

OFFICIAL RECORD OF PROCEEDINGS

立法局會議過程正式紀錄

Wednesday, 15 May 1996

一九九六年五月十五日星期三

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

李鵬飛議員，C.B.E., J.P.

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

周梁淑怡議員，O.B.E., J.P.

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

李柱銘議員，Q.C., J.P.

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

劉皇發議員，O.B.E., J.P.

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

何承天議員，O.B.E., J.P.

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

夏佳理議員，O.B.E., J.P.

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

劉健儀議員，O.B.E., J.P.

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

梁智鴻議員，O.B.E., J.P.

THE HONOURABLE ALBERT CHAN WAI-YIP

陳偉業議員

THE HONOURABLE CHEUNG MAN-KWONG

張文光議員

THE HONOURABLE CHIM PUI-CHUNG

詹培忠議員

THE HONOURABLE MICHAEL HO MUN-KA

何敏嘉議員

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

黃震遐議員，M.B.E.

THE HONOURABLE 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.

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

黃秉槐議員，M.B.E., F.Eng., J.P.

DR THE HONOURABLE PHILIP WONG YU-HONG

黃宜弘議員

DR THE HONOURABLE YEUNG SUM

楊森議員

THE HONOURABLE ZACHARY WONG WAI-YIN

黃偉賢議員

THE HONOURABLE 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 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 LEUNG YIU-CHUNG

梁耀忠議員

THE HONOURABLE BRUCE LIU SING-LEE

廖成利議員

THE HONOURABLE MOK YING-FAN

莫應帆議員

THE HONOURABLE MARGARET NG

吳靄儀議員

THE HONOURABLE NGAN KAM-CHUEN

顏錦全議員

THE HONOURABLE SIN CHUNG-KAI

單仲偕議員

THE HONOURABLE TSANG KIN-SHING

曾健成議員

DR THE HONOURABLE JOHN TSE WING-LING

謝永齡議員

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

黃錢其濂議員，C.B.E., I.S.O., J.P.

THE HONOURABLE LAWRENCE YUM SIN-LING

任善寧議員

MEMBERS ABSENT

缺席議員：

THE HONOURABLE FREDERICK FUNG KIN-KEE

馮檢基議員

THE HONOURABLE JAMES TO KUN-SUN

涂謹申議員

THE HONOURABLE HOWARD YOUNG, J.P.

楊孝華議員，J.P.

THE HONOURABLE DAVID CHU YU-LIN

朱幼麟議員

THE HONOURABLE LEE KAI-MING

李啟明議員

THE HONOURABLE LO SUK-CHING

羅叔清議員

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.

MR RAFAEL HUI SI-YAN, J.P.

FINANCIAL SECRETARY

財政司許仕仁先生，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 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 NICHOLAS NG WING-FUI, J.P.

SECRETARY FOR CONSTITUTIONAL AFFAIRS

憲制事務司吳榮奎先生，J.P.

MR JOSEPH WONG WING-PING, J.P.

SECRETARY FOR EDUCATION AND MANPOWER

教育統籌司王永平先生，J.P.

MR PETER LAI HING-LING, J.P.

SECRETARY FOR SECURITY

保安司黎慶寧先生，J.P.

MR BOWEN LEUNG PO-WING, J.P.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS

規劃環境地政司梁寶榮先生，J.P.

MR KWONG KI-CHI, J.P.

SECRETARY FOR THE TREASURY

庫務司鄭其志先生，J.P.

MR LEO KWAN WING-WAH, J.P.

SECRETARY FOR ECONOMIC SERVICES

經濟司關永華先生，J.P.

CLERK IN ATTENDANCE

列席秘書：

MR RICKY FUNG CHOI-CHEUNG, SECRETARY GENERAL

秘書長馮載祥先生

PAPERS

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

Subject

Subsidiary Legislation	<i>L.N. No.</i>
Waterworks (Amendment) Regulation 1996	176/96
Country Parks and Special Areas (Amendment) Regulation 1996	178/96
Pesticides (Amendment) Regulation 1996	179/96
Official Languages (Alteration of Text) (District Court Ordinance) Order 1996	180/96
Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) (No. 2) Order 1996	181/96
Declaration of Increase in Pensions Notice 1996	182/96
Widows and Orphans Pension (Increase) Notice 1996	183/96
Disability Discrimination Ordinance (86 of 1995) (Commencement) Notice 1996	184/96
Sex Discrimination Ordinance (67 of 1995) (Commencement) Notice 1996	185/96
Intellectual Property (World Trade Organization Amendments) Ordinance 1996 (11 of 1996) (Commencement) Notice 1996	186/96

Land Registration Fees (Amendment) Regulation 1995 (L.N. 35 of 1996) (Commencement) Notice 1996	187/96
Land Registration (New Territories) Fees (Repeal) Regulation 1995 (L.N. 36 of 1996) (Commencement) Notice 1996	188/96
Land Registration (Amendment) Regulation 1996 (L.N. 39 of 1996) (Commencement) Notice 1996.....	189/96
Land Registration Fees (Amendment) Regulation 1995 (Amendment) (No. 2) Regulation 1996 (L.N.145 of 1996) (Commencement) Notice 1996....	190/96
Official Languages (Authentic Chinese Text) (Wild Animals Protection Ordinance) Order.....	(C) 43/96
Official Languages (Authentic Chinese Text) (District Court Ordinance) Order	(C) 44/96

文件

下列文件乃根據《會議常規》第 14(2)條的規定而正式提交：

項 目

附屬法例	法律公告編號
《1996 年水務設施（修訂）規例》	176/96
《1996 年郊野公園及特別地區（修訂）規例》 ..	178/96
《1996 年（除害劑）（修訂）規例》	179/96

《1996 年法定語文（修改文本） （地方法院條例）令》	180/96
《1996 年公眾地方及市政條例（公眾遊樂場地） （修訂附表 4）（第 2 號）令》	181/96
《1996 年宣布增加退休金公告》	182/96
請參閱英文本.....	183/96
《殘疾歧視條例（1995 年第 86 號） 1996 年（生效日期）公告》	184/96
《性別歧視條例（1995 年第 67 號） 1996 年（生效日期）公告》	185/96
《1996 年知識產權（世界貿易組織修訂）條例 （1996 年第 11 號） 1996 年（生效日期）公告》	186/96
《1995 年土地註冊費用（修訂）規例 （1996 年第 35 號法律公告） 1996 年（生效日期）公告》	187/96
《1995 年土地註冊（新界）費用（廢除）規例 （1996 年第 36 號法律公告） 1996 年（生效日期）公告》	188/96
《1996 年土地註冊（修訂）規例 （1996 年第 39 號法律公告） 1996 年（生效日期）公告》	189/96
《1995 年土地註冊費用（修訂）規例 1996 年（修訂）（第 2 號）規例 （1996 年第 145 號法律公告） 1996 年（生效日期）公告》	190/96

《法定語文（中文真確本）
（野生動物保護條例）令》 (C) 43/96

《法定語文（中文真確本）
（地方法院條例）令》 (C) 44/96

Sessional Paper 1995-96

No. 81 — Hong Kong Monetary Authority
Annual Report 1995

一九九五至九六年度會期內提交的文件

第 81 號 — 香港金融管理局
一九九五年年報

ORAL ANSWERS TO QUESTIONS

Curriculum on Environmental Protection

1. 蔡根培議員問：主席先生，政府可否告知本局，教育署有否為中、小學設計一套全面的環保教育課程；若有，該課程的內容如何，及截至目前為止有何成效；若否，原因為何？

教育統籌司答：主席先生，環境教育是向學生灌輸對環境的認識，教導他們基本的知識和抱正確的態度，以便參與改善環境質素的活動。政府的政策是在學校所有級別推廣環境教育。教育署在一九九二年發出的學校環境教育指引，清楚說明學校環境教育的宗旨、目標和課程內容。

政府採用跨課程方式推行環境教育。學校課程內每一個科目，都會從不同的角度，集中研究和探討人類對環境的認識和與環境的關係。小學課程內，加入了環境教育的學科包括社會、健康教育、常識及科學。中學方面則有地理、歷史、經濟及公共事務、社會教育和一些理科科目。

讓我解釋這些科目怎樣幫助學生從不同的角度去認識環境。例如，學生可以從理科科目中，學習科學研究的方法和明白與自然環境有關的概念；在學習人文學科科目時，學生從歷史、社會、經濟及地理的角度，認識人類與環境的關係；美術及音樂科目可引導學生欣賞大自然的美景。這些科目有助學生全面了解環境，並確立他們對環境問題的價值觀。

除正規課程外，學生亦可參與課外活動，學習有關環境的知識。當中包括以學校為本位的活動，例如討論、辯論或角色扮演，或是進行戶外活動，例如郊野研習或參觀有機農場和受污染地區。這些活動讓學生接觸到實際的環保問題，他們的親身體驗將會加強他們對環境的關注和了解。

所有中、小學校現正透過正規課程和課外活動，積極推行環境教育。例如有超過200間學校參與“學生環境保護大使計劃”，亦有約250間學校參加了“學生廢紙回收計劃”。此外，越來越多學校舉辦有更多學生直接參與的環保活動，例如綠化校園、節約用水和能源等，顯示中、小學校越來越重視學生的環境教育。

蔡根培議員問：主席先生，政府認為在中、小學灌輸環保知識的最有效方法是甚麼？

教育統籌司答：剛才我已經在主要答覆中指出，政府認為在中、小學推行環境教育，最重要的當然是要說明環境教育的宗旨、目標和課程內容，這方面在一九九二年發出的《教育指引》內已提到。至於方式方面，我們認為環境教育應該以跨課程形式推廣，換句話說，即透過不同科目，令學生能夠從不同角度和在不同方面了解人類和環境的關係、自然環境對人類的重要性、以及如何參與愛護環境和保護環境。

謝永寧議員問：在政府的主要答覆中，似乎說香港很多學校和教師都曾受訓練，特別是環保方面的訓練。請問政府，有多少教師曾接受環保的訓練；以及有多少學生曾接受環保教育呢？

教育統籌司答：主席先生，在師資培訓方面，我們可以分兩方面來看，第一，是在職培訓。教育署不斷透過不同形式和渠道，舉辦座談會和研習班等，令在職教師可以對環境教育加深認識。舉例而言，在過去兩年，教育署

已經為超過4 000名教師舉辦超過120個不同類型的講座和研習班。至於未入職的教師方面，我們知道香港教育專上學院、香港大學和香港中文大學在師資培訓課程內也包括了環境教育。我要強調一點，由於環境教育其實是包括在很多不同科目之內，例如我剛才所說的理科科目、常識、健康教育、社會和歷史等，所以一名教師在認識個別科目的過程中，自然會了解和認識到如何推廣環境教育。

Transition of Judicial Officers

2. 何俊仁議員問：就政府處理有關法官和其他司法人員的過渡問題，政府可否告知本局：

- (a) 對香港特別行政區《基本法》第九十三條中，有關法官和其他司法人員均可留用的規定是如何理解的；該等人員是否需要得到特區政府或某些組織邀請才可在特區政府繼續服務；又獲留用者可否保留原來職級；及
- (b) 在處理上述問題時，會否要求中英聯合聯絡小組解釋“均可留用”一詞的含意；若否，原因為何？

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, Article 93 of the Basic Law states in very clear terms that judges and other members of the judiciary serving in Hong Kong before the establishment of the Hong Kong Special Administrative Region (HKSAR) may all remain in employment and retain their seniority with pay, allowances, benefits and conditions of service no less favourable than before. This mirrors the provision in the Joint Declaration on the continued service of judges and other members of the judiciary. Their continued service has therefore been very clearly and explicitly provided for in the Joint Declaration and the Basic Law. We have no reason to doubt that these provisions will be complied with.

何俊仁議員問：主席先生，未提出我的跟進質詢之前，可否請主席先生要求憲制事務司首先明確答覆主要質詢的(b)部分，因為他並沒有回答。

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, if the Honourable Member is referring to consultation in the Joint Liaison Group (JLG), then my answer would be, as I mentioned, the Joint Declaration and the Basic Law very clearly provide for the continued service of judges and other members of the judiciary. In view of the firm safeguards already provided for in the Joint Declaration and the Basic Law, there is no need for discussion in the JLG or indeed any other forum about this issue.

何俊仁議員問：主席先生，我跟進的質詢是這樣。最近有一些接近中方的人士指出，因應主權的轉移，香港法官須要重新任命，而在任命過程中，可能有一個審查的程序。為了確保香港的司法獨立及法官能夠根據《中英聯合聲明》順利過渡，政府可否清楚表明，如果有需要進行確認的話，一定會堅持只是儀式，而非絕不能接受的政治審查？

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, as I stressed in my principal answer, the Joint Declaration and the Basic Law provide for the continued service of judges and other members of the judiciary after 1997. Neither the Joint Declaration nor the Basic Law prescribes a re-appointment procedure for judges and other members of the judiciary serving in Hong Kong before the establishment of the HKSAR. Any possible arrangements that the SAR Government may wish to make to effect the continued service of these judges should be no more than a procedural formality, for example, taking the oath of allegiance under Article 104 of the Basic Law.

MR MARTIN LEE: *Mr President, is the Government aware of, and does the Government agree with:*

- (1) *a recent interpretation from the members of the Legal Sub-Group of the Preparatory Committee on Article 93 of the Basic Law, that the clause "judges may all remain in employment" and so on, means that judges may but equally may not be employed after the change of sovereignty on 1 July 1997; and*

- (2) *another interpretation by a senior official of the Hong Kong and Macau Affairs Office of the Chinese Government, that though judges may retain their seniority with pay and other conditions of service no less favourable than before, they could actually be demoted?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, it is not for me to comment on what the Legal Sub-group of the Preparatory Committee has or has not deliberated. This is something that is not in my area, nor is it really out in the public domain. But I would like to comment on the two points made by the Honourable Member.

I am sure the Honourable Member, being a prominent lawyer, should realize that the word "may" only means that judges, like other public servants, are not compelled, that is, forced, to remain in the service if they do not wish to. Some judges and other members of the judiciary may well have reached the retirement age by the time the transition takes place, or perhaps decide to leave for other reasons, and that is the whole purpose and objective of the word "may" in the Joint Declaration.

