的意見，使香港市民相信這個“我”字包括了他們自己。

我最後要談的是詹培忠議員所說的一句話。主席先生，我有時覺得在思維上須要作出一些澄清。可能有些同事說，不喜歡中國政府的話可以去英國或美國，其實這在思維上是錯誤的。國家、政府沒有人民便不能成為國家和政府。“以民為本”的“民”字是指“人民”。一個不受人民歡迎的政權或國家不應要人民離開，而要自行反省人民不悅的原因，這才是“以民為本”的中心思想。

另外一點，關於馮檢基議員和我都是房屋委員會委員，馮議員剛才談及籌委會和房委會的說話，我不大贊同。不過，現在只有45秒，我未能作出解釋。我覺得籌委會和房委會的職能不同。就建制來說，某人能否發揮作用是是否留下的重要考慮。馮議員先生是一個代表民意的人，他在籌委會有一定程度的代表性和合法性。可是如果甚麼工作都做不到的時候，便應該想想所做的工作是否對對方有利，而非對人民有利？這是應該予以考慮的問題，不是純粹建制的問題。

多謝主席先生。

葉國謙議員致辭：主席先生，還有四百多天，香港便會回歸中國。市民包括本局同事對將來特區成立的事務，發表不同意見以及討論增多，是可以理解的。提出的意見只要合理，中方應從善如流，但一些沒有理據，只是感情式的謾罵和批評，便不能接受了。梁耀忠議員今天提出要譴責籌委會，批評籌委會成員不代表港人意願，又指籌委會運作封閉，民建聯和我相信廣大的香港市民都不能認同之。

主席先生，不少人批評籌委會實行集體負責制和保密制是“黑箱作業”，但民建聯認為籌委會採用這兩種工作方式，與充分發揚民主，廣泛聽取社會人士的意見，是沒有矛盾的。籌委會的性質與預委會不同，它須要就特區成立的有關事宜作出決定，並且加以實施。在集思廣益和討論後，籌委會必須議而有決。如果集體得出決定後，各委員依然各說各話，莫衷一是，公眾人士便難以了解籌委會決定的意義和道理，而且這亦對實施決定造成障礙。因此，討論時發揚民主，議決後集體負責，是籌委會工作的實際需要。我們絕不可歪曲理解為封閉運作。民建聯同意籌委會在運作和決策過程中盡量增加透明度，好讓港人了解籌委會如何組建特區政府。

主席先生，按九零年四月四日第七屆全國人大第三次會議通過的決定，籌委會是“負責籌備成立香港特別行政區的有關事宜……”，而在立法局無法過渡的情況下，採取其他必要的措施是應包括在“有關事宜”的範圍內，所以成立臨時立法會是符合基本法和人大的決定。局內有些同事對成立臨時立法會的建議，表示強烈反對。但我亦相信局內不少“心水清”的同事知道，一手促成今日我們要表示強烈抗議的罪魁禍首是誰。實施彭督的政改方案，立法局沒有了“直通車”已是定局。彭定康經常強調香港今日成功之道是能夠依賴和維持法治，所以中方提出成立臨時立法會，以解決政權移交後與第一屆立法會產生前的立法真空狀態是有必要的，這也是沒有辦法底下較為合適的做法。

不過，本局部分同事以至港府官員依然執迷不悟地堅持，今屆立法局議員沒有理由不能過渡，更有同事表示若立法局九七年解散，他屆時會死賴不走，這些都是自欺欺人的行為，根本改變不了成立臨時立法會這個現實。當年中英方雙方進行17輪談判安排三級議會過渡，那時是誰指中英出賣港人，不顧港人利益。今天談判破裂，沒有直通車，中方構想了以臨時立法會填補立法真空，又遭肆意批評，說得難聽一點，簡直是“神又是你，鬼又是你”。

為使香港可以在九七年後落實“港人治港，高度自治”，每個香港人都應該積極面對籌委會的工作，向籌委會積極提出建議，為籌組特區出一分力。香港是我們的家，要繼續享有今日的自由、安定和繁榮，我們每個人都須要作出努力。

本人謹此陳辭，反對梁耀忠議員的原議案及廖成利議員的修正案。

楊孝華議員致辭：主席先生，梁耀忠議員今天提出議案，我覺得議案內容事實上歪曲事實，缺乏理據，同時亦脫離現實。對於議案的措詞，和部分議員以歪曲、抹黑、攻擊的手段來鼓吹分化與對抗，我覺得根本是於事無補，無助於香港人同心協力，以及在沒有直通車的情況下，盡量爭取平穩過渡，亦與香港政府，甚至於英國政府最近強調與籌委會合作的精神背道而馳。

議案指摘籌委會和其成員會像傀儡一樣被操縱，我覺得這個說法未免像帶著有色眼鏡來評論。對於籌委會本身和籌委會所有成員來說，都是極大的侮辱。籌委會是按照《基本法》成立的，我相信提出議案的人都不可以否認籌委會是依照《基本法》成立的工作機構。當然有人可以說覺得該會的代表性可能有缺憾或不足，但若一口肯定籌委會不代表港人，我覺得這說法則太過分。如果有人說所有人都不代表港人，我們每一個籌委甚至我自己，可能也要提出疑問。聽完議案後，我想我也是籌委，很多報章也指出，我不是人大，又不是政協，又不是預委，又不是港事顧問，我只是來自旅遊界，多年來一直在英資機構工作，而我也做了籌委。如果有人想質疑我的代表性，我很樂意問提出議案的人——大家都是來自功能組別，動議人代表紡織界，而我代表旅遊界，我不相信我在旅遊界的代表性，會低於梁耀忠議員在紡織界的代表性。

事實上，我覺得籌委會本身很多委員都是真心希望面向港人，廣泛徵詢意見。這不單只是籌委會的願望，也是很多籌委包括我自己的願望。為了實現這個願望，我想回應一下剛才有關黑箱作業和沒有徵詢意見的指摘。我想指出，我曾於三月九日向所有立法局議員、區議員和市政局議員發出問卷，告訴他們我會參加推選委員會，並詢問他們有甚麼意見，好讓我提出來。我提出了九條問題，其中包括很多人提出的意見，例如推選委員會應如何產生，應推選多少名成員，應以推選抑或選舉形式進行等。我剛才曾經詢問我的秘書，證實已透過秘書處向梁耀忠議員發出問卷。現在我已接獲幾位議員的回應，我非常感謝。這些議員包括不同政見的人，其中包括劉慧卿議員。雖然我與劉議員的政見未必相同，但她至少肯提出意見，我十分感謝。對於籌委會，或者日後的臨時立法會或推選委員會，我們也應該繼續爭取肯盡力為市民服務的議員，這其實增加了我在這方面的進取心，那怎麼可以說我閉門造車，沒有徵詢意見呢？你分明收到問卷，只是你不回答罷了。

說到代表性，剛才有議員說籌委會排除不同政見的人，這何以見得？民協和新香港聯盟的兩位議員也坐在這裏，他們是否政見不同呢？我認為他們大多時候政見不同，但都是籌委會成員，所以，我覺得這說法也說不通。當然，我亦希望將來的推選委員會能夠更有代表性，如果你質疑它的話，倒

不如請你教我如何令它更具代表性。

關於臨時立法會的問題，剛才我很高興聽到有議員說另類直通車的安排。其實，我們也曾經提出過另類直通車這個構思。如果民協於一年半前辯論九四方案時，能夠像今日一樣說推選委員會不符合《基本法》，而與我們投票，可能我們未必會輸一票，以致今天沒有了直通車，而要另尋辦法。這是自由黨對臨時立法會的立場，我們覺得在沒有其他更好的辦法底下，唯有這樣做。但我亦希望所有九五年選出來的立法局議員，都可以有資格出任臨時立法會的成員。如果有人說臨時立法會不具合法性，那麼請議員提出辦法，如何令臨時立法會合法，這總比攻擊它為好。議員是否建議人大通過決議令臨時立法會變為合法呢？如果是的話，是否仍然繼續罵它不合法呢？又或者應否由人大授權籌委正式通過成立臨時立法會呢？我這次到英國也見了一些官員，我亦有建議他們繼續爭取九五年選舉的議員繼續為市民服務。事實上，我們可以一直爭取到底，我也希望這樣做，但沒有必要攻擊臨時立法會。那時候本局大部分議員也加入了臨時立法會，即使立法局議員打算開會，也不足法定人數。請你看一看《基本法》，九七年後立法會的法定人數是過半數，不是現在的20人。所以，主席先生，我覺得我們應積極和以正面的態度爭取，不應像鴝鳥般視而不見。我們應該採取負責而不是譴責的態度，更不要故步自封。而應與籌委會合作。

PRESIDENT: I now invite Mr LEUNG Yiu-chung to speak for the second time; this time only on the amendment moved by Mr Bruce LIU to his motion. You have five minutes to speak on amendment, Mr LEUNG.

梁耀忠議員致辭：主席先生，首先我要對一些老資格的老前輩議員致謝，這些議員認為我們在分析政治形勢方面無知、幼稚而作出指摘。我非常感謝他們對我的指摘和教導，但我希望他們不要教導我唯利是圖，為了一己的利益.....

PRESIDENT: Mr LEUNG, please resume your seat for a while. I have invited Mr LEUNG to speak on the amendment to his motion. He would like to confine his remarks to the amendment, and why the amendment is less preferable to his motion. Of course, he may respond to the points made but they will have to be contained in phrases referring to the amendment. You are not speaking in general reply, Mr LEUNG, please continue.

梁耀忠議員：主席先生，對於廖成利議員的修正案，我認為在很多情況下，他達不到他所說的可能性。我想問廖議員，即使單從修正案來看，是否真的可以落實呢？剛才廖議員提及我的想法和要求可能是夢想，事實上，我真的造過一次夢，夢見自己親眼目睹和參與香港的一次民主大選舉。當時我看到很多香港市民積極參與，大家都很高興和積極。我造這個夢，可能是因為我時常朝思夢想，希望香港來一次民主大選舉。其實，我想問廖議員，你所說的事實，會否是五十步笑百步呢？作為籌委會委員，馮檢基議員曾經公開說，籌委會的運作根本是封閉形式、缺乏透明度和不民主。我想問馮議員在籌委會如何提出要求和怎樣表達這意見？我記得曾經有人透過傳媒說很不贊成集體負責制，亦不贊成這種封閉式的運作。很可惜我看到整個籌委會的運作，特別是投票過程中，竟然沒有一張反對票。這教我們怎樣相信籌委真的可以在不順應中方的意願底下為港人服務呢？

我很贊成劉慧卿議員說的一番話。有人說我們歪曲事實，沒有說出真正的道理。剛才我數過，大約有四、五位議員說我歪曲事實，但沒有一位議員可以拿出證據證明我如何歪曲事實。我很想知道，如果大家真的認為我歪曲事實，請拿出證據來吧！請不要認為我說的是片面之辭，說我一廂情願，興波作浪。事實上，我期望每一位議員或籌委都能夠說真心話，指出我的說法如何錯，而廖成利議員的說法如何對。

PRESIDENT: Mr LEUNG, you will have the opportunity to make your general reply after we have taken a vote on Mr Bruce LIU's amendment. At this time, you have been invited to speak on Mr Bruce LIU's amendment only.