The second point is whether serving judges would retain their existing posts. Now, obviously, the Joint Declaration and Basic Law provide that these judges may remain in employment and retain their seniority and conditions of service no less favourable than before. There could, of course, be changes arising, for example, from promotions. There is no provision for demotions and indeed the Joint Declaration and the Basic Law provide that they remain in the service with the same seniority and with the same terms of service as before.

MISS MARGARET NG: *Mr President, in view of the public concern aroused on this important issue, will the Administration inform this Council whether clarification has been sought or is going to be sought with the Chinese authorities as to the understanding and the process whereby the judges employments are going to be continued and whether it is going to be conditional upon some process of confirmation or conditional upon some qualifications being checked or fulfilled?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, I would not like to repeat the various answers I gave to Mr Albert HO and also the supplementary raised by him. In a nutshell, the Joint Declaration and Basic Law provide for the continued service of members of the judiciary. It is very clearly stipulated. As I said, we have no reason to doubt that these provisions will be complied with and there is no reason why we would therefore need to seek any clarification.

PRESIDENT: Miss NG, are you claiming that your question has not been answered?

MISS MARGARET NG: *Indeed, Mr President, my question was on the process. Article 93 does not refer to any process. My question was whether the Administration has sought clarification on the process whereby employment is to be continued?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Again, Mr President, in my answer to the supplementary raised by Mr HO, I said that there is no provision in the Joint Declaration and Basic Law to prescribe a re-appointment procedure, if that is what Miss NG means by the process. And in any case, any possible process or any possible arrangements that the SAR Government may wish to make to effect the continued service, as I said, should be no more than a procedural formality, for instance, the taking of the oath in Article 104 of the Basic Law.

PRESIDENT: Miss NG, I do not wish to see this turning into a debate.

MISS MARGARET NG: *Not a debate, Mr President, with respect. May I reduce my question. My question is one of whether clarification has been sought or is going to be sought? The Secretary refers to things the Chief Executive may or may not do, so hence my question, in view particularly of that part of his answer, whether he intends to seek clarification? It is a yes or no question.*

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, we have no plan to do so, and not because we do not want to do that, but because there is no need to do that as there is no requirement whatsoever in the Joint Declaration and the Basic Law about re-appointment process or procedures for serving judges.

鄭家富議員問：主席先生，據報道現任司法人員均要認同和表態支持臨時立法會才可平穩過渡。這問題令不少官員進退維谷，亦挑戰司法獨立的制度。請問政府在反對臨時立法會之時，有否透過任何渠道向中方澄清及反映這個表態的問題？

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, there is no requirement at all in the Joint Declaration or the Basic Law about the acceptance of the provisional legislature as a pre-condition for continuation of service.

鄭家富議員問：主席先生，我的質詢是，既然有這樣的報道，政府有否找渠道去澄清？

PRESIDENT: I think the answer was no.

李永達議員問：主席先生，請問憲制事務司，中方有否透過中英聯合聯絡小組向英方表示，所有法官過渡須要表態支持臨時立法會？若否，那麼最近有一些籌委透過飯局，要人間接表態支持臨時立法會的做法，是否狐假虎威，藉這件事去進行政治審查？

PRESIDENT: The last part was argumentative. Secretary, the first part.

SECRETARY FOR CONSTITUTION AFFAIRS: Mr President, I think I gave the answer to an earlier question. There is no such requirement in the Joint Declaration and Basic Law for accepting the provisional legislature or indeed any condition other than judicial quality and ability for appointment to the Bench.

MISS EMILY LAU: *Mr President, I want to follow up on the use of the word "may" versus the use of the word "shall". According to Article 93, as the Secretary just told us, judges and other members of the judiciary serving in Hong Kong right now "may" all remain in employment and retain their seniority with pay and so on after 1997, and the same expression is used in Article 100 for public servants saying they "may" all remain in employment and retain their seniority with pay and so on. But Mr President, if we look at Article 91 of the Basic Law, it says the HKSAR "shall" maintain the previous system of appointment and removal of members of the judiciary. And Article 92 says judges and other members of the judiciary of the SAR shall be chosen on the basis of their judicial and professional qualities and so on. Mr President, may I ask the Secretary for Constitutional Affairs, being a constitutional law expert, to enlighten Members? Of course, he did not draft the Basic Law, but what is his understanding of the usage of the two words? He said with "may" the option is on the judges, they "may" retire, they "may" leave. But my understanding is "shall" is a matter of course. He "shall" remain. But with "may", it maybe that the Chief Executive or the Chinese Government does not want him to remain so he "may" not remain. Can he give us some clarification please?*

PRESIDENT: Miss LAU, I think you have ruled yourself out of order. You are seeking the expression of a legal opinion, the solution of a certain legal problem. But I think on the question of "may" and "shall", Secretary, you answered to the effect that "may" means certain things. Would you like to repeat that please?

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, I have no intention of engaging in the debate or the argument about the meaning of the words. But if we have to apply a face value to the interpretation of the words "shall" or "may" in the relevant context, I think it is very obvious and clear, to me

at least, and I am sure to some of the students in the gallery

PRESIDENT: Secretary, you are not supposed to address the students. You are not supposed to address the public gallery. (*Laughter*)

SECRETARY FOR CONSTITUTIONAL AFFAIRS: My apologies, Mr President.

As I said, one has to interpret the word in the relevant context. In the case of Article 93 of the Basic Law, it is obvious that "may" refers to the option to be given and exercised by the individual judge or individual public officer concerned. If the judge has reached retirement age or about to reach retirement age or for one reason or another wants to leave the job, then obviously you cannot compel him to serve beyond 1997. So, in that context, the word "may" obviously provides the judge with the flexibility and the option that he could duly exercise. In the context of the other article quoted by Miss LAU, obviously the word "shall" indicates that the need to maintain, the need to oblige the system to be maintained and the option is not for the authority to pick and choose the system that should or should not remain. That would be my layman's interpretation of the words.

MISS MARGARET NG: *Mr President, will the Secretary tell this Council whether he has noticed a difference between the English version of Article 93 and the Chinese version? The Secretary has just explained that as far as he understands it, "may remain" refers to an option to be exercised by the judge, whether he wants to remain or he does not want to remain. However, in the Chinese version, Mr President, and I seek leave to use these four Chinese characters, it says "均可留用" which translated literally means "may be retained". "May be retained" is not the same thing as exercising an option to remain. It appears that it says there is an option to retain or not to retain. So I go back to my question which is whether the Secretary has noticed the discrepancy and what does he understand by that?*

PRESIDENT: It has become even more esoteric now (*Laughter*) — legal differences between the words "shall" and "may" and the legal meaning of certain Chinese words, "均可留用". Secretary, not expressing a legal opinion though.

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, I do not accept the premise of the question in the first place. The premise of the question is that there is a discrepancy. It is not for me to prove or disprove that there is a discrepancy. It is for the Honourable Member to show that there is a discrepancy. As far as I can understand it, as far as I am concerned, the wording in Article 93 of the Basic Law, is as I explained.

PRESIDENT: Miss NG, are you claiming that your question has not been answered?

MISS MARGARET NG: *Indeed, Mr President, my question was*

PRESIDENT: I think that should be taken up in a Panel meeting, which might prove to be more useful. May I suggest that.

MISS MARGARET NG: *Mr President, of course I will obey your ruling, but may I just finish the sentence?*

PRESIDENT: Please do.

MISS MARGARET NG: *My question is really whether the Secretary has addressed his mind to that point?*

PRESIDENT: I think the Secretary has a lot of matters on his mind. Secretary.

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, I am afraid I have nothing further to add to the various exchanges between the three of us.

MR MARTIN LEE: *Mr President, whereas I am quite satisfied with the Secretary's answer to my supplementary question earlier on and I will give him 80 out of 100, but the point is has he made sure that his interpretation is agreed to by the Chinese team on the Joint Liaison Group? Otherwise, he interprets one thing and they interpret the other and they will be the sovereign in 400 days' time.*

PRESIDENT: Secretary, I think Mr LEE is asking you to answer part (b) of the original question by changing one word, that is to request the JLG to "agree on" the meaning of "may all remain in employment" and not just "explain".

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, there are of course very clear provisions in the Basic Law on how to deal with difficulties of interpretation. I do not think we are in that situation yet, as I said there is no reason to suggest that Article 93 would not be complied with. If there are difficulties in future about interpretation, one would have to rely on the prescribed arrangements for seeking a proper interpretation. I do not think we are at that stage yet.

MR MARTIN LEE: *Mr President, but the Chinese side has actually made known their interpretation which apparently he does not agree with and I happen to agree with him. So the question, Mr President, is, surely does he not realize it is now very necessary and indeed important for the British Joint Liaison Group team to seek the agreement of their counterparts and have this worked out now before it is too late.*

PRESIDENT: That was not put in the form of a question, Mr LEE.

MR MARTIN LEE: *Oh yes. Does the Government agree that they have now a duty?*

PRESIDENT: Yes, thank you.

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, could I seek your permission for the Honourable Member to elaborate on his statement that a certain Chinese official has explained or declared or defined the provision in Article 93 of the Basic Law.

PRESIDENT: It is becoming a debate now.

MR MARTIN LEE: *I have not been trying to provoke a debate.*

PRESIDENT: Mr LEE, please resume your seat. Secretary, are you asking whether or not Mr Lee is prepared to substantiate his claim that a certain Chinese official has made such a statement?

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Yes, Mr President, before I can answer the question.

MR MARTIN LEE: *I believe it was Mr CHEN Zi-ying who made the second statement that I referred to. In other words, that judges may not actually keep their same position. In other words, a High Court judge could or may not actually sit in the High Court but in the District Court. That was the implication of his statement. But is the Secretary telling us that he is not even aware of that?*

PRESIDENT: That was not a substantiation of your claim that a certain Chinese official made those remarks.

MR MARTIN LEE: *Where is the answer? I asked a question.*

PRESIDENT: The Secretary was not prepared to answer the claim on your part which you cannot substantiate.

MR MARTIN LEE: *Well, I thought I gave him the name. What else does he want?*

PRESIDENT: You said you believe; you simply believe.

MR MARTIN LEE: *Well, I cannot be 100% sure. (Laughter)*

PRESIDENT: The answer was very clear. The Secretary was not prepared to answer your question.

MRS ELIZABETH WONG: *Mr President, I have checked against the Standing Orders. I am sure I will not be ruled out of order.*

May I ask the Secretary to agree that the distinction between "may" and "shall" is in simple layman's terms, because I believe the law is also for laymen not only for lawyers, in simple layman's terms the same as the following example; the judge on departure from Hong Kong may sell sea shells on the sea shore but the shells he sells "shall" be sea shore shells? Thank you. My apologies to the interpreter. Thank you. (Laughter)

PRESIDENT: Is your supplementary in any way related to the original question? *(Laughter)*

MRS ELIZABETH WONG: *Yes, Mr President. It is a distinction between*

"may" and "shall". "Shall" is in the Basic Law, "may" is in the Secretary's answer. So I would like to compare the two.

PRESIDENT: I do not regard this exchange very productive. We have been concentrating too much on the difference between the words "may" and "shall".

Miss Emily LAU, I thought you wished to have a second supplementary.

MISS EMILY LAU: *Mr President, I suggest we move on.*

Effectiveness of Unleaded Petrol in Reducing Air Pollution

3. 劉健儀議員問：主席先生，為了減低空氣中的含鉛量所做成的污染，政府在一九九一年引入無鉛汽油，並在一九九二年開始禁止使用含鉛汽油的車輛入口。為了鼓勵駕車人士轉用無鉛汽油，政府更對無鉛汽油徵收較含鉛汽油為低的汽油稅。就此，政府可否告知本局：

- (a) 自上述措施實行後，空氣中的含鉛量有否減低；若有，請提供過去五年內空氣質素有所改善的資料；
- (b) 自引入無鉛汽油後，政府共減少了徵收多少汽油稅；及
- (c) 政府用甚麼準則評估“無鉛汽油政策”是否真正符合“成本效益”的原則，以及達到減低空氣污染的目標？

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, my answer to the three-part question is as follows:

- (a) The introduction of unleaded petrol in 1991 has contributed to reductions in lead emissions in the air and built on steps which had

been taken before 1991 to reduce the lead content of petrol fuel. Currently, less than 20 tonnes of lead is emitted into the air per year, which amounts to a reduction of 50% from the 1991 figure. Consequently, the three-month average level of lead in air is below 0.15 microgrammes per cu m, which is below 10% of the Air Quality Objective value. However, it should be noted — as we pointed out in the *1989 White Paper on the Environment* that unleaded petrol was introduced not only to reduce lead emissions but also to pave the way for the use of catalytic converters, made mandatory in 1992, which would reduce emissions of nitrogen dioxide, carbon monoxide and hydrocarbons from petrol vehicles. As a result of these measures, and despite an increase in the petrol vehicle fleet by about 35% from 1991 to 1995, the levels of these three pollutants in air have largely been maintained with their Air Quality Objectives values. However, as the Administration has been at pains to point out, to this Council and the public, air pollution from vehicle emissions remains a serious community health problem, mainly because of the high level of particulates emitted by diesel vehicles.

- (b) There has been no reduction in petrol duties because the lower duty for unleaded petrol has been offset by the higher duty for leaded petrol.
- (c) I believe it would be fair to say that the unleaded petrol policy has been cost-effective in minimizing air pollution taking into account the measured air quality benefits which I have mentioned, the fact that, as noted above, there is no cost to government, and that the pump price of unleaded petrol is less than leaded petrol and therefore affordable to motorists.