梁耀忠議員：主席先生，我想問廖成利議員在修正案裏所說的民主選舉究竟是甚麼？

我曾經聽過中國政府認為甚至協商也可以當作民主選舉。我不知道這是否民協的立場，如果是的話，我真的覺得可悲。我所爭取的民主選舉，是一人一票的直選方式，而不是民主協商，或者委任制這種制度下的民主選舉。我很希望民協的朋友能夠撫心自問，你一方面說你爭取民主，另一方面你在籌委會究竟做了甚麼去爭取民主呢？怎樣才能夠真正達到你們的要求，令籌委會真的如你所說公開透明，使香港市民可以接受呢？

至於推選委員會的成立，不要說民協提出的方案本來就是不民主，我相信籌委將來通過的推選方法將會更保守、更不民主。我們根本不應該奢望籌

委會推選委員會有廣泛代表性。民協朋友，希望你們不要緣木求魚。

憲制事務司致辭：主席先生，梁議員的議案，以及廖議員所提的修正案，提出了四項有關過渡方面的問題，即是：

- 籌備委員會的工作；
- 臨時立法會的問題；
- 香港特別行政區立法會的產生辦法；以及
- 首任行政長官的推選。

這全部都是耳熟能詳的題目：本局剛在一個半月前，即一月三十一日深入地辯論過，而我當時亦闡明了香港政府對這些問題的立場。現在，讓我重申我們的立場。

首先，有關籌備委員會的運作。根據一九九零年四月四日中國全國人民代表大會所通過的決定，籌委會負責籌備成立香港特別行政區政府，包括成立首屆香港特區立法會。由於籌委會肩負繁重和重要的責任，社會人士對籌委會工作密切關注，實屬理所當然。因此，雖然籌委會怎樣執行各項任務，必須由籌委會自行決定，但我們仍衷心期望，籌委會會全面考慮港人的意願，就是要達致順利過渡，並且成立一個真正具公信力的香港特區政府和代議政制機構。關於這方面，我們很高興知道，中國副總理錢其琛曾表示，籌委會應廣納港人意見，而這項原則，已成為籌委會的工作規則之一。各中方官員亦促請香港人參與籌備過渡事宜。

籌委會共有94位香港委員，包括14位本局議員。相信這94位委員會發揮作用，反映港人的意見和關注，亦會對他們在籌委會所做的工作，向港人負責。

在港府方面，我們將致力與籌委會緊密合作。事實上，中英雙方已經同意，香港政府的聯絡處和籌委會秘書處（包括其在香港的辦事處），可以展開聯絡工作。正如我過往向本局解釋一樣，港府的聯絡處將在三個基本範圍內與籌委會合作，我在此不再重複我們的基本原則。

此外，我們決心在處理有關籌委會的事宜上，保持公開和透明度，並向本局和市民交代有關工作。

當候任行政長官選定後，我們也會同樣給予即時和實際的合作。

梁議員的議案還提及臨時立法會的問題。香港政府對這個問題的立場是清晰和一貫的。現時的立法局是透過完全符合《聯合聲明》和《基本法》的公開和公平安排選舉出來。市民都期望現存的代議政制機構可以跨越九七和具有公信力，一九九四/九五年的選舉安排正符合市民的期望。正如英國首相一星期前所說：“那些由香港破紀錄人數所公選出來的議員，應獲准留任四年至任期屆滿。那是香港人所期望的事，也是全世界所希望發生的事。”這樣，到了一九九七年七月一日，香港便會有一個經驗豐富，並深得市民信任的立法機構。這是避免對本港的立法事務造成混亂和中斷的最佳辦法。

基於以上種種原因，我們不認為有需要為一九九七年作出新安排。

我想談談兩個不同但有密切關係的問題：第一屆和日後立法會的產生辦法，以及第一任和日後行政長官的推選問題。有關的辦法和程序，已在《基本法》及一九九零年四月四日全國人民代表大會所通過的決定中訂明。實施或修訂這些規定的工作，是由中國政府及未來的香港特區政府負責。在此，我只想指出一項事實。關於行政長官的產生辦法，《基本法》第45條載明“最終達至由一個有廣泛代表性的提名委員會按民主程序提名後普選產生的目標”；而關於立法會的產生辦法，《基本法》第68條也訂明“最終達至全部議員由普選產生的目標”。

我無須刻意強調，特區立法會的產生和行政長官的推選過程，是極為重要的。香港市民和國際間都期望，有關過程是公開、公平，並且有透明度。香港政府也抱有同樣的期望。負責決定推選行政長官和成立立法會程序的人士，要是認真的想建立一個有公信力和真正具代表性的特區政府，應該充分考慮港人的意願。

最後，請讓我再次向本局及市民保證，香港政府堅決致力達致順利過渡。我們會繼續負責管治香港，維持香港的經濟繁榮及社會的安定。我們已作好準備，隨時為籌委會提供實際的協助；在行政長官選定後，亦會立即提供支援。我希望其他人都會與我們攜手，為這項莊嚴和歷史性的大事，共同努力。

Question on the amendment put.

Voice vote taken.

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

Mr Frederick FUNG and Mr Bruce LIU claimed a division.

PRESIDENT: Council shall proceed to a division.

PRESIDENT: May I now remind Members that they are called upon to vote on the question that the amendment moved by Mr Bruce LIU be made to Mr LEUNG Yiu-chung's motion. Will Members please register their presence by pressing the top button and then proceed to vote by pressing one of the three buttons below?

PRESIDENT: I think we are still two short of the head count. Before I declare the result, Members may wish to check their votes. Are there any queries, if not, the result will now be displayed?

Mr Frederick FUNG, Miss Christine LOH, Dr LAW Cheung-kwok, Mr Bruce LIU and Mr MOK Ying-fan voted for the amendment.

Mr Martin LEE, Mr NGAI Shiu-kit, 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, Miss Emily LAU, Mr LEE Wing-tat, Mr Eric LI, Mr Fred LI, Mr James TO, Dr Philip WONG, Dr YEUNG Sum, Mr Howard YOUNG, Mr WONG Wai-yin, Mr James TIEN, Mr LEE Cheuk-yan, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Andrew CHENG, Mr Paul CHENG, Mr CHENG Yiu-tong, Dr Anthony CHEUNG, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr David CHU, Mr Albert HO, Mr IP Kwok-him, Mr LAU Chin-shek, Mr Ambrose

LAU, Mr LAW Chi-kwong, Mr LEE Kai-ming, Mr LEUNG Yiu-chung, Mr LO Suk-ching, Mr NGAN Kam-chuen, Mr TSANG Kin-shing, Dr John TSE and Mrs Elizabeth WONG voted against the amendment.

Mr YUM Sin-ling abstained.

THE PRESIDENT announced that there were five votes in favour of the amendment and 44 votes against it. He therefore declared that the amendment was negatived.

PRESIDENT: Mr LEUNG Yiu-chung, you are now entitled to reply and you have two minutes 33 seconds out of your original 15 minutes.

梁耀忠議員致辭：主席先生，我想重申一點，就是剛才有議員教導我們不要太幼稚，太無知去看事物。我很希望接受這些教導，但我要重申一點，那便是我不會接受那些人教導我要唯利是圖，為一己或一小撮人的利益，而妄顧整體市民的應有權利，以及說話唯唯諾諾。我記得有一位民運人士劉青先生在獄中日記內這樣寫¹¹：“做人要做硬漢子，不要屈服於權勢。”我覺得現在臨近主權移交，如果我們不敢面對這個事實，說出真心話，我們便要背負歷史罪人這個名字。我希望本局議員不要在這種情況下屈服。

另外，我想問香港政府為何發出這個立法局議員的證件？這個證件說明有效期是九五至九九年，但現在政府卻替籌委會做事，而籌委會很快便會成立臨時立法會，那麼我們跟着怎麼辦呢？一方面，政府說我們可以“直通”至九九年，但另一方面，政府又替籌委會做事。我想問我們究竟應怎麼辦？政府協助籌委會成立了臨時立法會後，我們又怎樣呢？我實在不知如何是好。

另外，我要重申一件事。二十多年來，我和民主派人士都是在愛港、愛國的大前提下，為香港爭取民主。事實上，我們這幾年來爭取了立法局民主化，使香港市民的不同聲音和不同階層人士能夠進入立法局，令市民的普遍權益、聲音和意願可以透過這個途徑反映出來。這是一個重大改變，這亦是我們過去努力的成果，顯示出我們為香港的安定繁榮，以至在符合香港市民

意願的大前提下盡力。我們不是不愛港，我們絕對愛港，更不是不愛國。我們只希望中國不會時常發生如拘禁魏京生這類事件。我們希望中國真的能夠令每一個人都對它有信心，對它有希望，對它投入，對它忠誠。但很可惜，現在的中國並不是這樣。我們為中國的前途設想願意付出代價，希望不斷向中國政府或在座的籌委，爭取在九七年後港人民主，高度治港，而不是由中方操縱下的港人治港。

主席先生，這些話可能大家都耳熟能詳，雖然如此，但如果我們不說出來，別人便會以為我們接受了這個事實。

多謝主席先生。

Question on the original motion put.

Voice vote taken.

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

Mr LEUNG Yiu-chung and Mr TSANG Kin-shing claimed a division.

PRESIDENT: Council shall proceed to a division.

PRESIDENT: I would like to remind Members that they are called upon to vote on the motion moved by Mr LEUNG Yiu-chung. Will Members please register their presence by pressing the top button and then proceed to vote by choosing one of the three buttons below?

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

Mr Martin LEE, Mr SZETO Wah, Mr Albert CHAN, Mr CHEUNG Man-kwong,

Mr Michael HO, Dr HUANG Chen-ya, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Mr LEE Cheuk-yan, Mr Andrew CHENG, Dr Anthony CHEUNG, Mr Albert HO, Mr LAU Chin-shek, Mr LAW Chi-kwong, Mr LEUNG Yiu-chung, Mr TSANG Kin-shing, Dr John TSE, Mrs Elizabeth WONG and Mr YUM Sin-ling voted for the motion.

Mr NGAI Shiu-kit, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr CHIM Pui-chung, Mr Eric LI, Dr Philip WONG, Mr Howard YOUNG, 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 Ambrose LAU, Mr LEE Kai-ming, Mr LO Suk-ching and Mr NGAN Kam-chuen voted against the motion.

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

HARBOUR RECLAMATION

MISS CHRISTINE LOH to move the following motion:

"That this Council recognizes, and urges the Government to recognize, that Victoria Harbour is a unique and irreplaceable public asset, that excessive depletion of the harbour is irreversibly damaging both to the natural and human environment of Hong Kong, and that all Hong Kong people have a rightful interest in the harbour; and this Council further urges the Government to withdraw its grossly excessive plans for reclamation in the harbour and to take urgent measures instead to protect and preserve the harbour and to ensure that further development in the harbour, if any, will be strictly limited, openly planned and accountably carried out."