劉健儀議員問：主席先生，規劃環境地政司的答覆(a)段指出現時每年排放於空氣中的鉛量少於20公噸，較一九九一年減少了一半。請問規劃環境地政司，這個資料數據的基礎是甚麼？根據環保署空氣測試站的資料，經分析後，有關的數據顯示一九九一年，空氣中的含鉛量是每立方米64.73微克，

但到九三年已升至每立方米93.48毫克，九四年每立方米83.44微克。這項資料數據與規劃環境地政司剛才告知我們減少一半是剛好相反的。請問規劃環境地政司對這個情況有甚麼解釋？

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: In answering this question, Mr President, can I ask whether the Honourable Member is referring to the annual measurement of lead or the quarterly measurement of lead? I was using the quarterly figure which at current level is below 0.15 microgrammes per cu m, as I said, and Mrs Miriam LAU may be referring to the annual measurement.

PRESIDENT: I think the main thrust of the question was whether it is rising instead of your claim that it has been falling, Secretary.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I stand by what I said. The quantity of lead measured in the air as detected by the Environmental Protection Department (EPD) now is actually below 0.15 microgrammes per cu m.

劉健儀議員問：主席先生，顯然規劃環境地政司未能答覆我的質詢，如果他現時掌握不到有關數據的話，希望他用書面向我提供答覆。

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: I can certainly do that, Mr President. (Annex I)

黃秉槐議員問：主席先生，劉健儀議員的質詢說為了鼓勵駕車人士轉用無鉛汽油，政府更對無鉛汽油徵收較含鉛汽油為低的汽油稅。我想請政府澄清當年政府並沒有減低無鉛汽油的價格，政府只對含鉛汽油增加稅收，引致含鉛汽油價格飛漲？如果我說的是正確的話，那麼，政府答覆(b)段是錯誤的。

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, the policy on petrol duty is not within my area, but I will try my best to

answer this question. As I said in my main reply, the intention of the policy at that time was to equalize cost and revenue by raising the duty on leaded petrol and thus creating a differential whereby it would be cheaper for motorists to use unleaded petrol.

黃秉槐議員問：主席先生，我未獲答覆的那部分質詢可否有書面答覆？因為問題是如果是這樣的話，政府並非鼓勵駕車人士使用無鉛汽油，而只是懲罰使用含鉛汽油的駕車人士。

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: I think it is a matter of interpretation, Mr President, because we could have increased leaded petrol duty regardless of whether unleaded petrol was introduced at that time. But the differential in duty policy at that time was we would raise the duty on leaded petrol and thus making unleaded petrol cheaper to use.

PRESIDENT: And you are saying whether we ought to describe half a bottle of wine as half-empty or half-full. *(Laughter)*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Your wisdom is beyond me, Mr President. *(Laughter)*

MR RONALD ARCULLI: *Mr President, in view of the answers given to the two previous supplementary questions, I wonder whether the Secretary will consider going away with the question originally asked by my colleague, Mrs LAU, and perhaps consulting the EPD about it and giving us a full written answer, hopefully explaining the discrepancies that both Mrs LAU and Mr WONG have highlighted?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Yes, I would, Mr President. (Annex II)

何承天議員問：主席先生，規劃環境地政司在答覆中說自從引入無鉛汽油後，每三個月計的空氣中的平均含鉛量少於0.15微克，又說是低於空氣質素

指標值的10%，我並不清楚所謂低於空氣質素指標值是否即更好或更差於質素指標？若是更差——我的質詢與剛才黃秉槐議員也有關連，是否表示政府的稅制不能吸引人使用無鉛汽油？

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, I think the reverse is true. Perhaps I will spend a bit of time explaining what we mean by Air Quality Objectives. We set up such objectives on seven components of our air. They include sulphur dioxide, nitrogen dioxide, carbon monoxide, respirable suspended particulates, total suspended particulates, ozone and lead.

For lead, our Air Quality Objective, which is actually stated in Regulations to the Air Pollution Ordinance, is at a quarterly measurement as 1.5 microgrammes per cu m. Any excess of that means that we fall behind, or rather we exceed it, or rather we become bad in terms of our air quality in respect of that count. Our objective is Hong Kong should not exceed a quarterly measurement average of 1.5 microgrammes per cu m. As I explained in my principal reply, the current measurement is 0.15 microgrammes per cu m and, that is, we are at 10% of the worst case scenario which we can accept.

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

何承天議員問：主席先生，我仍未明白。我想請問他究竟現在所達到的空氣質素是比較其目標好或差，這是很簡單的。但我不明白他剛才的答覆。

PRESIDENT: I think the explaining ought to be done at a Panel meeting. But Secretary, please answer the very simple question: better than or worse than the objective?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, in a simple layman's term, we are only 10% of the worst case scenario, meaning we are very good on that count.

PRESIDENT: It is still very technical. (*Laughter*)

謝永齡議員問：主席先生，大家都知道含鉛汽油的鉛對身體健康有負面的影響，特別對兒童而言。政府究竟有沒有時間表或計劃去停止使用含鉛汽油？如果沒有時間表，則又如何？

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, we are continually monitoring the situation. If we want to use a different type or content of fuel, we have to take into account three factors. The first factor is whether such fuel is actually manufactured and available and also available in Hong Kong. The second is whether car technology and car manufacturing will be able to make the best use of such fuel. And the third is whether in the circumstances of the place concerned, legislation or other enforcement measures and standards can be set to reach that target. In Hong Kong, we look at all three continuously and monitor the situation. As soon as there is available evidence to demonstrate that lower leaded fuel is available, and when car technology can match, we will consider amending our legislation.

MRS SELINA CHOW: *Mr President, could the Secretary explain how it can be logical to substantiate paragraph (b) of the answer that there has been reduction in petrol duties, when the Government has in fact made every effort to induce the phasing-in of unleaded petrol and the phasing-out of leaded petrol by applying lower duty on the former and higher duty on the latter?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, the statement I gave was the policy at that time of how we wanted to introduce a programme. Of course, it is possible that, as time goes on and the market shares of leaded petrol and unleaded petrol may change and fluctuate from time to time, the original equalization formula is not exactly the same.

I have nothing further to add to what I have said, but if any further detailed calculations are required, I will be quite happy to consult my colleagues in the

Finance Branch and see when further information can be provided.

劉健儀議員問：主席先生，答覆(a)段提及空氣污染對本港市民健康的影響。請問規劃環境地政司，政府會否進行調查研究，找出空氣中的鉛對市民健康的影響？

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, can I suggest, with your permission, that we discuss this at the Panel of the Council as there are numerous publications available already on the harmful effect of lead in air to health.

Award of Compensation under Public Finance Ordinance

4. 鄭家富議員問：主席先生，《公共財政條例》第 18A(1)條授權立法局可藉決議從政府一般收入中整筆或分期付出補償金，定給在執行道德或法律義務以協助防止或對抗罪行時受傷的人，或定給在上述情況下受傷致死者的受養人。政府可否告知本局：

- (a) 政府對引用此條文的具體政策為何；
- (b) 政府在何種情況下才會引用此條文；及
- (c) 政府基於甚麼準則計算補償金的金額？

SECRETARY FOR TREASURY: Mr President, the provisions in section 18(A)1 in the Public Finance Ordinance first featured in the Compensation (Special Cases) Ordinance enacted in 1949. These provisions were subsequently transferred first to the Interpretation and General Clauses Ordinance enacted in 1966, and then to the Public Finance Ordinance in 1993. When moving the Compensation (Special Cases) Bill in July 1949, the then Attorney General explained that the object was to provide an enabling measure for the award of compensation to a person injured or to the dependants of a

person killed in fulfilling a duty to uphold the law. It was made clear then that the legislation would not attempt to prescribe the conditions or circumstances in which an award of compensation should be made or the amount which should be awarded as this would enable each case to be judged on its merits. This remains the situation today.

That said, the provisions have not been used for a long time, certainly not at all since their transfer to the Public Finance Ordinance. This is because the Administration may award compensation and *ex-gratia* payments using normal Estimates procedures under the Public Finance Ordinance. Provision for such award is made under Head 106 Miscellaneous Services Subhead 284 — Compensation and is approved by this Council annually in the context of the Appropriation Bill. Any supplementary provision required during the year may be approved by the Finance Committee or by delegated authority as appropriate. That subhead provides for the grant of *ex-gratia* payments and the settlement of claims made against the Government (other than those compensation which should be charged to specific subheads, such as those connected with land, public works, mail and for civil servants under the Employees' Compensation Ordinance).

鄭家富議員問：主席先生，在一九六九年三月十二日的立法局會議席上，政府已經初次引用有關條例通過決議案，向防止罪案發生的傷亡人士作出賠償。當日紀錄顯示，議員希望政府能夠改進行政措施，要求政府主動利用條例撥款給傷亡人士。請問政府可否跟隨當日立法局的決定，主動引用這條條例，又或者正如今天庫務司的答覆，既然有其他渠道給予撥款賠償，政府會否撤銷現行《公共財政條例》第18A（1）條？

SECRETARY FOR THE TREASURY: Mr President, when the relevant provisions were transferred from the Interpretation and General Clauses Ordinance to the Public Finance Ordinance, it was part of an overall exercise in the review of the provisions of the former Ordinance. Therefore, at that time, no consideration was given as to whether or not there is a continued need for section 18A(1) in the Public Finance Ordinance. And in our view, it is in fact desirable and preferable to use normal Estimates procedures where it becomes necessary and justified to consider and make awards of compensation under Head 106 Miscellaneous Services Subhead 284 — Compensation.

Where it is necessary and justified, I am sure that my departmental and branch colleagues will take the initiative to consider the necessary compensation cases.

廖成利議員問：主席先生，答覆內說這條文已經很久未被引用，但是很久未被引用並不等於從來未被引用。我想問政府由四九年至九三年這44年間，有否引用過該條文的例子？政府似乎避開這問題，如果從來未被引用過，政府是否認為《公共財政條例》的一般預算程序已經足夠和已能適當處理第18A條的功能呢？因為政府可以作出預留支出的預算，但第18A（1）條卻令政府難於做到這個預算，是否這樣呢？

SECRETARY FOR THE TREASURY: Mr President, I have not tried to avoid answering questions about whether or not section 18A of the Public Finance Ordinance has been used or not in the past. I think I made a very clear answer to that: it has not. But the previous provision before its transfer, as far as we could trace from our records, is that they have been used twice. In 1969, two Resolutions to award compensations were approved under section 95(1) of the Interpretation and General Clauses Ordinance then.

As to the second part of the Honourable Member's question, as I have said, it is in our view preferable and more desirable to use normal Estimates procedures to consider compensation cases.

MISS MARGARET NG: *Mr President, in those cases referred to by the Secretary, the criteria used for calculating the amount has been equivalent, or more or less equivalent, to the amount of a civil claim arising from the incident. Will the Secretary inform this Council whether under Subhead 284 the same criteria is going to be adopted by the Administration?*

SECRETARY FOR THE TREASURY: Mr President, in fact, I have read the relevant Hansard records and I am afraid it is not as precise as suggested by the Honourable Member. The records do show that the amount of compensation was based on the assessed needs of the deceased's dependants in both cases, but

it is not entirely clear as to precisely how the amount was arrived at. I am afraid the detailed records have been lost in the mist of time.

That said, I think the essential point that we would wish to bear in mind is that in considering *ex-gratia* compensation or payments, we have to consider each case on its merits and we have to consider all the circumstances involved, and that would be the approach that we would adopt when considering compensation under the normal Estimates procedures.

PRESIDENT: Miss NG, are you claiming that your question has not been answered?

MISS MARGARET NG: *Mr President, I look for clarification referring to the cases referred to by the Secretary. Mr President, if I may refer the Secretary to one of those cases, I think it is the first case in 1969 made to one Mrs CHAN Lai-chuen*

PRESIDENT: Miss NG, I will put you down for a further supplementary so that other Members may have a chance.

MRS ELIZABETH WONG: *Mr President, from the second paragraph of the Secretary's reply, it is clear that the law on compensation is as antiquated as it is mean. May I seek clarification from the Secretary that Head 106 Miscellaneous Subhead 284 — Compensation only covers the settlement of claims made against the Government. I raise this question specifically because arising from recent media reports, a civilian hero, in attempting to foil an armed-robbery gang, was paralyzed in the process and won a little pittance for his bravery from which sum he had to pay legal costs. So, the follow-up to that question, which is the same question, is: If Head 106 Miscellaneous Services Subhead 284 only covers cases against the Government, is there a fund to compensate people who*

are injured in the process of helping police in combating crime, and to cover legal costs? If not, why not?

PRESIDENT: Mrs WONG, are you extending the question to cover compensation towards the police?

MRS ELIZABETH WONG: *Yes. Mr President, it is in respect of the final paragraph of the Secretary's reply where he stated in his reply that Head 106 Miscellaneous Services Subhead 284 — Compensation covers the settlement*

PRESIDENT: Mrs WONG, I think we heard you loud and clear. I suppose if section 18A of the Public Finance Ordinance was agreed to by the Government and if the Government is prepared to use it, it can cover police cases too.

SECRETARY FOR THE TREASURY: Mr President, perhaps I read my answer too quickly because the last sentence reads like this:

"That subhead provides for the grant of *ex-gratia* payments and the settlement of claims made against the Government"

So in fact it does cover not only settlement of claims against the Government, and in the case referred to by the Honourable Member, I understand that it is being considered by my colleague, the Secretary for Security, and I would defer to him if he would wish to elaborate.

SECRETARY FOR SECURITY: Mr President, we are at the moment considering the making of an award to Mr YEUNG in the light of his bravery and public spirit, although the Government has no legal liability to Mr YEUNG. But given the circumstances surrounding the incident which led to Mr YEUNG's

injury, we feel that we should award him an *ex-gratia* payment in recognition of his gallant act in trying to stop crime, and to ensure that he and his family can enjoy a stable living, notwithstanding his injury.

A small group convened by the Security Branch and comprising representatives of relevant branches and departments is considering the details of the case, including such questions as the appropriate amount of the award and the manner in which payment should be made.

PRESIDENT: Mrs WONG, are you claiming that your question has not been answered?

MRS ELIZABETH WONG: *Mr President, may I ask that the two Secretaries accept*

PRESIDENT: Which part of your question has not been answered?

MRS ELIZABETH WONG: *Mr President, can I finish my sentence? May I ask that the two Secretaries*

PRESIDENT: Which part of your question has not been answered, Mrs WONG?