MISS CHRISTINE LOH: Mr President, I move the motion standing in my name on the Order Paper.

The essential elements of today's motion are that the Government's reclamation plans are excessive, and that its territorial planning decision-making structure is unnecessarily secretive at the early stage when public input is most important. The motion raises a presumption that the harbour ought instead to be protected from further reclamation because it is a unique and irreplaceable public asset, to be depleted only when absolutely necessary.

Mr President, I want to start by summarizing the Government's justifications for its reclamation plans and examine its rationale. Then I wish to comment on the current planning process and how it may be improved.

Government's rationale

The Government provides three main justifications for reclamation in its publication — *The Shape of Things to Come*. That publication details plans for extensive reclamation both in Victoria Harbour proper, and also in the western side of the harbour. Although my motion concerns Victoria Harbour, I will speak about the Government's plans for Lantau as well, in order to provide a fuller picture of the coming reclamation onslaught.

The justifications are: Firstly, to accommodate population growth; secondly, to promote "hub functions," especially in connection with creating more port facilities; and thirdly, to restructure the Metro area in order to relieve congestion and improve urban design.

All very well and good. But let us examine each of the rationales to see if the Government's case is really persuasive.

On population growth, the Government is planning to accommodate up to 8.1 million people by the year 2011, that is, almost 2 million people more than today. I cannot over-emphasize the importance of demographic projections. They will not only influence territorial land use planning, but will also impact on the provision of the full range of public services and, therefore, public spending.

We need to see detailed government population projections and the criteria upon which they are based. *The Shape of Things to Come*, unhelpfully, does not provides any information in this vital area.

The birth rate in Hong Kong itself has been falling for some years, so where are the additional 2 million folks going to come from? What level of immigration from China is the Government expecting over the next 15 years? And what about people from elsewhere? I urge this Council to take a much greater interest in population projections not only for the purpose of assessing the need for further reclamation, but also for the purposes of other policy areas.

As convenor of the Environmental Affairs Panel, I suggest our Panel make a start by requesting information about demographic projections, for our own consideration and to share with others.

As for the Government's vision of Hong Kong as a "hub centre", I remain concerned that this vision would simply turn Hong Kong into soulless dockhands in exchange for the possibility of a modest gain in GDP.

The official vision includes the development of a new port at north Lantau to provide up to 24 new container berths. To cater for such expansion, the Government needs land for other port-related activities, such as typhoon shelters, ship-repair facilities, midstream cargo handling areas and off-port, container back-up land.

This vision seems to be driven by the belief that an accelerated port development programme is essential to maintaining Hong Kong's economic competitiveness. But the vision carries risks. Port operators and business analysts say that the key to a successful port is proximity to cargo sources. With other ports expanding in South China, much intra-Asian and transshipment traffic is likely to pass Hong Kong by in the future. Over-provision of container terminal facilities is a real possibility and could deal an economic blow to Hong Kong.

On the other hand, I frankly do not believe that that our economy will wilt if we do not build container terminals on Lantau and incidentally reclaim vast tracts of new land for related activities.

The Government has simply not provided us with a proper account of the potential gains and losses associated with its vision. I will return to this point later, Mr President. Let me first deal with the third justification for more reclamation.

The Government claims that new reclaimed land will provide land for community activities, including open space and harbour promenades. Does not that sound good? But the Government also plans to put more than half a million people on the new reclaimed areas. Because of the new land's likely high value, there will be tremendous pressure to develop it instead of saving it for recreational uses. More likely the Government's enthusiasm for reclamation, probably has to do with creating prime sites for land sale to raise revenue in future.

The Government has also tried to argue that having more land in the urban area will allow them to build more housing. But housing for whom when the land value will be so high? In any case, there are already extensive tracts of land in the New Territories that could be used instead.

In order to get people to move to the New Territories, the Government needs to put a more extensive mass transport system in place. If the Government is indeed so worried about the pressure for land for accommodation, it should have committed to the Western Corridor much earlier, and it should now not delay and build rail links to such areas as Ma On Shan and Tseung Kwan O.

So, why mess up the harbour and the marine environment even further?

We have one of the answers from *The shape of Things to Come*. The Government wants to create land quickly, it seems. The fastest way is to create it by filling up the harbour. Under the current law, embodied in the Foreshore and Seabed (Reclamations) Ordinance, only the Governor in Council's approval is needed before landfill begins. The Government admits that its reluctance to undertake development in the New Territories is that land there has to be acquired by negotiation and resumption, which is a much more time-consuming process than simple executive fiat.

But, Mr President, are we satisfied that the harbour should be reclaimed to the extent proposed, for the sake of bureaucratic convenience?

So far, I have listed some of the so-called potential gains with reclamation according to *The Shape of Things to Come*. But, what about some of the potential losses? Needless to say, we will be doing further damage to our battered marine environment.

Another less obvious by-product of the Government's port development vision will be a vast increase in the number of heavy goods vehicles on roads. The Transport Department estimates that by the year 2001, the number of container trucks on our roads could increase by 564%. Good help us. Thus, air and noise qualities are likely to deteriorate significantly, resulting in possibly intolerable public health risks in the foreseeable future.

Mr President, we cannot even calculate the full extent of these effects, or of the associated public health risks, because the Government has yet to carry out cumulative environmental and health impact assessments. Would you not say that it is irresponsible not to have done it so far?

Hong Kong people will also lose the territory's natural aesthetic relationship between land and sea. The harbour's natural beauty, and the sense it gives us of having a special identity as a place, may be difficult to evaluate in dollar terms. But let us not lose sight of the fact that it is a significant trade-off nevertheless.

Faulty decision-making process

The basic reason the Government has produced these flawed and controversial reclamation plans is that the Government itself has been the sole arbiter of what constitutes an acceptable trade-off between its own development agenda and the environmental and health concerns of the community.

Members know very well that it is the Government which decides upon the scope and assumptions of infrastructure studies, and that it solicits public input only after the consultants have reported. The result is assessments in which important factors are often left out or undervalued, because in the absence of truly independent review and comment, only the government planners' own concerns are adequately reflected.

Even when public consultation begins, there is hardly any open exchange

of views with concerned groups. The Government's approach does not allow for consultation on the basic development options available. Instead, officials select what they consider to be the best option, and the consultation exercise becomes an opportunity for them to explain and defend a choice they have already made. If there are loud and sustained objections in the community, the Government may make some adjustments, preferably small ones. But the basic development option is set in stone before it is ever displayed for the public to admire.

Way forward

Where do we go from here? The motion refers specifically to Victoria Harbour because it is the inner harbour that is most at risk right now. If Members agree with the motion, we will be sending a very loud message to the Government that there should be a presumption to protect and preserve the harbour. We would want the Government to make this its policy forthwith.

We must also ask the Government to improve its decision-making process by allowing for real public input at the early stages of policy formulation. We do not need propaganda, like *The Shape of Things to Come*. We want information. And, we want participation.

In the long run, Hong Kong will need a Planning Commission where all the stockholders are represented. In the short term, I would like to propose a Protection of the Harbour Bill. I have sent copies of the Bill to all the political parties represented in this Council. I hope to put it to the relevant Panels for further discussion soon. If any other Member is interested to have a copy of this Bill, I would be very happy to provide one.

The Bill provides that all reclamation plans in the inner harbour will be put to the Town Planning Board. The Government has already said it will do this, so it should not hesitate to agree to legally obligating itself to do so.

In addition, I have included in the Bill that this Council should be able to examine any major reclamation plans in the inner harbour. The reason for this is to guarantee that there will be a very public and open discussion about major reclamations.

Some Members have indicated to me that they did not think this Council should play such a role. I would like to ask Members to consider this measure only a short-term measure, until a better long-term system could be established. To establish such a structure as a Planning Commission will take considerable time, I am asking Members to consider what we do in the immediate-to-medium term. So I look forward to engaging Members on this, and on other measures they may have in mind, at the relevant panels.

Mr President, I beg to move.

Question on the motion proposed.

MR EDWARD HO: Mr President, we have today a very big and important topic to debate, one that cannot be covered in a seven minutes' speech for each Member. The extent of further reclamation of the Victoria Harbour relates directly to how the pattern of urban growth in Hong Kong will take place. In addition, we are debating today the process of planning in Hong Kong.

Miss Christine LOH's motion starts off on the premise that current plan for further reclamation of the Harbour is excessive. This is something we can only come to an opinion after considering different planning options for the future. Without the benefit of alternative options, it is difficult to debate on the subject other than on some very general terms.

Planning is a most complex process. It considers not only the shape of the development; but transport, infrastructure, economics, social, environmental and even political factors. It determines the urban environment and the quality of how people will live and work. It has to consider all these with available opportunities and existing constraints in mind.

None of us in this Council is a town planner. Even if we have some knowledge of town planning, we do not have all the detailed background and knowledge to debate on planning matters that are results of years of detailed studies and considerations. That is why I do have some misgivings about today's debate.

From what we can observe in the current plans, future reclamation will

drastically alter the configuration of the Victoria Harbour, so that in future it may properly be called the Victoria Channel. In all fairness, this should not come as a surprise. The future shape of the Harbour has been shown on plans associated with the Metroplan.

Some people are concerned about future marine safety or, increased pollution. Most people are simply unhappy to see a major reduction of the large basin of water, that is, the Victoria Harbour, which has provided a magnificent foreground to the backdrop of the hills surrounding it. This is an instinctive feeling which is not helped by a lack of knowledge of what will actually happen, and what are the other options.

The most disturbing aspect of the planning process in Hong Kong is that the Government has the absolute power to decide. It goes through the usual consultations, but it does not even have to go through the Town Planning Board if it decided to reclaim most of the Harbour. Because of this, most of us feel a sense of helplessness.

The recent Green Island dumping is a great, or I should say "bad", example. When the Town Planning Board would finally be asked to approve the draft zoning plan incorporating the reclamation, it will have no alternative but to approve it as the reclamation would have largely been done.

Another case was the detailed engineering studies for the South East Kowloon Development. By the time the scheme goes before the Town Planning Board, it will again be a matter of *fait accompli*, otherwise a vast amount of money and time will have been abortive.

It is extremely difficult to say where the limit of future reclamation should stop. There is however a strong case for a major re-think. With the revised projection of a population of 8.1 million in the year 2011, a projection exceeding the Government's figures by some 1.5 million when it prepared the initial options for the Territorial Development Strategy in 1993, a fundamental re-evaluation of the strategic development plan of the territory in the next century is necessary before plans for future reclamation should be implemented.

Considering the rapidly developing Pearl River Delta Region, and the future growth of the territory, it is apparent that it would be wrong to keep on expanding the existing urban area around the Harbour without planning for another core business area in the northern part of the New Territories. Not to do so would perpetuate and aggravate the density problem and the transportation problem. This is a very basic development concept that should be seriously considered. I have put forward such a case in previous debates inside and outside this Chamber.

Mr President, despite my misgivings about debating town planning in all its details and complexities in this Council, the question of harbour reclamation has attracted many opinions, no doubt due to different interests. A debate is thus unavoidable.

Of the many representations that have been made to me from members of my functional constituency, and all of them are indirectly related to planning, no one has suggested to stop all future reclamation. Everyone has urged that the Government should only proceed with the minimum extent necessary, and with the fullest sensibilities to the unique and natural asset that has given Hong Kong its name. Above all, it should first reassess the future shape of growth of the territory, with the widest participation of the professional community.

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

陳偉業議員致辭：主席先生，香港在戰後短短50年，由一個依靠轉口貿易的小港口，發展成為今天的繁榮都會，經濟金融中心，在去年更被《財富》雜誌選為全世界最佳商業城市。這種成就，實在值得港人感到驕傲。香港有很多方面（例如貨櫃港吞吐量、寫字樓租金等）都名列世界前茅，但以填海的比例而言，我相信香港肯定是世界第一。

香港急劇發展，填海確實為香港帶來財富及發展機會，這是不爭的事實。但在我們享受這個經濟成果的同時，我們也必須承認，急劇填海亦為香港帶來了負面影響，例如：海港航道收窄，使我們失去了天然的船隻停泊地方。而更大的問題是，急劇填海所突然增加的土地由於大部分集中於舊有商業區，令香港的商業展過分集中，因而產生城市發展不均衡的問題。這正反映出過往本港的城市發展不均衡，亦反映出過往本港的城市規劃缺乏了長遠

的策劃，再加上有關的規劃條例缺乏公眾的監察及參與，才出現現時混亂的情況。

近年由於港人的公民意識較前提高，同時亦目睹填海工程對自己的切身影響，因而令到社會上出現了較強烈的意見，特別是關注填海的聲音。填海工程對海港損壞的嚴重性亦更清楚地展現在市民眼前。

本人認為由於以往本港的城市規劃並無考慮長遠的土地需求及中長期土地需求類別，政府亦缺乏長遠的工商業政策，因而令商業土地及樓宇發展一直以中區為重心。但由於交通網絡遠遠未能追得上需求，形成上下班時間交通嚴重擠塞，產生混亂。政府直至近年才醒覺到問題的嚴重性，於是進行全港發展策略檢討，都會計劃研究諮詢等工作，以對香港進行重新規劃。

事實上，要減少無必要的填海工程，本人認為整體的規劃配合是非常重要的。故此本人提出兩個具體的建議：

- (一) 政府必須全面改革現行的《城市規劃條例》，讓公眾人士可以更多參與有關城市規劃的決定。現時的全港性的發展策略及地域性 (regional) 的發展策略皆由政府全面操縱，公眾要參與有關決定，根本是無緣置喙。公眾只有在地區性 (district) 的策劃上才有真正權力提出意見給政府作為考慮，我強調，只是考慮，而政府亦相對地較為尊重這些意見。但決定權仍在政府手裏。

要改變公眾被剝奪參與整體城市規劃的情況，政府實在有必要開放渠道，讓公眾參與土地規劃的決策，令城市規劃特別是填海的有關工程，更符合公眾的意願和需要，而並非只照顧一小撮地產商的利益。

- (二) 政府應落實考慮增設多個商業中心，不應只是把商業中心，圍繞着中區、灣仔一帶的地方，政府應該利用機場鐵路及西北鐵路在沿線發展商業樓宇，以紓緩商業樓宇的需求和填海壓力，亦可避免工作人口過度集中，形成集體運輸系統不敷應用。

主席先生，中國人有一句古諺是“亡羊補牢，未為晚也”。維多利亞港，荃灣、葵涌及屯門區的海港乃香港難得的天然海港，亦是我們擁有的寶貴資源，我們實在應該珍惜這一方面的資源。我衷心期望政府不會為了短期

的商業利益而犧牲全港市民的長遠利益，特別是香港長遠的利益，以免將來追悔莫及！

主席先生，本人謹此陳辭，民主黨是支持議案。

顏錦全議員致辭：主席先生，維多利亞港(“維港”)是一個天然的深水港，它提供優秀的條件，令今天的香港能成為世界頂級航運中心及國際金融中心，因此，維港亦一直是香港繁榮的象徵。不過，港府近年大興土木，進行多項大規模填海工程，使維港兩岸距離不斷收窄，如果再不採取措施保護我們的海港，我們很快便可能失去這項優越條件。

現時正在施工或接近完成的填海工程地點，包括紅磡、中區、灣仔、奇力灣、卑路乍灣、西九龍及昂船洲，總面積達447公頃，連同港府建議共632公頃的多項填海工程，維港兩岸將出現約一千多公頃的新土地。令人擔心的是，維港航道一旦因填海工程收窄，便會導致水流加速，海面波浪亦隨之會增加，對於出入維港的中小型船隻來說，實在非常危險。此外，船隻的活動空間亦會減少，船隻的碰撞機會亦會相應增加。

一個值得質疑的地方，是填海計劃能否真正解決市區休憩設施缺乏和市區重建等問題。港府強調，填海的其中一個目的是增加社區設施用地，以及安置受重建影響的居民。但港府過去一直未有將土地利用的優先權，放在安置受重建影響的居民身上，加上填海所得的土地價值甚高，港府最終仍可能會把新填海區內原先預留的休憩用地重新規劃，改作商業或大型住宅發展用途，以便從賣地獲取更多收益。

另一方面，填海計劃亦未必能減低市區的人口密度。港府表示，填海計劃的一個目的是要增加土地供應，配合人口增長、經濟發展，以及改善道路網絡。但事實上，維港沿岸發展已差不多達致飽和程度，如果“都會計劃”內的所有建議都得以落實，我相信未必能達到可減低市區人口密度的目的，相反市區的人口必定增加，交通流量亦會因此大大提高，可想而知，屆時我們的市區會比現時更繁忙，環境污染和交通擠塞等問題可能比現時更嚴重。

事實上，港府在填海計劃上一直是獨斷獨行，城市規劃委員會只能就土地用途向港府提供建議，但無權反對港府的填海計劃。如果港府沒有提供充足資料，委員會根本難以就填海問題提出質疑，即使委員會對填海計劃提出反對，亦不會獲港府接受。

雖然港府一再強調，當局早在八八年至九零年期間已就“都會計劃”作出充分諮詢，而當行政局在九一年通過該計劃時，市民並沒有提出反對。但我要指出的是，港府向市民提供的資料非常有限，除了填海外，也沒有提出其他可以增加土地的代替方案，試問普羅市民在缺乏充足資訊的情況下，又如何能知道該計劃實際存在很大的問題？

既然填海計劃出現多方面的問題，究竟計劃是否仍然必須推行？民建聯認為，港府應考慮其他可行的增加土地方案，例如重新劃定市區內的工業區、發展新界土地和基建配套設施，以及加快市區重建的步伐等。雖然港府曾表示，要發展新界便須動用龐大的資金進行收地，而過分集中發展新界土地，亦將影響新界的景觀及自然生態環境，但港府究竟是否有認真檢討新界土地發展策略？港府至少應該就新界土地發展提供更多資料，使市民能進行充分討論。

維港是市民共同擁有的獨特資產，港府有責任就維港填海工程進行廣泛的諮詢，包括以諮詢文件形式公布各可行的增加土地方案，邀請市民廣泛進行討論，或以公聽會形式，聽取市民對填海問題及土地發展優先次序的意見。港府在決定採取哪一種方案前，須解釋各種方案的經濟效益、對生態及對環境的影響、以及能否符合市民普遍期望等考慮因素，使公眾能了解各種方案的利弊。

此外，雖然港府去年十一月承諾推出新安排，令城市規劃委員會可在填海工程進行前，審核分區土地用途大綱圖則，並可否決有違公眾利益的填海項目，將項目發還有關部門重新修訂，但港府會否向城規會提供充足的資料，則仍實屬疑問。故此，我認為港府有需要加強城規會的角色，建立有效的監管及審議機制，特別是給予城規會權力審理全港性的策略規劃；此外，我亦希望港府能增加涉及城市規劃的決策的透明度。

雖然港府一再強調，目前至九七年七月一日不會進行尚未展開的填海工程，不過，由於有關填海工程跨越九七，故此，港府有需要把有關計劃提交中英聯合聯絡小組討論。

本人謹此陳辭。

莫應帆議員致辭：主席先生，我同意今天我們的討論是非常重要的，雖然我不是一個對城市規劃很有認識的人，但我是用一個赤子之心來討論這個問

題。

當我還是小孩的時候，我很喜歡爸爸媽媽帶我坐“火船仔”過香港，去動植物公園或者山頂遊玩，船程雖然只是短短十分八分鐘，仍然印象難忘，至今依然記得，因為這是小時候唯一有機會乘船一遊的機會。

當我追求我太太的時候，我們亦喜歡在夏天一起乘船由九龍到香港，既經濟、又可以享受一下海風，欣賞香港的海景，特別是在日落的時分，景色更美。

但當我現在乘船渡海開會時，我每次都有無限的感慨；雖然在船上看到外國人興高采烈地拍照留念，但我們這些一直看維多利亞港發展的人，只可以說另有一番滋味在心頭。

面對現時越來越狹窄的海港，港府卻仍然陸續計劃在九七至二零零三年進行數項填海工程，我自己或者包括民協是很不贊同的，所以我很希望今天大家能夠同心一致通過這個議案。令人憤怒的是，政府說填海不是最後選擇；即使本港經濟發展有多龐大的增長、即使本港有天文數字的經濟盈餘，如果維港環境一旦遭受破壞，則金錢是不能作出彌補的。

現在我想從三個角度去分析一下為何我們民協包括我自己在內不贊成現在繼續對維多利亞港再填海。

從城市發展策略的角度來說，政府一直都是理直氣壯地指稱，填海是有需要的，為了應付人口增加、為了擴展新交通網絡及基建設施、建設新的市鎮等。其實政府的理據並不充分。首先，若政府要適應人口的增加，大可考慮發展新界土地，又或從比香港島還大的大嶼山一些長遠目標或者地方¹¹手，不應該以填海為唯一的途徑以很快地增加用地。政府雖然表示由於中區及灣仔填海工程完成後，會剩下一些凹位在金鐘海旁，不能成為航道的一部分，所以需要拉直海岸線，更重要的是港府將在中區到東區走廊的填海地段，興建一條四線行車公路連接，以紓緩交通，若不將那些凹位填海，則公路難以興建。這方面民協不能接受，因為我想世界上所有海岸線都不是一條直線，政府如果真要填的話，只須填部分的海岸線，便可以容納路網，而無須填出300米的地方之多。我想大家也知道香港是一個海島，本來有很多的海岸線海灘，如果我們不是繼續這樣破壞，是可以媲美夏威夷的。

讓我轉談一下填海計劃帶來的經濟影響。當然，我明白政府是希望透過

填海取得土地，用作發展基建、交通、港口設施及新市鎮，從而增加經濟效益；然而，政府並沒有想到，填海計劃換來的，在長遠而言，可能並非經濟利益，而是經濟損失。維多利亞港一向有海闊水深之稱，以至世界各地排水量巨大的遠洋輪船亦以本港為補給站，當海港範圍收窄，導致海床上升，排水量淺的時候，我想眾多的貨船可能難於停泊，即會令本港蒙受不少經濟損失。