MRS ELIZABETH WONG: *Both parts have. May I ask? Can I finish my question please, Mr President, before you rule it out of order?*

PRESIDENT: If you claim that your question has not been answered, state which part?

MRS ELIZABETH WONG: *Both questions have been answered. May I ask*

that the Secretaries accept my personal gratitude for their generosity and sympathy in considering the case.

PRESIDENT: Mrs WONG, please state the part of a question that has not been answered.

MRS ELIZABETH WONG: *I was saying that they have both answered my questions. May I ask that they accept my gratitude. That is the question.*

PRESIDENT: You are not supposed to make a speech, Mrs WONG, and please refrain from doing so in future.

MRS SELINA CHOW: *Mr President, the Secretary for the Treasury has in fact repeatedly said that each case should be judged on its own merits. In view of the questions that have been asked of the past and of this case which is now widely debated in public, does the Government intend to establish a set of basic criteria against which cases will be assessed? And if not, how can the Government ensure that such cases would be assessed fairly and consistently?*

SECRETARY FOR THE TREASURY: Mr President, I am afraid I have to emphasize that each case will indeed have to be assessed on its own merits. Whether an award should be granted would normally depend on the following factors:

- whether the Government is legally liable;
- the role of the person seeking the compensation and the damage; and
- the extent of loss or injury sustained.

As to the amount of award, it is always a fine balance between the need to be prudent with the use of taxpayers' money and the judgment on what a reasonable

amount would be, having regard to all the relevant factors. The factors for consideration would normally include the extent to which the Government is liable, the circumstances leading to the damage, loss or injury, and the circumstances of the person seeking compensation.

To help us arrive at a reasonable amount, we invariably seek legal advice from our colleagues in the Attorney General's Chambers, draw reference from relevant similar precedent cases, and consult the responsible Policy Branches and departments.

黃偉賢議員問：主席先生，我想提出的質詢剛才保安司基本上已回答了，我想跟進庫務司在答覆內第二段說有關條文轉移至《公共財政條例》之後一直未被引用，因為可以引用一般預算程序在總目106雜項服務分目284的補償下可以發放這些補償金。究竟政府會根據甚麼情[□]準則來決定引用《公共財政條例》來作出補償或是引用總目106雜項服務分目284的補償呢？用怎樣的準則來決定，是用《公共財政條例》還是總目106呢？

SECRETARY FOR THE TREASURY: Mr President, as I have said, our preference is to use normal Estimates procedures and a request or suggestion for *ex-gratia* payment is normally first considered by the responsible department or Policy Branch. The Policy Branch will, if it considers it justified, make a recommendation to us, Finance Branch, for an award of *ex-gratia* payment. In recommending an award, the Policy Branch or department concerned would set out the details of the case and the justification for making the award, and the proposed amount of award.

Legal advice will be sought and the relevant branches and departments will be consulted before a decision is made on whether an award should be granted and how much the amount should be.

So, in a nutshell, the initiative rests with the relevant department and Policy Branch.

PRESIDENT: Secretary, the question was what criteria would you adopt to decide whether you invoke section 18A of the Public Finance Ordinance or use

the normal procedure?

SECRETARY FOR THE TREASURY: Mr President, as I have said, our preference is to use the normal Estimates procedure and so far there has not been a single case which cannot be dealt with in that way.

黃偉賢議員問：主席先生，庫務司沒有回答我的質詢。

PRESIDENT: Mr WONG, The answer was given.

黃偉賢議員問：但他的答覆說政府一般是喜歡用.....

PRESIDENT: The answer was the Government is not prepared to use section 18A of the Public Finance Ordinance.

黃偉賢議員問：但政府不是按喜好來辦事的吧！

PRESIDENT: This is not a debate, may I remind you, Mr WONG.

張炳良議員問：主席先生，既然庫務司說《公共財政條例》第18A（1）條一直未被引用，而政府喜歡用一般的預算程序來發放有關的補償基金等，政府有否考慮修訂《公共財政條例》第18A（1）條呢？

SECRETARY FOR THE TREASURY: Mr President, I thank the Honourable Member for his advice and will consider that when the opportunity arises.

PRESIDENT: And you may wish to seek his support too.

Origin of Goods Procured by Government Supplies Department

5. 劉慧卿議員問：就政府物料供應處所採購的物料的原產地這一方面，政府可否告知本局：

- (a) 基於甚麼準則決定從哪個國家採購物料；
- (b) 在過去兩年內所採購的全部物料的總值中，從英國購入物料的價值所佔的百分比為何；及
- (c) 是否有計劃日後採購更多由中國大陸生產的物料；若有，原因為何；又日後會否繼續沿用(a)項答覆所訂的準則，以決定採購物料的地方？

庫務司答：主席先生，這項質詢包括三個部分，現答覆如下：

- (a) 政府在採購物料時，會提供一個公平競爭的環境。我們的目的，是確保本地及外國供應商能夠公開和公平地競爭。我們會採納最符合物有所值原則的報價，同時亦會顧及有關物料是否符合用家的需求、價格是否具競爭力、維修及其他操作費用、以及性能的可靠程度；在需要時，亦會考慮貨品的售後服務。貨品的來源地，並非批出合約的考慮因素。
- (b) 政府物料供應處在一九九四年及一九九五年採購的貨品中，就價值每份為5萬港元或以上的合約來說，英國獲批的合約分別佔當年合約總值的9.7%及12%。有關各主要供應商市場佔有率的進一步詳情，載於答覆文本的附表內。至於小額合約方面，我們並沒有根據來源地劃分的分項數字。
- (c) 我們並不打算更改我在答覆質詢第一部分時所概述的採購物料政

策。

按供應產品來源地劃分的合約
(按價值遞減的順序列出)

一九九四年				一九九五年			
國家	價值 以百萬港元計	佔有率		國家	價值 以百萬港元計	佔有率	
1. 美國	1,332.3	31.6%		1. 美國	1,528.0	34.2%	
2. 英國	407.8	9.7%		2. 英國	533.8	12.0%	
3. 中國	341.1	8.1%		3. 德國	422.2	9.5%	
4. 德國	222.9	5.3%		4. 中國	363.3	8.1%	
5. 日本	193.4	4.6%		5. 日本	208.8	4.7%	
6. 新加坡	181.9	4.3%		6. 香港	152.4	3.4%	
7. 澳洲	125.7	3.0%		7. 瑞士	129.4	2.9%	
8. 法國	100.2	2.4%		8. 法國	109.1	2.4%	
9. 瑞士	96.0	2.3%		9. 荷蘭	100.6	2.3%	
10. 香港	95.0	2.2%		10. 馬來西亞	98.8	2.2%	
11. 其他	1,116.3	26.5%		11. 其他	817.1	18.3%	
	-----	-----			-----	-----	
	4,212.6	100%			4,463.5	100%	
	=====	=====			=====	=====	

註：上述統計數字指年內批出、價值為5萬港元或以上的合約。

劉慧卿議員問：主席先生，政府在主要答覆中提到，採購物料的準則是物有所值，並會提供一個公平競爭的環境，也會顧及物料的價格、是否具競爭力、性能的可靠程度等。這些我們都很支持。我們從主要答覆的附表得知，在一九九四年，香港排在第十位，即佔2.2%；而在九五年，香港升至第六位，但也只是佔3至4%。這是否顯示香港貨物的競爭能力和可靠程度都不及附表中其他國家？

庫務司答：主席先生，我覺得不可以此來下定論，因為很多我們購買的貨物，例如一些高科技設備，或一些有專利權的貨品，香港是沒有出產的。因此，即使香港在整體供應方面的佔有率較低，但也不代表我們的貨物的競爭力不及其他國家。

單仲偕議員問：主席先生，請問甚麼價值的貨品合約才需要經過公開投標程序；以及如果政府不採用最低報價這準則，會以甚麼程序進行批核？

庫務司答：主席先生，一般而言，超過5萬元港幣的合約，我們都盡量會用公開投標的方式批出。然而，在某些情況下，如果採購的物品是我剛才所提到的具有專利權或獨家生產的產品，例如某些藥物，我們就不能採用完全公開的投標方式。此外，如果某些貨物的規格較特別，我們會在公開投標前，進行規格審定。在決定了詳細的貨品要求後，如果有供應商能滿足所有要求，我們一般會以價低者得。

羅祥國議員問：主席先生，工商司在最近給我的回信中證實，美國政府最近已經禁止所有美國的政府機構購買香港產品。請問香港政府有否考慮對美國政府採取相應的報復措施？若否，原因為何？

庫務司答：主席先生，我不肯定羅議員剛才所說的事的確實程度，所以我很

難作答。不過，一般來說，我們不會利用香港政府的採購方式或政策來作出貿易報復。

陳婉嫻議員問：主席先生，我們知道不少國家及地方在採購貨品時，都鼓勵採用本地產品。庫務司剛才回答劉議員的質詢時所提及的準則，並沒有包括這項。請問除了高科技產品外，如果香港和外國同樣生產政府所須採購的物品，我們是否應該以先採用本地產品作為準則？

庫務司答：主席先生，正如我在主要答覆中所說，貨品的來源地，並非批出合約的考慮因素之一。

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

陳婉嫻議員問：我的質詢是，政府將來會否以此作為準則？

PRESIDENT: I think your question is the reverse of Dr LAW Cheung-kwok's question.

陳婉嫻議員：是不同的。

庫務司答：主席先生，簡單的答案是“不會”。

李卓人議員問：主席先生，剛才庫務司在回答劉慧卿議員的補充質詢時表示，向外國採購的可能是高科技產品。但我想提醒庫務司，香港的製衣業是最了不起的，而我的質詢是有關這方面的。香港的警察制服本來是在香港製造，但上次投標時，卻被一名取回大陸生產的生產商成功投得，因為他的價錢較廉宜。政府會否在以後的政府制服投標程序中，規定投標者必須在本地

生產，以體現香港人用香港貨的精神，並可維持本地工人的就業機會？我認為最重要的是可以向世界表示，我們對香港的車衣工人的生產質素具有十足信心。如果香港政府都不採用本港貨的話，又怎能令外國投資者來港購買港貨呢？

PRESIDENT: The last two sentences were argumentative. Secretary for the Treasury, first part on police uniform. Should it be made locally?

庫務司答：主席先生，我們考慮在哪個地方購買制服時，所採取的準則一如我在主要答覆(a)段中所說，須顧及是否符合物有所值的原則等，而來源地並不是考慮因素。

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

李卓人議員問：是的，主席先生。如果以物有所值作為準則的話，請問庫務司有否調查警察是否滿意現時制服的質素？

PRESIDENT: Purely argumentative. Miss Emily LAU, last supplementary.

劉慧卿議員問：主席先生，庫務司多次強調，貨品的來源地並非批出合約的考慮因素，我支持這點。最近有政府官員公開表示，由於中國貨品現時的品質越來越好，價錢也不太貴，所以將來會多買中國貨。我是因為這番說話而提出這項質詢。主席先生，請問香港政府日後是否打算多買中國貨？

庫務司答：主席先生，如果將來投標時，中國貨品在物有所值等的準則下，競爭力最高，因而令我們多買了中國產品，這只不過是在公開及公平的競爭環境下所得出的結果，而不是我們主觀地要購買較多某些國家的貨品。

WRITTEN ANSWERS TO QUESTIONS

Ending Date of 1996-97 Legislative Council Session

6. 李永達議員問：政府可否告知本局，香港總督是否有權將一九九六／九七年立法局會期終結的日子，定於一九九七年六月三十日之後；若然，這項權力的法律依據是甚麼；若否，總督是否一定會將一九九六／九七年立法局會期終結的日子，定於一九九七年六月三十日當日或以前？

布政司答：主席先生，總督指定立法局會期結束日期的權力，源自《皇室訓令》第XXIA(1)條。現有的憲制文件並無訂明法律限制，阻止總督下令將一九九六至九七年度立法局會期的結束日期，定在一九九七年六月三十日之後。只要《皇室訓令》仍然生效，總督便可發出這項命令。不過，任何這類命令都會在一九九七年六月三十日後失去法律效力，因為根據《一九八五年香港法》，英國會在一九九七年六月三十日後停止對香港行使主權，而《皇室訓令》亦會在該日後失效。

按照過往慣例，立法局會期的結束日期，通常會在接近該屆會期最後一次會議前定出；而最後一次會議的日期，在此之前已由立法局主席決定。我們認為沒有理由不按慣例指定一九九六至九七年度立法局會期的結束日期。

Unauthorized Night Works at Lai King Station

7. 李永達議員問：鑑於機場鐵路荔景站工程的承建商未經有關當局批准，曾屢次在深夜施工，政府可否告知本局，有否檢控該承建商；若有，結果為何；政府會如何防止此類違例事件再發生？

規劃環境地政司答：主席先生，機場鐵路荔景站工程承建商於一九九六年一月獲發建築噪音許可證，可使用指定的機動設備施工至晚上十一時。不過，其後環境保護署（“環保署”）數次突擊檢查時，發現承建商違反許可證的規定。結果，承建商的建築噪音許可證於一九九六年三月二十二日被撤銷，而違例的承建商更遭檢控，聆訊將於一九九六年七月十八日進行。環保署在三月二十五日再到地盤巡查，但沒有發現任何違反《噪音管制條例》的情□。

承建商在建築噪音許可證被撤銷後，曾重新提出申請，並對使用機動設備時會採用的消減噪音措施提出建議。由於申請符合《噪音管制條例》的要求，承建商於一九九六年四月三日獲發新的建築噪音許可證。許可證對地盤上機動設備的最大使用數量加以限制，並規定必須採取消減噪音措施。有關

方面已提醒承建商，必須嚴格遵守許可證內的所有規定。環保署會繼續監察地盤，以確保承建商遵守許可證的規定。直至目前為止，並沒有再發現違反《噪音管制條例》的情況。

Pre-sale of Uncompleted Small Houses

8. 羅叔清議員問：鑑於近日發生了數宗涉及丁屋樓花買賣的訛騙事件及其他糾紛，政府可否告知本局：

- (a) 買賣丁屋樓花是否違法；
- (b) 政府會否考慮把丁屋樓花的買賣合法化，並進行監管；若否，政府會否考慮制定措施，以免購買者受騙；及
- (c) 目前丁屋樓花的買賣是由哪個政府部門負責管制？

規劃環境地政司答：主席先生，根據小型屋宇政策，年滿18歲的男性原居村民可向當局申請建屋牌照，以免地價方式在其土地上興建小型屋宇（俗稱“丁屋”），或以市值三分之二的優惠地價，申請批發政府土地，興建小型屋宇。

根據小型屋宇政策批撥土地興建的小型屋宇，其轉讓均受下述規定限制：

- (i) 如獲批認可鄉村鄉郊環境的政府土地，則轉讓限制是永久的。地政總署在小型屋宇建成及取得完工證後，才會考慮修訂該項限制的申請。申請如獲批准，申請人須補地價和繳付行政費，以及簽署修訂文件；
- (ii) 如屬鄉村擴展區批出的政府土地，轉讓限制是永久的。地政總署在發出完工證後三年，才會考慮修訂轉讓限制；及
- (iii) 如批出的土地由村民擁有，則轉讓限制的期限為五年。修訂轉讓限制的條件與類別(i)相同。

除非上述限制不再生效，否則，以任何形式處置小型屋宇發展的權益，均屬違反小型屋宇的批約條件。

- (a) 把在小型屋宇政策下批給原居村民的地段上興建的小型屋宇樓花預先出售，是違反批地條件的。
- (b) 我們認為，不應准許售賣小型屋宇樓花或使這些買賣合法化。在小型屋宇政策下按優惠條款批地給合資格的原居村民，目的是協助他們改善生活環境。因此，轉讓限制應予保留。准許買賣小型屋宇樓花，有違小型屋宇政策的原則。

有意購樓的人士，在決定購買有關屋宇，或繳付任何按金之前如有任何疑問，應向律師或其他專業代表徵詢意見。

- (c) 地政處負責處理的地政事務，其中包括處理與小型屋宇批地有關的執行批約條款行動。如有涉及小型屋宇的欺詐個案，則由警務處負責調查。

Lunch Arrangements for School Children

9. 張文光議員問：香港青年協會最近進行了一項學生膳食安排研究，發現學童留校用膳有明顯增加的趨勢，而學校採用飯盒供應商的訂飯服務亦有所增加。由於食物的選擇會直接影響下一代的健康及體質發展，政府可否告知本局，當局會否及將如何處理調查報告內的建議，包括：

- (a) 對學童膳食的安排作出全面評估及策劃，並進行有效監察，以確保學童能獲得既口生又富營養的膳食；
- (b) 檢討現時有關學童午膳安排的各項措施及指引，並監察其執行，以確保膳食安排符合認可標準；
- (c) 將用膳場地列為新校舍的標準設施；及
- (d) 推動及鼓勵家長教師會監察及管理學童午膳安排的運作，並加強宣傳，提醒家長及學童注意飲食習慣對健康的影響？

教育統籌司答：主席先生，教育署對學生在校內的膳食安排極感關注，該署曾向學校發出兩份通告，就食物部的經營和由持牌食肆安排膳食的事宜，提供意見。至於質詢的各部分，我謹答覆如下：

- (a) 鑑於學生留校午膳有增加的趨勢，而實行全日制的小學亦越來越多，教育署正檢討現有的午膳安排和有關的監察措施。這項檢討可望於一九九六年八月完成。
- (b) 上文(a)段所述由教育署進行的檢討，包括仔細研究現時發給學校的指引，如有需要，將按情予以修訂和補充。教育署打算在一九九六年九月新學年開始前，向學校發出新指引。該署會在新通告內鼓勵各學校成立協調小組，負責督導、統籌和改善學生的膳食安排。
- (c) 學校可利用現有的場地，如有蓋操場或禮堂等，以供學生留校午膳之用。我們認為現時的安排既具彈性，又符合成本效益。鑑於學生用膳需要相當大的地方，而且使用時間短暫，在學校增撥地方專供學生作午膳場所，不是地盡其用的做法。
- (d) 我們同意，在管理和監察學校的膳食安排及鼓勵學生養成健康的飲食習慣等方面，家長教師會能發揮積極的作用。教育署將於一九九六年十月發出新的指引，鼓勵學校讓家長教師會參與學校膳食安排協調小組的工作。

培養學生的良好飲食習慣及健康生活方式，亦是很重要的。教師會在教授一些科目時，已向學生灌輸有關健康及營養價值的知識，在小學，這些科目包括健康教育、社會教育和科學，而在中學，則包括家政、社會教育和理科科目。學生可從這些科目認識各種食物對身體的影響和食物衛生，並明白均衡飲食對個人健康的重要性。

此外，教育署亦定期開辦在職訓課程，藉以加強教師對食物營養及學生膳食安排的認識，以及使他們獲得這方面的新知識。

Capacity of Telephone Lines

10. 唐英年議員問：政府可否告知本局：

- (a) 目前用以輸送電話信息的電話口路，包括光導纖維網絡的容量為何；
- (b) 在光導纖維網絡中，用作輸送電話信息的口路佔總容量多少；
- (c) 是否有資料顯示現有電話口路中，有多少已被用作其他增值服務，以及其所佔總電話口路的比例；及
- (d) 當每條電話口路均用作其他增值服務用途時，現有的光導纖維網絡能否承受此負荷；若否，未來鋪設光纖網絡的發展計劃為何？

經濟司答：主席先生，

- (a) 一九九六年三月，香港電話有限公司(以下簡稱“香港電話公司”)的網絡約有330萬條口路，當中約有4萬條是由地區機樓直接提供光導纖維接駁。機樓之間的接駁口路有92%以光導纖維提供。
- (b) 電話網絡並無區分經網絡傳遞的電話與非電話信息。因此，我們沒有數據顯示電話信息所佔比例。
- (c) 我們只有一些增值服務的粗略數據。由一九九四年四月至一九九五年三月，經電話網絡打出及接入的佔口時間約為513億分鐘，估計當中約有452.1億分鐘是本地電話通訊，34.5億分鐘為國際電話通訊，而其他各類可辨識的通訊(如持牌公共增值服務)則佔26.4億分鐘。在452.1億分鐘的本地電話通話時間當中，已包括用作電話和非電話用途(如圖文傳真及電腦通訊)。現時並無電話與非電話佔口時間的獨立數據。
- (d) 現行的網絡是專為承受現時正常的通訊量而設，當中包括承受現時的增值服務通訊量。當局對香港電話公司設定了一個服務質素標

準，以確保在繁忙時間的電話有99%可成功接通。若將來增值服務的通訊量大幅增加，香港電話公司須在交換機樓及其他網絡元件中增加投資，以承擔額外的通訊量和維持其現行的服務水平。另外三個新加入的固定電訊網絡服務持牌人亦正各自建設其光導纖維中樞網絡，建成後可分擔香港電話公司網絡的部分通訊負荷。

Comprehensive Redevelopment Area Planning Approach

11. 陳偉業議員問：政府可否告知本局：

- (a) 自採用“綜合重建區”的規劃方法後，有多少項重建計劃得以進行；
- (b) 如何評估這個規劃方法是否成功；及
- (c) 如何確保“綜合重建區”內居民的業權不會因土地發展公司及香港房屋協會的重建計劃而受到影響？

規劃環境地政司答：主席先生，

- (a) 在分區計劃大綱圖劃定為“綜合發展區”的重建計劃中，有15項已經進行。另外16項計劃的規劃及建築圖則亦已批出，現正處於不同的推行階段。另有36項計劃在籌劃之中。
- (b) 我們並無嚴格的準則，來評估指定綜合發展區的成效。這個規劃方法能否成功，將視乎每個個案的特定情□而定。不過，鑑於不少計劃，如黃埔花園、城市花園及荃灣西，都是透過這方法進行，加上這些發展計劃的輔助設施一應俱全，而且廣受區內居民歡迎，因此，這方法可以說是成功的。我亦想指出一點，就是不少綜合發展區，是因應土地業權人的要求而劃作這個用途的。

此外，根據城市規劃委員會的政策，當每個綜合發展區首次在法定

圖則刊登後，該委員會須每五年檢討有關發展區一次，目的是研究規劃目標可否在合理的時間內達到。這是評估綜合發展區是否成功的方法之一。

- (c) 個別業主的發展權益，受到有關條例保障。條例規定，假若政府收購或收回樓宇重建，便須向業主作出補償。任何人如對補償額不滿，可向土地審裁處提出上訴，要求裁決。

Development of Kowloon-Canton Railway Stations

12. 陳鑑林議員問：鑑於九廣鐵路公司（“九鐵”）計劃向政府申請於九龍塘及沙田站上蓋發展商住物業，政府可否告知本局：

- (a) 政府與九鐵磋商有關發展計劃的進展；及
- (b) 會否要求九鐵必須於計劃內包括興建多層停車場，落實“停泊及轉乘”的概念，以減輕獅子山隧道及市區的交通擠塞？

運輸司答：主席先生，我們支持在地鐵／火車站提供停車設施，以鼓勵駕車人士轉乘公共交通工具前往繁忙地區，作為紓緩交通擠塞的一項措施。事實上，我們已設法確保主要的地鐵／火車站及公共交通交匯處的發展計劃，附設足夠的停車設施。舉例來說，機場鐵路的中環站和青衣站都附設停車設施。

九鐵已向城市規劃委員會提交有關在九龍塘車站發展商業物業的初步建議。委員會現正就土地用途規劃、交通、城市設計和其他有關因素，評估該項建議，現時仍未作出決定。委員會會徵詢我們的意見，而我們會探討該發展計劃可否附設停車設施，以便駕車人士轉乘地鐵／火車。

九鐵剛開始就沙田車站的發展潛質進行初步研究，不過，我們仍未接獲該公司的申請。如該公司決定重新發展該車站，政府會研究可否在該處提供停車設施，以便駕車人士轉乘火車。

Diesel-to-Petrol Scheme

13. 梁耀忠議員問：政府去年曾發表“更清新的空氣 — 減低柴油車輛噴出廢氣的進一步建議”諮詢文件，就逐步淘汰四公噸及以下柴油車輛的計劃，諮詢公眾意見，而諮詢期已於去年年底屆滿。本局亦於去年十二月十三日，通過促請政府檢討該項計劃的議案，以優惠措施吸引柴油車輛車主自願轉用汽油車輛，代替建議的強迫措施。政府至今仍未公布有關的諮詢及檢討結果。有見及此，政府可否告知本局：

- (a) 公眾對諮詢文件所載建議的一般反應為何；贊成及反對上述計劃的意見比例為何；
- (b) 整理公眾就諮詢文件所提交的意見的工作進度如何；何時才能正式公布諮詢結果；及
- (c) 現時政府有否考慮放棄強迫四公噸及以下柴油車輛車主轉用汽油車輛的建議？

規劃環境地政司答：主席先生，

- (a) 當諮詢期於一九九五年十二月三十一日屆滿時，當局共接獲1 327份意見書，其中1 250份是四款內容相同的信件，而其餘77份是由不同團體及個別人士提交的意見書。對於柴油轉汽油計劃，公眾的反應不一，他們的意見主要集中於健康及環境問題、運作成本及推行計劃的安排方面。所有內容相同的信件都反對這項計劃，而其餘的意見書中，約有三分之二表示反對，約三分之一則表示支持。
- (b) 鑑於接獲的意見書意見紛紜，加上一九九五年十二月十三日立法局就這問題進行議案辯論時，議員亦提出批評，我們現正再行審閱有關建議，並將於稍後發表諮詢工作的正式報告。政府現正擬備一份文件，列出數個管制柴油車輛排放廢氣的方案及其利弊，我們希望不久可與立法局有關事務委員會討論該份文件。
- (c) 我們仍未考慮擱置這項計劃，因為我們仍認為，只有大幅削減柴油車輛的數目，才能解決嚴重的微粒污染問題，而要達致這個目標，建議的柴油轉汽油計劃，是最有效的方法。不過，我們根據所接獲的意見，現正研究減少柴油車輛排放廢氣的其他措施，看看這些措

施是否足以改善空氣質素，保障市民的健康。政府將於上述方案文件討論這些問題。

Tram Accidents

14. 謝永齡議員問：鑑於近來電車意外頻生，政府可否告知本局：

- (a) 由於目前有關當局並沒有對電車作定期檢查，政府會否考慮在短期內更改現行對電車安全進行檢查的機制，以及考慮對電車進行定期檢查；
- (b) 現時電車司機需接受為期多久的訓練才獲准駕駛電車；政府會否考慮立例規管電車司機的訓練；及
- (c) 機電工程署與電車公司現正檢討電車維修的程序，有關檢討的項目為何、進度如何，及預計於何時完成？

運輸司答：主席先生，香港電車有限公司完全有責任維修及檢驗其電車，而事實上，所有電車每天離開車廠前及返回車廠後，均須接受檢驗，以確保操作正常。現時，政府並沒有定期檢驗電車，但機電工程署署長會調查每宗電車意外，以鑑定機件故障是否釀成意外的原因。電車公司其後如欲改裝電車車廂，則須事先獲得機電工程署署長批准。

經過最近多次意外事件，機電工程署署長已建議電車公司檢討其電力敷設系統及電氣設備。電車公司打算在短期內委託顧問進行研究，而上述兩項事宜亦會列入研究範圍之內。該公司預計，顧問需時十星期，才可發表初步研究結果。該公司會就研究結果徵詢政府的意見，政府稍後便會決定是否需要就電車車廂的維修和安全事宜，實施一些額外規例。

政府並沒有立例規管電車司機的訓練事宜，此舉與國際間對使用軌道行走的交通工具所採取的做法一致。電車公司現時為受訓司機提供的駕駛訓練計劃為期八星期。除了有關道路使用、機器操作、安全措施及緊急程序的訓練外，計劃還包括約100小時的路面實習駕駛。此外，受訓司機必須通過駕駛筆試，才符合資格成為電車司機。