而從環保角度而言，填海的理據就更形不穩。過往政府一直所作的所謂環境影響評估報告，都忽略填海對生態及環境的影響，政府的評估並沒有考慮填海對昂船州和青州的天然岩岸所造成的破壞。要知道填海並非一般普通的政府基建工程，其影響會極為深遠。填海不單隨時令本港失去寶貴的天然資源，破了原來的海岸線，與填海相關的挖沙及瀉泥活動，由於遍布全港水域，更會進一步破壞環境。

填海除了對周遭環境造成傷害外，對海上船隻的航行安全亦有非常大的影響。當九七年六項核心填海工程進行時，維港水流速度更會減慢一成以上，這是政府須要十分留意的。

政府雖然表示會就填海工程進行諮詢，但民協認為政府根本從未就這方面做過充分的諮詢工作，又沒有提出其他選擇機會給市民考慮。總括而言，民協並不贊成永無休止地以填海方式為本港提供土地。所以我希望政府臨崖勒馬，尊重今天立法局各位議員的意見，保護我們的海港和保護現在香港唯一的海港。

謝謝主席先生。

劉漢銓議員致辭：主席先生，港進聯對維多利亞港（“維港”）的填海工程問題早就極為關注，並為此發表過詳細意見立場書，本人在報刊上曾多次撰文呼籲社會各界促請政府擱置尚未開展的填海工程，而各界有識之士亦對維港的興衰存廢對香港的影響皆有卓見。現本局就此問題提出議案，對促進政府負起保護維港責任，亦有積極作用。

古語云：“從時者，猶救火也，蹶而趨之，唯恐弗及。”因時制宜就像救火一樣，要急速全力以赴，唯恐不能達到目的。在維港填海雖可增加一定數量的土地，而這些土地對促進維港兩岸的發展雖起過某些歷史作用，但時至今天，無休止的填海計劃已經危及香港航運及旅遊中心的地位，而一旦香港依賴維港的得天獨厚優勢不保，則付出巨大代價填海而得的土地也會貶

值。因此，立即採取措施停止尚未開展的填海工程，是當務之急。如果把過度的填海工程比喻作一場破壞性極大的火災，現在是急切救火的時候了。

政府曾承諾在九七年之前不再展開新的填海工程，但卻言而無信，在青洲變相進行填海，這是極不負責任的行為，顯示了政府對保護維港的社會呼聲聽而不聞，也暴露了政府對維護香港的長遠利益及繁榮毫不關心。

古人說：“天下之理，捨本就末，可暫而已，久則害生。”維港過度的填海工程就是捨本逐末的做法，現顯示出的危害表現在五個方面：第一，是減弱維港的天然自淨能力；第二，是填海的挖泥工程破壞海洋生態平衡；第三，是縮窄海港會導致海泥沉積，從而影響海港西移策略性計劃；第四，是危及航運及中流作業；第五，是破壞香港整體景觀損及旅遊業。

港進聯在立場意見書中曾建議：第一，政府應該配合西北鐵路網絡計劃，加緊開發西北地區，減輕維港填海壓力；第二，政府可考慮設立一獨立的諮詢機構，整體研究未來海港發展需要；第三，應研究採用建築廢料取代目前已展開填海工程中昂貴且對海洋環境破壞極大的挖泥填沙方法；第四，必須對淤泥挖掘及傾卸活動嚴格限制。

我們還促請政府在完成全面及配合現今需要的評估之前，不可進行新的填海工程。儘管港進聯的有關意見和建議提出較早，但值得欣慰的是，其中許多意見和建議現已成為本港社會的共識。我們將與本港各界一起，繼續促請政府擔負起確保維港環境及重要地位的責任。

主席先生，本人謹此陳辭。

謝永齡議員致辭：主席先生，我想從環保角度來討論填海工程。根據政府資料顯示，現時所有的填海工程完成後將可為本港帶來千多公頃的可用土地。對於地少人多的香港來說，這些填海工程確實非常吸引，但民主黨認為，填海對環境會造成一定程度的影響，甚至是不可挽回的破壞，因此在推行計劃前，我們不能只關注成本效益，而必須審慎考慮工程對自然生態及環境的影響，作出全面的效益評估。

填海工程對環境生態的影響

在進行填海工程時，有關方面採取“挖泥填沙”的方法。

填海區的污染

由於這個方法需要挖去填海區內的污泥，將會使污泥裏的污染物及一些有毒物質從新被釋放到海水內，不但對水質再一次造成污染，這些污染物更可能隨水流流至附近地區，造成進一步的污染。

傾泥區的污染

據土力工程處表示，未來五年於填海區挖掉的淤泥估計總共有2.6億立方米（即超過10萬個奧林匹克標準泳池的容量）。而政府將這些淤泥運往其他地區傾倒，亦會破壞這些傾倒地點的生態平衡，首當其衝的將會是棲生於這些地點的海洋生物。

可見“挖泥填沙”方法對本港的自然環境做成多方面不可逆轉的損害。

海港面積減少對環境的影響

另一方面，填海工程導致海港面積縮少，對環境造成影響亦不容忽視。

減低海港的沖洗動力

現時維多利亞港的水每隔1.2至1.5天便交換一次，這代表維多利亞港擁有■天然的沖洗能力。但填海後水流將會減慢20%，令人擔心到屆時維多利亞港的天然沖洗能力會否嚴重受損。雖然政府表示會有策略性排污計劃作為後盾，但研究指出，本港每日有大約二百多萬噸未經處理的污水流入維多利亞港，這些污水之所以沒有對本港造成嚴重的污染，全賴維多利亞港的沖洗能力而並非政府的排污計劃。況且現時本港的污水只以一級處理，是否足夠還有待研究，所以，政府實在應該珍惜現時海港的沖洗能力。

海港作為重要“市肺”

民主黨認為，對市民來說，海港是重要的市肺，可減少空氣污染。同時由於香港正步向石屎森林，海港可以令市民不為這石屎森林所困擾。相反，填海會令這些市肺的面積減少，對市民來說是一個重大的損失。

破壞生態平衡

同樣地，海港面積的縮少亦對填海區的生態平衡造成破壞，當中包括水質及潮汐的改變等。對該區自然生態帶來了一定的負面影響。

重新評估所有填海工程

主席先生，民主黨並非一刀切的反對所有填海工程。如果某一些填海項目對環境沒有太大的損害，亦同時符合經濟效益，民主黨是表示支持的。以九龍灣填海為例，我們都同意以填海解決這個污染黑點。因此，民主黨希望政府對各項的填海工程進行效益評估，釐定它們對環境的影響，並且將那些對環境造成嚴重損害，過度及無必要的填海項目撤回。

加強立法局及公眾的監察

同時，民主黨同意每一個市民均對本港的海港擁有權益，因此，我們促請政府增加計劃的透明度，使到立法局及公眾對填海工程有更多參與和監察，以確保每一個填海項目均符合香港的長遠利益。

主席先生，謹此陳辭。

陳婉嫻議員致辭：主席先生，隨¹香港與鄰近國家的經濟不斷發展，在可見的將來，香港將繼續成為中國南方的樞紐港。面對²未來龐大的發展需要，將機場與貨櫃碼頭西移似乎事在必行。在發展西部港口的同時，維多利亞港便會失去她應有的作用。港府因此認為可以大量填海造地，以便興建商業大廈、房屋、公路、公園等，而提出今天維多利亞港的大規模填海計劃。

當我們討論維多利亞港填海工程的影響時，可以從很多角度來說，正如剛才我們局內的同事，可以從保護環境、保護我們的天然資源方面³眼，或者可以從景觀的角度去評價，是否應該填去部分的維多利亞海港。我今天的發言，想帶出另一個有關維港填海所帶來的問題，剛才有些同事也說過。就現時已動工的工程看來，有一點可以肯定的是，現在的填海工程已經對海上的航行安全構成威脅。

前些時，我與一些海運團體和工會接觸，他們表示，自目前階段的大規模的西九龍和港島中區一帶的填海工程於一九九三年開展後，維多利亞港的海面航行面積便逐漸收窄，令海上的交通出現混亂，亦變成了危機四伏。

現時尖沙咀至昂船洲一帶的海面在繁忙時間波濤洶湧，原因是當體積較大的船隻航行時，船體排開海水而形成波浪，令波幅可以超過一米以上。小型渡輪、遊艇等細船受到大浪衝擊時，船身便會搖擺不定，令乘客容易跌倒而受傷。此外，渡輪上乘客所用的跳板亦會因為經常移動而令乘客有墮海的危險。據一些業內人士指出，現時平均每個月都有數個上落街渡的乘客因大風浪而墮海，但因墮海人士沒有受傷而沒有向外界揭露。

此外，海港內波浪增大，亦會使起卸貨物增加困難，除了令員工工作時間增加之外，更容易造成貨物損毀及工人受傷。由海事處所發表的統計數字，一九九五年在港內發生有關起卸貨物的工傷意外數字有403宗，而一九九四年有395宗、一九九五年則達475宗。雖然整體數字並不嚴重，但九五年突然驟升80宗（約增加了20%），則這情況須要我們關注。

另一種航行危險則是填海工程使海面收窄，令船隻因航道繁忙而容易發生碰撞意外。在我們未填海之前，較細小的船隻，可以使用中央航道兩旁的寬闊水域行駛，無須與大船互爭航道。填海之後則所有船隻，不論大小的船隻，都需要集中在中央航道內航行。尤其是尖沙咀向西至港澳碼頭的一段，兩岸最窄的距離只有800公尺，擠擁的航道會令航行非常危險。根據海事處所提供的資料顯示，一九九一年在港內發生的船隻碰撞意外事故只有163宗。其後，每年續有20%至30%的增加，到九五年，數字更高達346宗。據一些船長表示，還有一些輕微碰撞意外，因為損失不大，所以沒有向海事處報告。

以上有關工傷和撞船意外事故的數字，正好告訴我們過去填海工程對於使用海港的渡輪，尤其小型船隻非常不安全。

現時碼頭西移的計劃還未開展，另一方面維多利亞港仍要擔當起轉口港的重大責任。如果填海工程要持續下去，相信航行的危險程度將會更大。

面對¹¹以上種種由填海產生的問題，我認為當局應要解決。當局在九四年透過港口發展局成立一個特別委員會，研究關於香港水域的策略性使用，他們就現行的港口使用情況、海港內的安全航行監察系統是否足夠等方面作出評估，提出解決方法。這個委員會提出了多項亡羊補牢的建議，當中有些仍待研究。

我們認為港府應早於大規模填海計劃的策劃階段便應開展這方面的評估工作，並同時制訂一些相應措施，以減低工程對海港使用者的影響。但以我們所見，如此龐大的工程計劃以往竟然沒有與工程同步的影響的評估工作，因此出現了剛才我們所說的一連串的航海安全問題。

主席先生，平心而論，我完全同意，正如剛才我的同事說，我們的港口是一個美麗的海港，香港是由港島的島和九龍半島的天然屏障，造成一個很美麗的良港。我們生活在這裏，亦希望能保存香港優良的天然資源。雖然維多利亞港填海的土地造價非常高，但這樣大規模的填海工程卻令香港市民逐漸失去這個無價寶。事實上，某些工程只能提供數公頃或者一些土地，但卻令香港市民永遠失去一個優良且幽美的內港。另外，香港仍有有很多土地可以發展，無須這樣填海，使到我們損失了自然環境。