為了探討如何加強現行的訓練計劃，電車公司亦會就司機的招聘程序和

訓練計劃，徵詢顧問的意見。此外，該公司亦與香港駕駛學院聯絡，以探討可否擴闊現時為電車司機提供的核心訓練計劃範圍，加插其他的道路駕駛技巧。

Workplace Insurance Enforcement

15. 蔡根培議員問：政府可否告知本局：

- (a) 勞工處目前共有多少人手專責巡查各工商及服務機構，以確定僱主已替其員工購買勞工保險；又該處目前的人手是否足以應付有關工作；及
- (b) 過去三年，每年被發現沒有為其員工購買勞工保險，或所購買的保險金額不符合法例規定的僱主分別有多少；又勞工處如何發現該等個案；有關僱主有否被檢控；若有，結果為何？

教育統籌司答：主席先生，

- (a) 現時共有123名勞工督察的職務是包括巡查工業及非工業機構，以確定僱主已替其僱員購買僱員賠償保險。勞工處現有的人手編制足以應付有關工作。
- (b) 過往三年，勞工處發現僱主沒有為僱員購買僱員賠償保險的個案數目，分別為：一九九三年692宗、一九九四年849宗及一九九五年726宗。大部分個案是勞工督察在巡查時發現的，其餘則在調查投訴或工傷事故時揭發。勞工處已就表面證據成立的個案，檢控違例者。至於那些性質輕微或沒有控方證人佐證的個案，該處已向有關僱主發出警告。詳細的分項數字如下：

	一九九三年	一九九四年	一九九五年
沒有購買保險的個案	692	849	726
在巡查時發現的個案	660	802	660
發出的傳票數目	353	347	530
傳訊後被判有罪的個案	331	331	514
定罪後罰款的金額	400元	500元	800元
	至12,000元	至14,000元	至20,000元

《僱員補償條例》附表4列明法定的投保額，自該條例於一九九五年制定以來，並無發現有僱主所購的保險低於法定限額。

OECD Classification of Hong Kong

16. 劉慧卿議員問：政府可否告知本局：

- (a) 是否知悉經濟合作及發展組織（“OECD”）是以甚麼準則把一個國家劃分為發達國家類別；
- (b) OECD 有否就香港應劃分為哪個類別而進行評估；若有，香港被列入哪個類別；及
- (c) 若(b)項的答案為肯定，政府是否知悉 OECD 在將香港劃分類別時，是考慮了哪些因素；又政府有否評估近年有大量大陸移民來港，對本港經濟帶來甚麼影響，以及該等影響會否有助香港獲該組織劃分入發達地區的類別？

工商司答：主席先生，在OECD的各項分類中，並無“發達國家”這個類別。

OECD轄下的發展援助委員會，編訂“接受援助國家地區名單”，目的純粹是為反映在全球情勢不斷轉變的環境中，接受援助的模式，以及提供一個基礎，以便就援助和其他資源流向，收集全面而方便比較的統計資料。這份名單分為兩個部分，均會定期修訂。第I部分列出最不發達國家和根據世界銀行定期修訂的劃分準則所編訂的收入組別。第II部分列出在轉變中的發展中國家和地區，其下有一個“較先進的發展中國家和地區”分類。從名單第I部分轉入第II部分的國家和地區，會歸入這個分類。

在一九九七年一月一日，香港會從名單第I部分轉入第II部分，並列入“較先進的發展中國家和地區”分類之下。在一九九六年一月一日，巴哈馬、文萊、科威特、卡塔爾、新加坡和阿拉伯聯合酋長國等六個國家，亦已從名單第I部分轉入第II部分。

從中國來港的移民為本港注入有用的人力資源，有助提高本港經濟的生

產力和發展潛力。雖然近年從中國來港的合法移民，帶來對社區設施和資源的額外需求，但每年到港的合法移民人數，佔全港人口不足1%，香港是有足夠能力應付的。

Telephone Tariffs

17. 唐英年議員問：根據政府提供的數據，按現時電話固定收費模式，無論住宅或商業電話服務均出現低用量用戶補貼高用量用戶的現象。就此，政府可否告知本局：

- (a) 有關住宅及商業電話□每月用量的調查數據，是否已包括打出的長途電話用量在內；若然，去年住宅及商業用戶的長途電話使用模式（即每月長途電話用量按分鐘計算的用戶百分比）為何；若否，加入打出長途電話的數據，對整體用量情□有何影響，而低用量用戶補貼高用量用戶的金額會否改變；
- (b) 去年高用量用戶（平均每月使用電話超過400分鐘者）打出的電話中，長途電話所佔的比例為何；按分鐘和盈利計算，該等用戶打出的長途電話佔本港所有長途電話的比例分別為何；及
- (c) 去年低用量用戶（平均每月使用電話由零至400分鐘者）打出的電話中，長途電話所佔的比例為何；按分鐘和盈利計算，該等用戶打出的長途電話佔本港所有長途電話的比例分別為何？

經濟司答：主席先生，

- (a) 供經濟事務委員會參閱的文件“本地電話服務收費架構檢討”中所列的數據，只包括打出而成功接通的本地電話通話時間。該等數據是從去年第三季進行的抽樣計量調查中收集得來。在是項調查中，約隨機抽查了12 000條住宅電話□及11 000條商業電話□的所有打出電話通話時間，再使用一個調整比率，從而估計出只是成功接通的本地電話通話時間。由於該項調查只是收集本地電話的數據，因

此並無收集有關打出的長途電話使用模式的資料。不過，根據另外的抽查結果，估計國際電話佔住宅電話總通話時間約4%，在商業電話中則約佔10%。

(b)及(c)

誠如上文(a)段解釋，是項調查只收集本地電話的使用數據，有關國際電話使用模式的數據並不在收集範圍內，因此，我們沒有高或低用量用戶使用國際電話的資料。

Respite Service for the Mentally Handicapped

18. 謝永齡議員問：有關為弱智人士提供的短暫住宿服務，政府可否告知本局：

- (a) 目前社會福利署共提供多少個此類宿位，以及直接參與這項服務的人手編制為何；
- (b) 申請入住該等宿位的資格為何；
- (c) 政府有否資助志願機構提供這項服務；若有，這些機構所提供的宿位，有多少個是由政府資助的；及
- (d) 政府在短期內會否考慮加強此項服務？

教育統籌司答：主席先生，短暫住宿服務旨在為殘疾人士（包括弱智人士）提供不超過兩周的暫時住宿安排，使負責照顧他們的家人可稍作休息或暫時紓緩所面對的壓力。

- (a) 現時，社會福利署在轄下的長康宿舍提供兩個短暫住宿服務名額。該項服務由宿舍現有人員提供，當局並無特別為此增設職位。
- (b) 短暫住宿服務是為15歲及以上的殘疾人士而設，這些人士必須沒有

患傳染病、無須特別照顧及沒有暴力行為。

- (c) 現時，政府並無向提供短暫住宿服務的非政府機構提供財政援助。不過，這些機構利用本身的資源，自行提供一些短暫住宿服務名額。
- (d) 政府的最終目標，是在社會福利署轄下五個總區的弱智人士宿舍，每區資助兩個短暫住宿服務名額，但須視乎是否有資源可供運用。

Industrial Support Fund Applications

19. 田北俊議員問：政府最近通過由工業支援資助計劃中撥款資助 49 項獲工業及科技發展局推薦的申請，其中 30 項來自專上教育學院，而僅有 17 項是來自工業機構和工業支援機構。就此，政府可否告知本局：

- (a) 根據甚麼準則審核工業支援機構申請撥款的個案；
- (b) 是否採用相同的標準審核專上教育學院和工業機構的申請；及
- (c) 會否加強推廣上述支援計劃，鼓勵更多工業機構向該計劃申請資助，發展對本港工業及科技有貢獻的項目，以加強本港工業的競爭力？

工商司答：主席先生，

- (a) 工業支援資助計劃(下稱“該計劃”)在評估申請時所採用的準則，現撮述如下：
 - (i) 建議項目為香港的工業及科技發展會帶來甚麼具體好處；
 - (ii) 是否有明確的需要進行建議項目，以及會否與現時進行的工作重複；
 - (iii) 建議項目的申請人是否具有所需的技術水平和管理有關項目的能力，以及該項目的施行計劃和所需時間是否可以接受；
 - (iv) 建議項目的開支預算是否合理，以及在一段時間後，是否有

能力自負盈虧；及

- (v) 建議項目由大學教育資助委員會或應用研究發展計劃等其他經費來源資助，會否更為適合。
- (b) 所有向該計劃提出的申請，不論是由專上教育院校或工業機構提出，均會由工業及科技發展局及其轄下的委員會，按照同一套準則審核。
- (c) 工業署已採用下述方法推廣該計劃，將來亦會繼續這樣做：
 - (i) 每年向可能提出申請的機構，包括工業機構，發出邀請信，函內夾附有關該計劃的宣傳資料；
 - (ii) 定期向所有可能提出申請的機構，包括工業機構，簡介該計劃；
 - (iii) 在有關製造業及科學與技術的香港便覽、香港年報、香港製造業年報、“支援香港工業”單張及工業署簡介等政府刊物中，刊載該計劃的資料；及
 - (iv) 在工業署國際網絡網頁中，加入該計劃的資料。

此外，獲該計劃資助的多個項目已經完成，研究結果及成果將於一九九七年一月六日至十一日舉行的科技周展出。這項安排應有助推廣該計劃。再者，為鼓勵更多工商機構提交有利於本港工業及科技發展的申請，工業署會考慮提早發出邀請信，使有意申請的機構有更多時間擬備建議書。工業署亦會舉辦更多簡介會，向工業機構介紹該計劃。

BILLS

First Reading of Bills

VETERINARY SURGEONS REGISTRATION BILL

PUBLIC HEALTH AND MUNICIPAL SERVICES (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

VETERINARY SURGEONS REGISTRATION BILL

THE SECRETARY FOR ECONOMIC SERVICES to move the Second Reading of: "A Bill to provide for the regulation of the practice of veterinary surgery, the registration of veterinary surgeons, the disciplinary control of the professional activities of registered veterinary surgeons and for matters related to such registration and disciplinary control."

He said: Mr President, I move that the Veterinary Surgeons Registration Bill be read a Second time.

The purpose of the Bill is to regulate the practice of veterinary surgery in Hong Kong.

At present, the practice of veterinary surgery in Hong Kong is not subject to statutory regulation. However, a person who wishes to practise veterinary surgery in Hong Kong has to be a member of the Royal College of Veterinary Surgeons before he can obtain and use the antibiotics, poisons and other controlled drugs used in the profession. Despite these provisions, it is believed that there are some unqualified persons practising as veterinary surgeons in Hong Kong and that the treatment administered by such persons often causes undue suffering to animals.

The professional conduct of members of the Royal College of Veterinary Surgeons practising in Hong Kong is subject to disciplinary control by the Royal College, but the College has practical difficulties in intervening effectively from the United Kingdom in professional disputes involving the practice of veterinary surgery in Hong Kong.

It is proposed to address these problems through the establishment of a

locally-based statutory regime of registration, disciplinary control and professional standards for veterinary surgeons.

The Bill provides for the setting up of a Veterinary Surgeons Board, the main functions of which will be to establish and maintain a register of registered veterinary surgeons; to set up the qualification standards for registration as a veterinary surgeon; to receive, examine, accept or reject applications for registration; and to make rules for the professional conduct and discipline of registered veterinary surgeons and deal with disciplinary offences.

The Bill provides that the Board shall consist of 10 persons to be appointed by the Secretary for Economic Services. Of these, one person will be the Chairman, six persons will be veterinary surgeons and three will be medical practitioners or pharmacists or representatives of the interests of the persons who utilize veterinary services.

The Bill restricts the use of the description "registered veterinary surgeon" to those qualified to use it and provides for criminal offences relating to false representation and practising veterinary surgery without being registered, with a maximum penalty on conviction of a fine of \$100,000 and imprisonment for one year.

The proposals in the Bill will improve the quality of the veterinary services offered in Hong Kong and open the way for persons holding veterinary qualifications other than membership of the Royal College of Veterinary Surgeons to practise as veterinary surgeons in Hong Kong, subject to their qualifications being accepted by the Veterinary Surgeons Board once it is established. I commend the Bill to this Council. Thank you.

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).

**PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) BILL
1996**

THE SECRETARY FOR RECREATION AND CULTURE to move the Second Reading of: "A Bill to amend the Public Health and Municipal Services Ordinance."

文康廣播司致辭：主席先生，我謹動議二讀《1996年公眾衞生及市政（修訂）條例草案》。

本條例草案的目的，在使當局可將阻礙清理垃圾或清掃街道工作的物品，及早清除。現行《公眾衞生及市政條例》第22(2)(a)(i)條規定，造成阻礙的物品，當局若飭令物主清除，至少須在24小時前發出通知。在第22(2)(a)(i)條修訂後，造成阻礙的物品，物主須在四小時內清除。在修例後，執法人員可以加快清除阻礙物品程序，因此，有助進一步有效地改善環境。

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).

Resumption of Second Reading Debate on Bills

GAS SAFETY (AMENDMENT) BILL 1996

Resumption of debate on Second Reading which was moved on 1 May 1996

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).

BIOLOGICAL WEAPONS BILL

Resumption of debate on Second Reading which was moved on 31 January 1996

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

Bill read the Second time.

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

INLAND REVENUE (AMENDMENT) BILL 1996

Resumption of debate on Second Reading which was moved on 1 May 1996

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

Bill read the Second time.

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

INLAND REVENUE (AMENDMENT) (NO. 2) BILL 1996

Resumption of debate on Second Reading which was moved on 1 May 1996

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).

BUSINESS REGISTRATION (AMENDMENT) BILL 1996

Resumption of debate on Second Reading which was moved on 1 May 1996

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).

ESTATE DUTY (AMENDMENT) BILL 1996

Resumption of debate on Second Reading which was moved on 1 May 1996

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).

STAMP DUTY (AMENDMENT) BILL 1996

Resumption of debate on Second Reading which was moved on 1 May 1996

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).

MOTOR VEHICLES (FIRST REGISTRATION TAX) (AMENDMENT) BILL 1996

Resumption of debate on Second Reading which was moved on 1 May 1996

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).

AIR PASSENGER DEPARTURE TAX (AMENDMENT) BILL 1996

Resumption of debate on Second Reading which was moved on 1 May 1996

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).

BETTING DUTY (AMENDMENT) BILL 1996

Resumption of debate on Second Reading which was moved on 1 May 1996

庫務司致辭：主席先生，我很高興獲得本局議員支持恢復二讀辯論本條例草案。

本條例草案旨在將博彩稅稅率提高半個百分點。普通投注的稅率將由11.5%增至12%，特別投注的稅率則由17.5%增至18%。

相信各位議員都會記得，本局在一九九六年四月二十四日通過由政務司提交的《1995年博彩稅（修訂）條例草案》，而有關條例亦在一九九六年五月三日在憲報刊登和生效。該條例作出的規定中包括按本地投注稅率的一半徵收海外投注的博彩稅。不過，該條例提及的稅率是11.5%及17.5%，而向海外投注徵收的稅率則為上述稅率的一半，即5.75%及8.75%。因此，我們今天必須在委員會審議階段動議修正《1996年博彩稅（修訂）條例草案》，以便可按12%及18%的新稅率的一半，向海外投注徵收博彩稅。我將會在委員會審議階段提出有關的修正案。

謝謝主席先生。

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).

DUTIABLE COMMODITIES (AMENDMENT) (NO. 2) BILL 1996

Resumption of debate on Second Reading which was moved on 1 May 1996

庫務司致辭：主席先生，我很高興獲得本局議員支持恢復二讀辯論《1996年應課稅品（修訂）（第2號）條例草案》。

本條例草案旨在按財政預算案建議，提高煙草稅及燃油稅9%，以追上通脹。我知道政府和部分議員對本條例草案持有不同意見的地方只有一處，便是有關提高輕質柴油稅的建議，而劉健儀議員將會在委員會審議階段提出修正案，取消輕質柴油的增稅建議。我懇請各位議員不要支持該項修正案，理由如下：

第一，我們在財政預算案中提出多項減稅和加稅建議，這些措施必須以整套方案形式採納，否則，我們在預算案中致力求取的平衡便不能維持。應課稅品稅是稅收的重要來源，估計佔一九九六年至九七年度經常收入的5.5%。建議中的燃油稅增幅是整套預算案的一個組成部分，這項建議連同其他各項加稅建議所增加的稅項收入，容許我們財政上可以推行預算案建議的各項減稅措施。柴油稅的增幅是燃油稅建議增幅的一個重要部分，估計在一九九六至九七年度，會提供1.7億元的額外稅收。預算案內的各項減稅措施備受本局議員和社會人士歡迎，而提出減稅措施的基礎，是預算案中建議的全部稅收增加，包括柴油稅的增加，都會獲得通過。

第二，有些人士曾指出，我們在一九九五至九六年度可能最終會有盈餘而非赤字，而在一九九六至九七年度，我們將會取得較預算案估計為大的盈餘，因此，我們有能力取消增加柴油稅的建議。我必須指出，這些全屬沒有根據的揣測。雖然我們的一九九五至九六年度帳目仍有待最後結算，但最新的跡象清楚顯示，我們最終會如預算案預測，有不少於25億元的赤字。至於一九九六至九七年度，直至現階段的估計，我們最多有16億元的盈餘。以政

府的總開支預算1,941億元和總收入預算1,957億元而言，這是一個大致上收支平衡的預算案。如果我們在財政年度初期採取不利的措施，使這個小量的盈餘更為減少，實屬不智。此舉會向本地和海外人傳達一個完全錯誤的信息，削弱他們對政府審慎管理公共財政的信心。

第三，將柴油稅提高9%，大致上是按通脹調整，此舉與我們維持稅收的實質價值和一個穩定稅收來源的政策是一致的，而提高柴油稅對通脹的影響非常輕微，遠低於0.02個百分點。

第四，我明白到有部分議員關注柴油稅的調整，會增加市民的經濟負擔。事實上，對大多數公共交通工具乘客而言，由於大部分專利巴士服務均獲豁免繳納燃油稅，所以他們不會受到影響。至於的士、公共小型巴士和貨車，燃油的開支亦僅佔它們整體經營成本一個不大的比率，而建議的調整只會令經營成本增加不超過大約2.5%，影響應該是輕微的。

第五，有部分議員關注到非法使用柴油的活動有所增加，並憂慮增加燃油稅會擴闊汽車用柴油和工業用“紅油”兩者之間價格的差距，從而引致這方面的非法活動增加。一如在財政預算案內所公布，我們已增加海關的資源，在今年內增添兩隊調查和執法人員，以對付這方面的不法行為。我們也將有關罰則提高，以加強對這類非法活動的阻嚇作用。我們預料情□會受到控制，而建議的增稅不會助長這些活動或導致稅收減少。

最後，我要強調一點，財政預算案整體得到社會各界的支持，而上月初的辯論已顯示預算案得到本局的接納，因此，預算案內的整套建議亦應得到通過。

基於上述理由，我希望各位議員支持我們增加燃油稅的全部建議。

主席先生，我謹建議本局議員整體通過本條例草案。

PRESIDENT: I am afraid I have to put the question now, as the speech made by the Secretary is the final reply. That means Mrs Miriam LAU can only speak subsequently when moving her amendment at the Committee stage.

Question on Second Reading of the Bill put.

Voice vote taken.

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

Mrs Miriam LAU 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 of the Second Reading of the Dutiable Commodities (Amendment) (No. 2) Bill 1996. Will Members please register their presence by pressing the top button in the voting units and then proceed to vote by pressing one of the three buttons below?

PRESIDENT: Before I declare the result, are there any queries? I think we are two short of the head count. Are there any queries? The result will now be displayed.

Mr Martin LEE, Mr SZETO Wah, Dr LEONG Che-hung, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Michael HO, Dr HUANG Chen-ya, Miss Emily LAU, Mr LEE Wing-tat, Mr Eric LI, Mr Fred LI, Dr Samuel WONG, Dr Philip WONG, Dr YEUNG Sum, Mr WONG Wai-yin, 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 Albert HO, Mr IP Kwok-him, Mr LAU Chin-shek, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr Bruce LIU, Mr MOK Ying-fan, Miss Margaret NG, Mr NGAN Kam-chuen, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE and Mrs Elizabeth WONG voted for the motion.

Mr Allen LEE, Mrs Selina CHOW, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr CHIM Pui-chung, Mr Henry TANG, Mr James TIEN and Mr

YUM Sin-ling voted against the motion.

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

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) BILL 1996

Clauses 1 to 7 were agreed to.

BIOLOGICAL WEAPONS BILL

Clauses 1, 2, 3, 4 and 6 were agreed to.

Clause 5

SECRETARY FOR SECURITY: Mr Chairman, I move that clause 5 be amended as set out in the paper circularized to members.

The amendment put forward is technical in nature. It aligns clause (5)(1)(a) with most of the similar provisions in other legislation in relation to search warrants.

Mr Chairman, I beg to move.

Proposed amendment

Clause 5

That clause 5(1)(a) be amended, by deleting ", at any time within one month from the date of the warrant,".

Question on the amendment proposed, put and agreed to.

Question on clause 5, as amended, proposed, put and agreed to.

INLAND REVENUE (AMENDMENT) BILL 1996

Clauses 1 to 12 were agreed to.

INLAND REVENUE (AMENDMENT) (NO. 2) BILL 1996

Clauses 1 to 2 were agreed to.

BUSINESS REGISTRATION (AMENDMENT) BILL 1996

Clauses 1, 2 and 3 were agreed to.

ESTATE DUTY (AMENDMENT) BILL 1996

Clauses 1 to 17 were agreed to.

STAMP DUTY (AMENDMENT) BILL 1996

Clauses 1 and 2 were agreed to.

MOTOR VEHICLES (FIRST REGISTRATION TAX) (AMENDMENT) BILL 1996

Clauses 1 to 8 were agreed to.

AIR PASSENGER DEPARTURE TAX (AMENDMENT) BILL 1996

Clauses 1 and 2 were agreed to.

BETTING DUTY (AMENDMENT) BILL 1996

Clause 1 was agreed to.

Clause 2

庫務司致辭：主席先生，我謹動議依照提交各位議員傳閱的文件所載提議，修正條例草案第2條。有關修正旨在將博彩稅提高半個百分點，並按新稅率的一半向有關的海外投注徵收博彩稅。

主席先生，我謹提出議案。

Proposed amendment

Clause 2

That clause 2 be amended, by deleting paragraphs (a) and (b) and substitute —

"(a) in paragraph (a) -

- (i) by repealing "11.5%" and substituting "12%";
- (ii) by repealing "5.75% of the amount of every such bet" and substituting "one half of that rate";

(b) in paragraph (b) -

(i) by repealing "17.5%" and substituting "18%";

(ii) by repealing "8.75% of the amount of every such bet" and substituting "one half of that rate".

Question on the amendment proposed, put and agreed to.

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

DUTIABLE COMMODITIES (AMENDMENT) (NO. 2) BILL 1996

Clause 1 was agreed to.

Clause 2

委員劉健儀議員致辭：主席先生，我動議修正《1996年應課稅品（修訂）（第2號）條例草案》第2條，刪除2(b)條款。

主席先生，政府透過稅收增加庫房收入，本來無可厚非，但在現時香港經濟不景的環境下，政府加徵稅項，就必須特別小心，對那些營運情況特別差的行業，政府應該採取體恤的態度，更不應透過稅收直接或間接加重他們的負擔。政府建議按通脹率提高汽油及其他碳氫油類的燃油稅9%，我會提出議案刪除條例草案第2條2(b)條款，將輕質柴油維持在現行的稅率，即每公升2.65元。不過，我不會反對其他燃油稅按政府建議的稅率調升。

敗政司在財政預算案附件中指出，一九九四年陸上運輸業佔本地生產總值近2.8%。雖然陸上運輸對社會民生以至本港經濟舉足輕重，而近期運輸業無論是貨運或的士、小巴，均面對生意萎縮的困境，但政府不但沒有施以援手，反而雪上加霜，向他們“開刀”。由於運輸業中大部分車輛都是使用柴油，增加柴油稅項，只會加重營運者的負擔。

事實上，油公司每次都以成本上漲為理由，話加就加。去年十二月至今年二月，連同政府在三月增加燃油稅，柴油在四個月之內加價共四次。雖然

油公司其後因相互間的商業競爭，“反常地”將柴油每公升調低四毫，但柴油價格始終高企在每公升6.16元，而油公司亦不斷強調近期柴油成本價不斷上升，因此，油公司隨時都會回復“正常”，大幅度提高油價。在經濟放緩的情[□]下，生意已經很難做，有貨車司機割價爭生意，有的士司機減價爭乘客。

以的士小巴為例，如果根據現行建議，將柴油的燃油稅提高9%，由每公升2.65元增加至2.89元，的士司機每天入40升油，則需多付十元的燃油稅，一個月就是300元；而小巴司機每天入80升柴油，則需多付20元，一個月則是600元。在經濟放緩的情[□]下，這對客源不足的營業車無疑會造成沉重的負擔。

此外，根據九四至九五年度柴油的課稅量估計，本港柴油車每年共消耗七億二千四百多萬升柴油，若以此數字作參考，增加柴油稅9%，將為庫房增加一億七千三百多萬元稅收。然而，本港一萬七千多部的士及四千三百多部小巴共消耗三億五千一百多萬升柴油，單是的士及小巴已承擔柴油稅的一半。

若政府不善忘的話，會記得在一九九二年開始，為了減輕專利巴士加價的壓力，政府豁免了幾間巴士公司的燃油稅。但同樣是服務大眾的的士和小巴則沒有任何優惠，政府無疑是厚此薄彼。

長遠來說，營業車輛亦由於成本上漲而申請加價或增收運費，所承擔的稅項最終亦會轉嫁至市民身上。財政司在宣讀其財政預算時指出，按通脹率調整汽油及其他碳氫油稅，是適當的做法，但財政司所謂的“適當的做法”，可能是“例牌”按通脹加，其他一概不理。業內人士向我指出，運輸業人士的收入根本追不上通脹，甚至出現負增長的情[□]。故此，港府在考慮增加燃油稅的同時，亦須顧及本港經濟環境及業內營運者的承擔能力，才是適當的做法。

此外，增加柴油的燃油稅更可能助長非法使用“紅油”（工業用柴油）。根據數字，海關於九五至九六年度首11個月，成功檢獲120萬公升未完稅柴油，較九四至九五年度全年高出50萬公升，而多間石油公司亦由四月一日起聯手打擊非法使用及走私“紅油”，顯示非法販賣及使用“紅油”情[□]猖獗。若港府一意孤行，將柴油燃油稅提高9%，這只會一再擴大柴油及非法“紅油”的售價差距。部分經營者為了減低成本支出，可能會鋌而走險，非法使用“紅油”，使庫房在柴油稅方面的收入不增反減。我絕對不贊成任何

違法行為，但我更不願見到有人要為生計而犯法。

港府有必要加強掃蕩非法“紅油”，但除此之外，亦要考慮如何減低柴油及非法“紅油”的售價差距，減低非法使用“紅油”的吸引力。當然，油價不受政府控制，但稅收則在政府掌握之中，若政府調低燃油稅，則可縮窄兩者的差距。

主席先生，既然政府對運輸業的苦□顯然無動於衷，責任就落在各位議員身上。我希望各位同事能體恤業內營運者的困難，支持本人稍後提出的修正案。

本人謹此陳辭。

Proposed amendment

Clause 2

That clause 2 be amended, by deleting sub-clause (2)(b).

Question on the amendment proposed.