主席先生，我想強調一點，海港經填海後便會變成陸地，此後亦難以回復舊貌。我們每填一寸土地，海港便會少一寸。為了保存這個天然的維多利亞海港給我們的下一代，政府今後應審慎研究、考慮我們填海所付出的代價。

本人謹此陳辭，支持議案。

梁耀忠議員致辭：主席先生，現時正在進行中的大型填海工程有七個，面積超過400公頃，將會在九七年完成。計劃中的大型填海工程有八個，涉及土地面積超過600公頃；連同赤角機場填海計劃及發展港口設施用地而填取土地，香港將會在十年八年內，展開了史無前例的、耗資人力物力最大的填海工程，我在這裏不禁要質疑，這做法是否值得？這是否必須？

政府已正式公布正在進行中的七個大型填海工程，主要用途為擴建港口，提供土地進行機場核心計劃，提供土地發展房屋、辦公室樓宇、酒店、康樂設施、社區用途、文娛設施，延建新道路和鐵路支線等。但事實上，這400多公頃土地有多少是有益民生的？付出天文數字的公帑，最大的得益者是誰？

中區及灣仔的填海計劃，全部都是商業用途，包括機場鐵路港島站。佔地最廣的西九龍填海工程，主要也是用作機場核心工程。昂船洲填海工程，則用作中國大陸海軍基地。

我知道基建工作的重要性，但我更希望政府懂得，如果將龐大的公帑花去，最主要的得益者是商人，或是外國投資者，而不是照顧基層市民的利益，我相信香港市民不會同意，本局也不會同意。

我要質問政府：

第一，填海工程究竟創造了多少本地工人的就業機會？工程完成後的土地發展可提供多少就業機會？顯然，政府沒有在就業問題與商業利益間取得平衡，使填海工程未能發揮更佳的效益。

第二，從填海工程而來的土地，政府會撥出部分興建住宅，紓緩擠迫的市區居住環境。不過，根據政府自己的報告指出，現時新界區與都會區的人口比例為四比六，但未來的發展將為4.4比5.6。顯示填海工程並沒有增加市區人口的比例，反而仍是將居民推往新市鎮，到地產商的開發區做開荒牛。政府對發展商可謂照顧周到：市區開山填海，新界也一樣大興土木，發展商賺到盤滿砵滿，但是小市民卻無得益。

第三，將維港填去數百公頃，嚴重影響維港的生態和景觀，及增加交通運輸的危險性，是政府犧牲大我，成全小我的不道德行徑，剛才已講過，填海的最大得益者是一小撮巨商及外國投資者。目前，策略性污水排放計劃尚未將維多利亞港加以管制，維多利亞港每日所受污染已不勝負荷，收窄海面，只會增加海水的污染濃度，加上填海帶來的沙泥，使海水更加混濁，我想維多利亞港的命運除了變得奇臭難當外，它的外觀也是慘不忍睹的。即使我們忍得臭，不計較景觀，填海會造成海風減少，亦不能有效地清除都市的污染空氣，直接影響市民身體健康。填海也會令石灘、岩岸的魚類繁殖場所消失，影響自然生態；大型採挖和海上傾倒工程也會打擊漁業。

現時，尖沙咀與中區的最窄海面，已是擠迫不堪，如果計劃中的九龍角發展計劃展開之後，尖沙咀與中區的海面將收窄至八百餘米，此舉只會令頻繁的交通險象還生。究竟人命要緊還是擴展尖沙咀的商業用地要緊呢？

我們要發展香港，基礎建設不可少，但我希望政府不要為大財團綿上添花；用我們納稅人的錢，便要在基建目標與市民利益間求取平衡，這才是重要的。在現時進行中的工程沒有做到平衡的工作，我寄望計劃中的填海工程能夠做到，而最重要的，政府的計劃能夠先後公開，先徵詢市民的意見，吸納公眾的意見後才落實計劃，我相信這樣做才會得到香港市民接受的。

本人謹此陳辭，支持陸恭蕙議員的議案。

葉國謙議員致辭：主席先生，港府在一九八三年開始進行海港填海研究，並於一九九一年建議推行大都會計劃，目的之一是要把海港引入城市。為達到此目的，港府不惜在維多利亞港沿岸一帶進行多項填海工程，以提供大量市區土地用作發展用途。

民建聯認為，港府必須以循序漸進的方式，審慎處理每一項填海計劃，切不可單從經濟效益作為出發點，進行過度的填海工程，以致對環境造成不可挽回的損失。避免再一次蒙上“千古罪人”的不雅稱號。

港府必須要清楚了解香港之所以能夠取得今天令人羨慕的經濟發展，成為亞太區樞紐，全賴我們擁有一個水深港闊、聞名於世的維多利亞天然良港。港府若一意孤行地推行建議中的大型填海計劃，就會將這個維多利亞港大大縮小面積，維多利亞港可能會變成維多利亞河，此舉不僅扼殺了這條助長本港經濟發展的命脈，還會對環境造成不可彌補的嚴重影響。

維多利亞港是一個天然的優良港口，對外地遊客的吸引力可媲美澳洲悉尼的“達令港”，港府建議填出近1 300公頃土地的多項填海工程，將使維多利亞港面目全非，美好的自然環境將從此永遠消失。屆時，本港不僅失去了這樣一個獨特的良港，旅遊業亦將因此受到嚴重打擊，外匯收入也會蒙受重大損失，港府必須三思而後行。

作為民建聯立法局的環境事務的發言人，本人希望藉此機會提醒港府，這樣大規模的填海工程將會對本港的環境及航運業造成以下的影響：

第一，維多利亞港是本港一個重要市肺，為居住於這個石屎森林中的六百多萬人口提供一個可歇息及遠離繁喧感覺的好地方，港府現時應採取各項措施，以保護這個天然良港，而不應進一步破壞港口兩岸環境。

第二，填海工程將顯著地縮窄港口兩岸距離，若所有工程得以完成，由尖沙咀開始向西至港澳碼頭的一段海面，兩岸寬度將減至七、八百米，成為最窄的海岸，收窄的海岸及被拉直的海岸線勢必形成湍急的海流和洶湧的波濤。此情況在天氣惡劣情況及颱風襲港時將更明顯，一些食水較淺、馬力較小的船隻將較容易遇上失控的情況。狹窄的海岸將令大小船隻在別無選擇的情況下，集中於中央航道上，再加上中港貿易日益頻繁，來往兩地的高速客輪、貨船等都將會有增無減，這些船隻一齊使用航道時將出現非常危險的擠迫局面。

第三，維多利亞港依靠它天然巨大的沖洗力，成為世上獨特的深水港，據香港科技大學的研究顯示，每日排入維多利亞港的污水達到200萬噸，全靠潮汐的巨大沖洗力將污水中的重金屬、有毒物質及沉澱物沖出大海。龐大的填海工程，將嚴重減弱港口的自然沖洗力，引致海泥加速沉積，造成嚴重海水污染，香港可能會變成“臭港”。

第四，大規模的挖泥填沙工程將對本港水域造成重大生態破壞。港府在進行填海工程時，需要在全港水域挖取大量海沙以作為填海用途，海洋生物的棲息地勢將遭受到嚴重破壞。同時，港府須將填海區內受污染的海底淤泥挖走，轉送到指定地點傾卸，這些地點鄰近本港養殖漁場及天然漁場，淤泥中釋放出來的重金屬及污染物質，亦會造成大量海洋生物的死亡，這不單止令海產受污染，危害市民健康，很多漁民亦已抱怨漁獲大減，生計不保。

基於上述原因，民建聯促請港府採取明智、理性的態度，慎重考慮各項填海工程帶來的負面影響，不應再如鴛鴦般掩沙堆，將一切對環境造成的影響置若罔聞。民建聯要求當局全面評估維港填海工程對環境及海港造成的環境影響，再決定維港的整體發展策略，並且在過程中應諮詢公眾及專業團體的意見。

本人謹此陳辭，支持陸恭蕙議員的議案。

規劃環境地政司致辭：主席先生，我在此首先感謝議員就香港填海的工程發表意見，有部分意見是我很同意的，但有部分意見則是我未必一定可以接納的。我其實已準備了一個很詳盡的回應，當然現在在座沒有很多議員在場，我希望我所說的話可以記錄在立法局議事錄後，以供其他議員參考。

在回應陸恭蕙議員的議案之前，我們必須首先確立一個重要的原則，就是將來的海港填海計劃，必須符合香港的長遠土地需求。事實上，假如沒有充足而穩定及已敷設公共設施的土地供應，我們實在無法在適當的地點，滿足社會日後對房屋、社區和文娛設施、交通以至其他必需的基礎建設和康樂設施的需求，也無法配合將來多元化的經濟活動。

需求的來源

我們對土地的龐大需求主要的來源有兩方面：

- 第一，人口不斷增長，加上社會較以前富裕，市民期望日高，帶來了龐大的土地需求。我希望議員記得自一九六一年以來，香港人口平均每十年增加約100萬人。因此，我們慎重估計，約15年以後，香港的人口可能會由現時的630萬增加到750萬至810萬左右。當然，待一九九六年中期人口統計完成後，我們可以根據統計結果，進一步研究本港將來的人口分布情況。
- 第二，香港作為吞吐量鉅大的貨櫃港、國際航空交匯點，以及地區以至全球性的商業財務中心，各方面的活動與日俱增，且不斷轉變，因而對土地的需求亦極為殷切。再者，香港作為一個提供高增值能力的商業服務的中心，又是較“高檔”和商科技工業的基地，且為華南地區的工業發展提供多方面支援服務的後勤總部，在在需要土地以配合發展。此外，倘若本港要成為學術和專業知識技能中心、遊客的主要目的地和中途停留站、頂級的會議和展覽中心，以及東西文化交匯點，土地亦是不可缺少的。

香港政府考慮過這些因素後，根據全港發展策略目前檢討的結果，估計至二零一一年，本港需要多1 500公頃左右的土地，以供一般市區發展的用途，而港口用途方面，亦需要面積相若的土地，兩者合計，約等於赤鱗角新機場面積的兩倍，亦即約相等於九龍半島的面積。

要分開階段和及時增闢如此大量的土地，絕非易事，因為增闢土地及敷設公用設施，通常而言，需時長達八年，其間工作包括製備圖則、諮詢公眾人士、向諮詢組織簡報情況、根據有關條例刊登憲報、處理其後接到的反對意見、上訴和覆核等事宜、制定合同和施工等。

可獲得的土地供應

因此我們目前面對的問題顯而易見，就是“我們有哪些地方適合作新發展用途？”目前，土地供應大致上可來自三方面，分別是：

第一，透過舊區重建；

第二，透過使用未經開發的土地，主要包括以前作鄉郊活動的低地；
及

第三，透過在本港較淺的水域進行填海。

為了充分回應陸恭蕙議員的關注，我們須要簡單看看這三類“合適用地”的情況。

重建潛力

關於重建，相信本局大部分議員仍然記得，在五十年代末期至六十年代，本港市區到處都聽到打樁機的聲音。私人發展商乘新規例提供的良機，紛紛拆卸層數較少的舊唐樓，興建多層大廈，使樓宇的單位密度比原來高出數倍。與此同時，多個公共機構亦積極興建基本設計的大型公共屋邨，力圖盡快解決社會上不斷湧現的房屋需求問題。

在未來數年，本港市民將要面對的，是私人和公共機構須要把許多在三、四十年前興建的多層大廈拆卸重建或翻新。不過，經驗清楚告訴我們，為要符合現今的規劃要求，提供足夠的基礎服務和符合環保標準，新的重建計劃通常並不會有較高的人口容量。

總括來說，如果我們要保持可接受的居住水平，在重建的過程中，遷出低於標準地區的居民，要比遷回重建地區的居民為多。或者我可以舉兩個例子，以作解釋：

第一，在公共房屋方面，自從在一九七六年開始，房屋委員會積極重建五十年代及六十年代興建的屋邨，該些屋邨人口密度一般約為每公頃4 000至5 000人。在完成全面的重建計劃，包括提供更寬敞的居所、遊憩用地及屋邨社區設施後，新屋邨的人口密度將降至每公頃2 000至2 500人。例如，橫頭磡邨於一九八二年有人口超過39 000人，但於一九九四年初經重建後，屋邨人口已減至約24 000人。

第二，為跟進都會計劃，政府已逐步為每一個大地區編製一個發展綱領，以提供一個更詳盡的重整舊區架構。例如，在西九龍區，我們的研究顯示，如果要把這個地區的環境改善到一個合理水平，人口須要由一九九一年的65萬人減至50萬元左右。

我相信本局議員很多都十分關注基層事務，他們都明白，要妥善安置數目如此龐大的居民，我們必須考慮到，這些居民已在原區居住了相當長的時間，在經濟和社交方面，都與這個地區建立起一定的連繫。而且，我們亦應

讓這些居民有機會選擇日後居住的地方。因此，我們實有需要雙管齊下在鄰近居住地方的海港填海和發展新市鎮，以提供所需土地。

未經開發的土地

現在讓我談談從鄉郊地區未經開發的土地方面可得的土地供應。

我亦相信各位議員仍會清楚記得，我們在一九七二年推行一項長遠房屋計劃的同時，亦展開了一項龐大的新市鎮發展計劃。新界不少土地經過規劃和發展後，已建設成新的社區。時至今天，這些社區的建設被公認為驕人的成就。

初期發展的新市鎮有六個。其後，由於社會和經濟的需求急劇增加，我們要將更多未經開發的土地轉作發展新市鎮用途，以應所需。現時我們共有新市鎮九個，可容納的人口約330萬，而現有的人口則約為260萬。此外，私營機構亦努力發展土地，建立新社區。

不過，事實上，目前經過規劃的新市鎮的預留土地正迅速減少，而可否進一步拓展新市鎮的邊界，或劃定一些新地區以供發展，都是實際的問題。

政府努力尋找新的發展機會，而在進行次區域規劃及展開目前的全港發展策略檢討時，我們已劃出多個可能適合發展的地區。不過，每一個新地區都有各種各類問題仍待解決，而且發展只能在較長遠的時間方可進行，故此這些地區是否適合發展，我們仍須小心評估。

雖然政府已努力不懈，但有些人仍認為新界尚有大量完全未經開發的土地可供繼續發展。有些人不斷向政府施壓，要求把位於生態易受破壞的米埔沼澤區四周的漁塘改作市區用途，便是一個很好的例子。至於我們期望能額外供應土地的其他地區，卻受到多方面的嚴重制肘，例如排水及水浸問題、土地業權分散問題、地質問題、基礎建設不足、土地被廣泛用作露天貨倉等。我們當然可以說這些問題均可獲得解決。不過，我們可能未必能夠及時解決，而方法未必一定符合成本效益。

填海工程

最後讓我轉談另一個土地供應來源，這就是進行填海工程。長久以來，填海是香港增加土地的有效途徑，這是指增加已敷設公共設施的土地。事實

上，新市鎮很多地方，以及都會區的沿岸地方，都是經過長期進行的填海工程而開闢的。

彌足珍貴的海港

目前公眾的注意力自然集中在維多利亞港附近的填海工程。基於這個原因，我對陸恭蕙議員的議案的初步回應是，我同意我們的海港彌足珍貴，我們須要利用它作多方面的用途，而且這些用途有時更會彼此重疊。因此，我自己認為維多利亞港為社會帶來的裨益，遠超過陸恭蕙議員的議案所能察覺得到的。

相信很多議員亦會同意，都會區的很多地方極之需要重整和重建，以協助解決多項社會和環保問題。另外，都會區亦是一個重要地區，是本港眾多商業活動的必然集中地，同時亦是主要的就業地區，我們有很大比例的工作人口都在那裏工作。同樣重要的是，都會區日後如要避免出現交通擠塞情況，便須興建新道路為主的運輸系統，並根據規劃重新安排土地用途，從而控制每日的交通量。

總括來說，這種種因素顯示，我們須要在現有的已發展地區毗鄰開闢新土地。為此，我們多年來都有採取一些措施，例如重訂分區用途及修訂密度管制等，以期盡量善用都會區內現有的土地資源。不過，這些土地資源越來越有限，我們實在無法在同一地區內繼續增加發展密度。如果我們要應付市區對新土地的需求，在適合的地點進行填海便是其中一個有效的辦法。

政府的規劃工作

陸恭蕙議員提出的議案，暗示政府規劃海港區時，沒有充分考慮各方意見，我是不同意這個說法的。

政府由一九六七年開始，便積極檢討香港的策略性發展需求。在一九七一年公布土地利用計劃書，其後於一九八四年，又公布全港發展策略。這兩項計劃均是經過深思熟慮後制定的，亦是各方面合力研究的成果，務求在規劃新界及都會區發展時，在兩者之間取得適當的平衡。

在一九八八年，政府在制定港口及機場發展策略的同時，更就多個方案進行了極全面和有系統的研究和諮詢工作，從而制訂都會計劃。這項計劃有

一個特點，是我們聘請了資深的專家為整個都會區制訂一套近郊及沿岸地區景觀概括發展策略，及一個較詳細的市區及景觀設計大綱，並另加設一個康樂遊憩用地架構，以收相輔相成之效。政府在詳細諮詢過公眾的意見後，才於一九九一年九月把計劃的最後定稿提交行政局。總括來說，政府在制定都會計劃時，已盡了最大努力，兼顧海港的特色。

填海工程的規模

今天議案亦聲稱，現時已規劃的海港填海工程是“過度的”，而“過度縮小海港的面積對本港的自然及人類環境造成不可挽回的損害”。

主席先生，我認為這種說法可能會過度誇張。反過來看，未來填海工程的規模，反映了都會區對土地用途及基礎設施的需求，而且，填海工程可以解決市區的問題、在適當地點提供新的社區設施、改善交通問題以及協助保持香港整體的活力。

正如我剛才所說，由於本港的社會及經濟需求不斷增加，因此產生了都會區的土地用途需求。只有及時在毗鄰填海區及其他交通方便的地區提供新地方，重建舊區的計劃，包括首先安置數以萬計家庭的計劃，才能順利完成。

主席先生，正如議員剛才說過，我們目前有七項處於不同施工階段的海港填海工程。其實這些工程大部分都是與發展機場有關的。另外，在都會計劃下建議進行另外七項工程。不過，亦正如剛才議員所要求，我們有很多研究，甚至環境評估，是須要首先完成。因此這些新的工程將不會於短期內落實。合共計算，各項計劃所增闢的土地，有65%將會用作改善交通及提供休憩用地和社區設施，只有35%是用作各類工商業及住宅用途。指政府填海闢地是為了賣地以謀取暴利，這說法實不能成立。假如不進行海港填海工程，又或者假如不將大量人口和就業會遷往其他地區，我們將無法實踐我們改善較舊市區環境的計劃，為這些舊區改善交通及增設休憩地方和社區設施。

環境問題

至於環境問題，我亦必須聲明，在評估都會計劃之下建議進行的填海工程時，以至其後為各個都會區製備發展綱領，和在公布個別地區的分區計劃大綱圖時，政府都會分別地或整體地詳細評估有關空氣質素、噪音、水質、

危檢物質的機會和不協調用途等各方面的情況。

相信各位議員剛才也說過，令人關注的，是水污染的問題。水污染的基本成因，並非因為填海工程產生，而是每天排入海港的大量未經處理的污水。不繼續進行填海工程，並非解決污水水質這個問題的方法。此外，為方便決定新填海區的規模和形狀，政府已進行了多項小心調控的模型測試，以評估海港水力和水質所受的影響，並根據測試結果，制定適當的海堤定線，填海的另一項附帶好處，是可以把染污度高沉澱物覆蓋，從而消除受污染的地區；倘非如此，這些沉澱物將會繼續在我們的海港中放出有毒物體。

公義的權益

主席先生，如果我們未經進一步詳細研究，就如議案所提議，撤回填海計劃的話，那麼都會區的其餘部分所受的影響，將較議案所提及的情況更為嚴重。如果我們目前將目光收窄，以致大部分市民將會繼續被局限在一個擠迫的地區生活和工作，又或者須要大量遷去較遙遠的地區居住，這又是否公平呢？這個情況亦會迫使我們在新界區一些環境易受破壞的地區，進行更多的市區發展計劃，這樣的話，本港的“綠化地帶”將會受到更大威脅。亦有人會問：我們是否須要繼續去保持香港有44%的土地，留作郊野公園呢？

這個議案指出，“全港市民均對維多利亞港擁有公義的權益”，我是很贊同這一點。不過，到現在，我希望本局各位議員能從一個以全港為基礎的較廣闊層面來看這個議題，明白建議中的海港填海工程，是為了應付多元化的需求，以解決都會區的問題和配合本港未來的經濟發展。當局的計劃除了可以在製造新的職位空缺和發展基礎設施方面，提供不可缺少的機會之外，更可在多個地點，為超過50萬市民提供安居地方。同時，政府絕不會因進行分期填海工程計劃而忽略新界區一些已具備理想條件和新的發展機會。

供與求的配合

此外，我想指出一點，要全港達致適當均衡的整體發展，其中一個非常重要的部分，是要考慮市民居住地點和工作地點的關係，因為兩者之間距離越遠，對上下班交通造成的負荷越重，更會因而對環境造成更多不良的影響。

我們在制訂全港發展策略時，已考慮到居住和工作地點之間的重要關係。我們不可忘記，現時約有83%的工作職位，是在都會區內，而大約70%的人口，亦是居住在都會區的。

即使我們推行一些較積極的措施，鼓勵將工作職位疏散分布，但日後很可能仍有大約70%至75%的工作職位集中於都會區。倘若我們如部分人主張一樣，轉為在新界區進行大部分的新發展，則長遠來說，都會區的人口總數可能會下降至全港低於50%。後果很簡單，就是有更多人須居住在新界較偏遠的地方，須忍受上下班交通愈來愈費時的情況。我懷疑這是否符合我們策略發展計劃的目的。