委員李卓人議員致辭：主席先生，工盟的立場一直是反對任何打擊民生的加費，今次增加燃油稅其實與其他加費一樣，會大大影響民生。剛才劉健儀議員已經談及到各種影響。

第一，加稅後營業車司機定會增加了支出及他們的營運成本。香港的營業車司機有一個特別之處，就是他們大多數沒有勞資關係，所以沒有僱主會替他們承擔燃油稅，而要由他們自行負責。換言之，所有車主和司機的生計都會因為燃油稅的增加而受到影響。因此，這是一項打擊民生的措施。在另一層面上，這項措施也會打擊民生，那就是如果車主和司機承擔不了的話，他們會將加稅轉嫁在運費上，這無疑是轉嫁在消費者和消費品上，最終會引發通脹。

也許大家都會記得，在一月二十四日，本局曾經通過一項議案，要求凍結所有加費。當然，在那次辯論上，不同黨派有不同的意見，但其實所有黨派議員的發言都有一個共通點，就是要求凍結所有影響民生的加費。今次的加稅措施其實在性質上與加費完全沒有分別，因此，如果我們在一月二十四日通過一項凍結影響民生加費的議案，我覺得今次在燃油稅的討論上，我們沒有理由不通過劉健儀議員的修正案。

我向大家呼籲，希望各位支持劉健儀議員的修正案。

委員黃震遐議員致辭：主席先生，劉健儀議員的修正案只是刪除增加輕質柴油稅的條文，而不是刪除對所有燃油的加稅。

修正的後果是會令其他燃料更貴，而柴油價格相對其他燃油則下降。我們知道柴油對環境所造成的污染，以及損害市民的健康，現在已接近危險邊緣，我們應該鼓勵減少用柴油。

柴油價格的相對下降，會鼓勵市民多使用柴油，而不是鼓勵他們減少使用柴油。柴油使用者省了錢，其他市民卻要付出環境污染所帶來的種種代價，因此，減低柴油稅最後同樣可能會增加了民生負擔。因此，無論從環保或從民生角度，我們都覺得不可以支持這項修正案。

其實大家應該知道，大部分市民都是乘搭公共巴士的，而巴士的燃油是免稅的，所以加稅措施對大多數交通工具使用者並沒有影響。

柴油是的士、小巴和貨車車主和司機商業活動的部分成本。事實上，車租較燃油更為昂貴，而油公司加價往往採取一致行動。我認為的士牌費及車輛供應量，更會影響到車租。因此，改善的士牌費及車輛供應量、增加燃油市場的競爭、打破壟斷，對司機的經營更為有利。民主黨一向關注這類更為嚴重的問題，我希望大家，包括劉健儀議員，會與我們一起長期爭取，改善這些更會影響司機及車主的因素。

最後，自由黨在二讀時對這條例草案投反對票，使我感到非常詫異。換言之，他們對徵收煙草稅也不贊成。他們是否將煙草對市民健康的負面影響置諸不理？我希望劉健儀議員回答這點。剛才劉健儀議員發言時居然又說，她不反對其他燃油加稅。在短短數分鐘內出爾反爾，失憶如此，實在令人感到非常詫異。

委員陳婉嫻議員致辭：主席先生，工聯會和民建聯對於這次政府徵收有關燃料的費用，我們有些意見。我們覺得雖然這次增加是涉及柴油，但實際上，這會增加業內人士的經營費用，我們也預料到這些加費必然會轉嫁至市民身

上。

第二，不少經營者和司機本身都是自僱者，正如剛才李卓人議員所說，他們的勞資關係情□並不像其他行業，會有人替他們承擔費用，所以這些自僱者相對來說都是“打工仔”。在今天這樣的經濟環境下，如果我們贊成政府加費，對他們來說無疑是一個打擊。

此外，我自己亦非常重視環保。不過，我記得立法局在今個年度內曾就有關柴油及汽油問題進行辯論，當時局內很多人士都清楚表示，我們沒有一個科學根據去說明柴油及汽油在影響市民方面的分別，所以我覺得我們不要太武斷地說誰對誰錯。

因此，工聯會和民建聯會支持修正案。

MRS SELINA CHOW: Mr Chairman, Dr HUANG just now questioned the wisdom behind the Liberal Party's move to oppose the Second Reading of the Bill and Mrs LAU's present move to agree to the Committee stage of the Bill in order to move an amendment. I shall leave it to Mrs LAU to explain her own action for herself. But I would like to put it clearly in response to Dr HUANG's question as to why the Liberal Party has in fact voted against the Second Reading of the Bill. In fact, our position has always been very clear. But since Dr HUANG questioned, I feel duty-bound to explain it to him.

The Liberal Party stands opposed to any move on the part of the Government that would have an inflationary effect on the retail market and would deal a blow to consumer's confidence generally at a time when consumer confidence is already very fragile.

Specifically, Dr HUANG referred to tobacco duty. Again, I would like to remind him that, in fact, in this Chamber we have thoroughly debated the question of how the economy of Hong Kong stands at the moment and what assistance we need. During that debate, our position on the situation of the tobacco trade has also gone into great detail, in the sense that it is very clear that the smuggling of tobacco or cigarettes is very blatant at the moment. The Government's estimate has already indicated that 300 million pieces of cigarettes

would be seized by Customs and Excise in 1996. And the trade estimates that for every piece of cigarette seized, 17 would slip through the net. In other words, smugglers would enjoy a turnover of \$2.5 billion. Any more increase in duty would not benefit the Treasury but rather the pockets of the criminal elements who are operating the syndicates. So, I would just remind Dr HUANG, in case it escapes his memory, of the Liberal Party's position.

Thank you, Mr Chairman.

庫務司致辭：主席先生，剛才在提出恢復二讀辯論條例草案的演辭內，我已經提及今次建議增加燃油稅對通脹、運輸業和非法活動等的影響，我不想在此重複各個論據。不過，剛才有議員提到收費和稅收的問題，我覺得有一點值得我們特別去分析。收費是一名服務使用者所須付的支出；而稅收是為了令政府可以提供各項服務，包括福利、教育和保安等，所以我認為兩者不可以混為一談。

在整個財政預算案內，我們考慮稅收部分的其中一個主要目標，就是希望可以整體上達到收支平衡。如果只有減稅措施的部分獲得通過，而加稅措施的部分則遭否決，我們在預算案內致力求取的平衡就會受到破壞。

也許大家都會記得一件事，就是增加燃油稅的措施在今年三月六日財政預算案公布後已經透過《公共收入保障令》予以實施。該項措施至今可說是普遍為社會人士接納。我與媒介或各方面接觸時，也沒有得到任何明顯反應表示我們這做法並不合理。我懇請各位議員全面支持本條例草案，因為這是整套財政預算案不可或缺的一部分。

委員劉健儀議員致辭：主席先生，首先，我想回應黃震遐議員剛才提出的問題，為何我不反對其他稅項的增加，只是反對增加柴油稅而在條例草案二讀時不予以支持。正正因為條例草案二讀時，已包括我自己最反對的增加柴油稅項目，所以對於整項條例草案我都不能夠支持。如果我在委員會審議階段提出的修正事項不成功通過的話，換句話說，如果條例草案仍然包括我最反對的增加柴油稅那部分的話，我在條例草案三讀時仍然會反對整條條例草案，雖然基本上我不反對增加煙草稅，也不反對增加其他燃油稅。由於條例草案仍然包括了我最反對的項目，所以我逼於無奈要反對整條條例草案。

主席先生，運輸界的苦口得不到一向關注民生的議員，特別是民主黨的議員的關注，（剛才黃震遐議員已經代表民主黨發表他們的意見），究竟民

主黨是否真的關注民生；他們是真情還是假意呢？相信大家都會記憶猶新，剛才李卓人議員也提到，單仲偕議員在今年一月提出議案，要求凍結所有公共事業的收費，議案的大前提是，由於通脹高企、失業率持續上升和政府有大量盈餘和儲備，因此，要求凍結那些與民生有關的項目。當時民主黨堅信這樣做會減輕市民沉重的生活負擔。今天我提出這項修正案也正正是與社會大眾的日常生活息息相關，目的也是為了減輕市民的生活負擔。我們可從三個層面來看增加柴油稅如何直接或間接影響民生。

第一個層面是“打工仔”。政府增收柴油稅，即時受害的是的士、小巴或貨車司機。由於車租是固定的，汽油費用須由司機負責，所以增加柴油稅只會由司機承擔，進而打擊司機的生計。第二層面是車主。在運輸行業中，不少營運者是司機，也是車主。為了供車會，車主除了租車給其他人外，自己往往還要兼做一份，以養妻活兒。他們都是小市民，並非大商家。如果上述兩個層面都不符合民主黨對民生所下的定義，我想第三個層面是民主黨肯定不會反對的，那就是普羅大眾。普羅大眾可能不會天天乘搭的士，但他們會經常乘搭小巴和專□小巴。增加燃油稅只會增加的士和小巴加價的壓力，增加的成本到頭來也會轉嫁到市民身上。

我想問民主黨的議員，如果這樣仍未算涉及民生，何謂“民生”呢？民主黨所劃分的民生可能是局限於打工和做老闆的分別；又或是“滾水撈飯”和“魚翅撈飯”的分別；甚至是沒有錢開飯和有錢開飯的分別。“打工仔”失業，沒有飯開，民主黨會為他們請命；做老闆的艱苦經營，要“滾水撈飯”，民主黨是否不理這些人的死活呢？曾幾何時，單仲偕議員代表民主黨，希望其他議員能摒棄成見，支持他的議案，一齊投贊成票。今天我提出同樣的呼籲，希望民主黨能夠摒棄成見，特別是對民生的看法，支持我的議案，一齊投贊成票。

最後，我想回應一點，就是黃震遐議員提及空氣污染是由柴油造成的，所以我們不應阻止柴油稅增加9%，而應該讓它加。不過，黃震遐議員可能完全沒有聽到我在原先的演辭內所提到，我提出這項議案，要求不要增加柴油稅9%，正正是一個環保的行為。因為非法使用“紅油”的情□現時十分猖獗，而“紅油”是很不環保的，所以我們應該設法阻止販賣非法“紅油”，其中一個方法就是將“紅油”和柴油的價格拉近，令非法“紅油”的吸引力降低，令人不會犯法。因此，這亦包含了一個環保的意識在內。不過，黃震遐議員似乎只想到柴油會污染環境，因而要重罰。我不知他是否這個意思，

但他似乎已將柴油和環保拉上關係，因而支持9%的增幅。這似乎意味□一定要打倒柴油車，一定要用其他方法代替柴油車。

謝謝主席先生。

Question on the amendment put.

Voice vote taken.

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

Mrs Miriam LAU claimed a division.

CHAIRMAN: Committee will proceed to a division.

CHAIRMAN: I would like to remind Members that they are now called upon to vote on the question that the amendment to clause 2 moved by Mrs Miriam LAU be approved. Will Members please first register their presence by pressing the top button and then proceed to vote by pressing one of the three buttons below?

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

Mr Allen LEE, Mrs Selina CHOW, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr CHIM Pui-chung, Mr Henry TANG, Mr James TIEN, Mr LEE Cheuk-yan, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr CHENG Yiu-tong, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr IP Kwok-him, Mr LAU Chin-shek, Mr LEUNG Yiu-chung, Mr NGAN Kam-chuen and Mr YUM Sin-ling voted for the amendment.

Mr Martin LEE, Mr SZETO Wah, 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, Dr Samuel WONG, Dr Philip WONG, Dr YEUNG Sum, Mr WONG Wai-yin, Miss Christine LOH, Mr Andrew CHENG, Mr Paul CHENG, Dr Anthony CHEUNG, Mr Albert HO, Mr LAW Chi-kwong, Miss Margaret NG, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE and Mrs Elizabeth WONG voted against the amendment.

Dr LAW Cheung-kwok, Mr Bruce LIU and Mr MOK Ying-fan abstained.

THE CHAIRMAN announced that there were 20 votes in favour of the amendment and 26 votes against it. He therefore declared that the amendment was negatived.

CHAIRMAN: As the amendment to clause 2 moved by Mrs LAU has been negatived, I now put the question to you and that is: That clause 2 stand part of the Bill.

Question on clause 2 proposed, put and agreed to.

Council then resumed.

Third Reading of Bills

THE SECRETARY FOR ECONOMIC SERVICES reported that the

GAS SAFETY (AMENDMENT) BILL 1996

had passed through Committee without amendment. He moved the Third Reading of the Bill.

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

Bill read the Third time and passed.

THE SECRETARY FOR SECURITY reported that the

BIOLOGICAL WEAPONS BILL

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.

PRESIDENT: For the nine budget/revenue-related Bills, may I suggest the Secretary for the Treasury move three motions. The first would cover the first seven, which passed through Committee without amendment. The second on the Betting Duty (Amendment) Bill 1996 which passed through Committee with amendment. And the last, the Dutiable Commodities (Amendment) (No. 2) Bill 1996, which although passed through Committee without amendment, however since there was some controversy, I think it is safer to take it on a separate motion.

THE SECRETARY FOR THE TREASURY reported that the

INLAND REVENUE (AMENDMENT) BILL 1996

INLAND REVENUE (AMENDMENT) (NO. 2) BILL 1996

BUSINESS REGISTRATION (AMENDMENT) BILL 1996

ESTATE DUTY (AMENDMENT) BILL 1996

STAMP DUTY (AMENDMENT) BILL 1996

MOTOR VEHICLES (FIRST REGISTRATION TAX) (AMENDMENT) BILL 1996 and

AIR PASSENGER DEPARTURE TAX (AMENDMENT) BILL 1996

had passed through Committee without amendment. He moved the Third Reading of the Bills.

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

Bills read the Third time and passed.

THE SECRETARY FOR THE TREASURY reported that the

BETTING DUTY (AMENDMENT) BILL 1996

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 THE TREASURY reported that the

DUTIABLE COMMODITIES (AMENDMENT) (NO. 2) BILL 1996

had passed through Committee without amendment. He moved the Third Reading of the Bill.

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

Bill read the Third time and passed.

ADJOURNMENT AND NEXT SITTING

PRESIDENT: In accordance with Standing Orders, I now adjourn the Council until 2.30 pm on Wednesday, 22 May 1996.

Adjourned accordingly at ten minutes to Five o'clock.