此外，議案假設海港填海工程的籌劃並不公開和政府沒有對其施工負起責任，我不同意這一點，相反，政府策劃的過程包括了充分的公眾諮詢工作。有部分諮詢工作，可能各位議員未做立法局議員時，可能做了，但記憶未必一定很清楚。但是《城市規劃條例》已經為城市規劃委員會訂立一個機制，一方面讓委員會可以詳細審議擬議進行的填海工程計劃，對分區計劃大綱圖作出修訂，另一方面則規定必須諮詢公眾的意見。委員會先考慮公眾的意見，然後才決定是否修訂大綱圖。如有人提出反對，委員會會邀請反對者出席聆訊，以表達意見。其後，委員會會邀請總督會同行政局決定是否批准對大綱圖提出的修訂。如果有關圖則獲得通過，更加須要根據《前濱及海床（填海）條例》的規定，在憲報刊登各有關工程項目的細則，使公眾有機會審閱及提出反對。政府亦須考慮接獲的所有反對意見書，並且將這些反對意見書提交總督會同行政局，以決定應否授權進行有關工作。最後，工務計劃項下的所有工程，必須先獲立法局財務委員會及工務小組委員會的批准，才可展開的。所以我們的機制，是有充分的諮詢和透明度的。

目前何去何從

主席先生、各位議員，我對當前議案的回應，我相信可以幫助大家對海港填海的需求和作用，有一個較為持平的看法。我相信只有透過理性的辯論，我們才可期望向前邁進。因此，我很高興今天有此機會，談談政府當局的觀點。

總的來說，當局完全理解，與本港未來社會、經濟、自然及環境事務有關的基本事項，是整個社會須要審慎考慮的，而政府亦非要一意孤行，在未完成有關研究前，繼續餘下的填海計劃。反之當局現正展開工作，以便在今年年中公布對“全港發展策略”檢討的結果，讓公眾發表意見。是次檢討將提供一個全面的基礎，讓我們可以對本港的發展需要，以及有助應付這些需要的發展機會，歸納出一個合理的看法。日後的海港填海計劃是一個極長遠的計劃，可以分期實施，以便遇有問題可以有機會，或發現別的更好安排時，仍可作出所需的調整。

我希望各位議員能關注到香港將來整體的發展，給予我們將發表的“全港發展策略”檢討一個公平討論的機會。如今天投票通過議案，將會使各位議員或社會上個別人士及團體，有一個先入為主的態度，或者使到將來討論“全港發展策略”時，不可以有一個公平的討論。所以我今天請求各位議員投票前，可以詳細小心考慮各點。謝謝主席先生。

PRESIDENT: Miss Christine LOH, you are now entitled to reply and you have four minutes 38 seconds out of your original 15 minutes.

MISS CHRISTINE LOH: Thank you, Mr President. I would also like to thank the Members and of course the Secretary for Planning, Environment and Lands for their various speeches.

I think we do have a very fundamental difference in the way we look at the harbour as a natural asset. Mr Bowen LEUNG has said so much himself. He told us at great length the justifications for using the harbour for extensive reclamation in order to achieve various purposes. He also even said that if we did not fill up more of the harbour then we may have to encroach on our country parks. I certainly would agree with him that I have an entirely different vision.

Mr LEUNG also said that the plans that the Government has for future reclamations, the ones that have not been committed or decided, are very far away. They are only at the consideration stage. My concern in raising this particular debate today is that these plans are indeed very extensive. If we do not watch very closely, time will run out and they will happen before we know it.

Of course the Government has admitted today that it will continue, of course, to study those plans. During the study process, I think it is very important that the community is fully engaged and involved. Unfortunately what I did not hear from the Secretary is how he proposes to really involve the community a lot more. Almost every person who has spoken today has given examples and personal involvement in the planning process over the years. Although Mr LEUNG said that, well, we have been consulting, we have had plans out since 1971. He and the Administration may like to ask themselves: Why is it today that we are all still questioning the process? Is it because we are deeply mistaken? Is it because we want to be unfair? Is it because that we are

misled by people with various vested interests?

I would like to suggest to the Administration, Mr President, that that is in fact not the case. The truth about the planning process, and I have stated it in my speech earlier on, is that it is one that really involves very few people. It is one that allows the Government to pick various options without consulting people at the early stages before they come to a final decision, and then they will come to the public and tell you the good news. If you want to tinker around the edges, they may be willing to make some minor adjustments, but it is almost impossible to make major adjustments or to turn back the project. And this is precisely the area where I find the Secretary, in his speech, not willing to address whatsoever.

So, where do we go from here since time is running out? I would suggest, for example, on the issue of population, because that is so important that we just do not accept what the Secretary said just now which is, well, every 10 years we have added a million people to Hong Kong. Well, we have a history. We have had a lot of people coming from the mainland. Now, after 1997, what will be the case? We know right now that there are people coming from the mainland every year. Is this to continue? Is it going to be increased? Or will the number really be quite substantially more because of the continuous social and cultural and political interaction between the two places? These are issues we do have to look at and it is not sufficient for this community simply to say in the past 10 years we have added a million people, so that is how we should plan. And again, I urge Members to take up this point in our various Panels.

I just also wish to say, Mr President, that Dr PRIOR, who is of course the Chief Town Planner, did say on 1 March in a newspaper that the public views had often been ignored in the past and that he was going to review these plans. But Dr POON, also of the Planning Department, said five days later that they are going to charge ahead with these proposals that they are working on. So what is the Government really telling us?

Now, just now, the Secretary did admit — if I may just finish this sentence — he did admit that the Government, with all these plans on the table,

had done no health and environmental impact assessment. I hope that will be done soon, and I and I am sure, other Members will take up each of these points in the relevant Panels.

Thank you, Mr President.

Question on the motion put.

Voice vote taken.

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

Miss Christine LOH claimed a division.

PRESIDENT: Council shall proceed to a division.

PRESIDENT: I would like to remind Members that they are now called upon to vote on the question that the motion moved by Miss Christine LOH be approved. Will Members please register their presence by pressing the top button and then proceed to vote by choosing one of the three buttons below?

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

Mr Martin LEE, Mr SZETO Wah, Mr Edward HO, Dr LEONG Che-hung, Mr CHEUNG Man-kwong, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Mr LEE Wing-tat, Mr Eric LI, Mr Fred LI, Dr YEUNG Sum, Mr Howard YOUNG, Mr WONG Wai-yin, Miss Christine LOH, Mr LEE Cheuk-yan, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Andrew CHENG, Dr Anthony CHEUNG, Mr CHEUNG Hon-chung, Mr IP Kwok-him, Mr Ambrose LAU, Mr LAW Chi-kwong, Mr LEE Kai-ming, Mr Bruce LIU, Mr MOK Ying-fan, Mr TSANG Kin-shing, Dr John TSE, Mrs Elizabeth WONG and Mr YUM Sin-ling voted for the motion.

THE PRESIDENT announced that there were 31 votes in favour of the motion and no vote against it. He therefore declared that the motion was carried.

MEMBER'S BILLS

First Reading of Bills

PROBATE AND ADMINISTRATION (AMENDMENT) BILL 1996

THE HONG KONG INSTITUTE OF LANDSCAPE ARCHITECTS INCORPORATION BILL

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

Second Reading of Bills

PROBATE AND ADMINISTRATION (AMENDMENT) BILL 1996

MR BRUCE LIU moved the Second Reading of: "A Bill to amend the Probate and Administration Ordinance."

廖成利議員致辭：主席先生，我動議二讀《1996年遺囑認證及遺產管理（修訂）條例草案》。

本條例草案旨在修訂《遺囑認證及遺產管理條例》（第10章）第15條，該項條文准許最高法院司法常務官以遺產管理官的身分對各項小額遺產作非正式分配。經修訂後，這小額遺產的限值由原來的5萬元增加至15萬元。

根據《遺囑認證及遺產管理條例》，如遺產總值不超過5萬元，死者遺屬可向最高法院的遺產管理官以簡易方式管理該筆遺產。該5萬元的限額是在一九八三年訂定的。

本條例草案如獲通過，則在付諸實施後，可能會有較多市民向遺產承辦處提出申請，要求最高法院司法常務官管理小額遺產事宜，因此，遺產承辦處的編制員額可能需要增加。但除此之外，本條例草案的通過施行不會導致

公帑的開支另有任何額外增加。

主席先生，我建議各位議員考慮通過上述條例草案。

多謝主席先生。

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).

THE HONG KONG INSTITUTE OF LANDSCAPE ARCHITECTS INCORPORATION BILL

MR EDWARD HO moved the Second Reading of: "A Bill to make provision for the incorporation of The Hong Kong Institute of Landscape Architects and for matters connected therewith."

MR EDWARD HO: Mr President, I move that the Hong Kong Institute of Landscape Architects Incorporation Bill be read the Second time.

The purpose of the Bill is to give the Hong Kong Institute of Landscape Architects the status of an incorporated body. The Institute opts for incorporation by statute so that it will be a legal entity with perpetual succession and can only be dissolved by another statute passed by the Legislative Council. This will ensure the existence and independence of the Institute in the long run.

Also one important purpose of introducing this Bill is to prepare for the way of a Landscape Architects Registration Bill which would provide for the registration of landscape architects and disciplinary control of professional activities of registered landscape architects, similar to registration Ordinances now in place for architects, surveyors, planners and engineers.

Since it is envisaged that the eventual Landscape Architects Registration Board will be largely self-regulated, as for the other professional registration boards just named, it is in the interests of the public that the independence and status of the Institute be preserved and the powers of the Council of the Institute be defined and controlled by a separate Ordinance in addition to the statutory and common law principles of company law in general.

The Hong Kong Institute of Landscape Architects was formally inaugurated in 1988, having started its existence as the Hong Kong Landscape Group in 1981 operating as a chapter of the British Landscape Institute. The Institute is now an entirely independent, local body with a growing membership of close to 100 Hong Kong-based professionals working for projects both in and outside of the territory.

Since 1995, members of the Hong Kong Landscape Architects who are registered voters in Hong Kong can register and vote in the Architectural, Surveying and Planning Functional Constituency.

Members of the Institute have, in their professional capacity, participated in the development of all aspects of landscape architecture in Hong Kong, notably in the development of the New Town Development Programme during the late 1970s and in recent large-scale infrastructure projects. The Institute is also proactively assisting the Hong Kong University in setting up and conducting the first postgraduate training programme on landscape architecture in the territory. Locally-trained graduates are expected to sit for their professional practice examination next year for the first time.

Today, the landscape architects profession is a well-established and highly-respected profession in the territory. They play an important role in achieving and maintaining a high quality of landscape environment in Hong Kong.

I commend the present Bill to Honourable Members.

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).

ADJOURNMENT AND NEXT SITTING

PRESIDENT: In accordance with Standing Orders, I now adjourn the Council until 2.30 pm on Wednesday, 27 March 1996.

Adjourned accordingly at twenty minutes to Ten o'clock.