

# **OFFICIAL RECORD OF PROCEEDINGS**

**Wednesday, 13 December 1995**

**The Council met at half-past Two o'clock**

## **MEMBERS PRESENT**

THE PRESIDENT

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

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

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

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

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

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

THE HONOURABLE SZETO WAH

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

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHIM PUI-CHUNG

THE HONOURABLE FREDERICK FUNG KIN-KEE

THE HONOURABLE MICHAEL HO MUN-KA

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

THE HONOURABLE EMILY LAU WAI-HING

THE HONOURABLE LEE WING-TAT

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

THE HONOURABLE FRED LI WAH-MING

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

THE HONOURABLE JAMES TO KUN-SUN

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

DR THE HONOURABLE PHILIP WONG YU-HONG

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE HOWARD YOUNG, J.P.

THE HONOURABLE ZACHARY WONG WAI-YIN

THE HONOURABLE CHRISTINE LOH KUNG-WAI

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

THE HONOURABLE LEE CHEUK-YAN

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THE HONOURABLE CHAN KAM-LAM

THE HONOURABLE CHAN WING-CHAN

THE HONOURABLE CHAN YUEN-HAN

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE PAUL CHENG MING-FUN

THE HONOURABLE CHENG YIU-TONG

THE HONOURABLE ANTHONY CHEUNG BING-LEUNG

THE HONOURABLE CHEUNG HON-CHUNG

THE HONOURABLE CHOY KAN-PUI, J.P.

THE HONOURABLE DAVID CHU YU-LIN

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE IP KWOK-HIM

THE HONOURABLE LAU CHIN-SHEK

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

DR THE HONOURABLE LAW CHEUNG-KWOK

THE HONOURABLE LAW CHI-KWONG

THE HONOURABLE LEE KAI-MING

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE BRUCE LIU SING-LEE

THE HONOURABLE LO SUK-CHING

THE HONOURABLE MOK YING-FAN

THE HONOURABLE MARGARET NG

THE HONOURABLE NGAN KAM-CHUEN

THE HONOURABLE SIN CHUNG-KAI

THE HONOURABLE TSANG KIN-SHING

DR THE HONOURABLE JOHN TSE WING-LING

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

THE HONOURABLE LAWRENCE YUM SIN-LING

## **PUBLIC OFFICERS ATTENDING**

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

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

MR CHAU TAK-HAY, C.B.E., J.P.  
SECRETARY FOR RECREATION AND CULTURE

MR NICHOLAS NG WING-FUI, J.P.  
SECRETARY FOR CONSTITUTIONAL AFFAIRS

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

MR JOSEPH WONG WING-PING, J.P.  
SECRETARY FOR EDUCATION AND MANPOWER

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MR BOWEN LEUNG PO-WING, J.P.  
SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS

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

MR FUNG TUNG, O.B.E., J.P.  
SECRETARY FOR HOUSING

## **CLERKS IN ATTENDANCE**

MR RICKY FUNG CHOI-CHEUNG, SECRETARY GENERAL

MR LAW KAM-SANG, DEPUTY SECRETARY GENERAL

MISS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

**PAPERS**

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

*Subject*

Subsidiary Legislation	<i>L.N. No.</i>
Road Traffic (Public Service Vehicles) (Amendment) (No. 5) Regulation 1995 .....	562/95
Hong Kong Airport (Restricted Areas and Tenant Restricted Areas) Order.....	563/95
Road Traffic (Breath Analysing Instruments and Screening Devices) Notice .....	564/95
Toys and Children's Products Safety (Safety Standards) Notice .....	565/95
Official Languages (Authentic Chinese Text) (Road Tunnels (Government) Ordinance) Order .....	(C) 118/95
Official Languages (Authentic Chinese Text) (Tate's Cairn Tunnel Ordinance) Order .....	(C) 119/95

## Sessional Papers 1995-96

- No. 37 — The Prince Philip Dental Hospital Hong Kong Report  
by the Board of Governors  
for the period 1 April 1994 - 31 March 1995
- No. 38 — Ocean Park Corporation  
Annual Report 1994-95
- No. 39 — Emergency Relief Fund  
Annual Report by the Trustee  
for the year ending on 31 March 1995

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- No. 40 — Social Work Training Fund  
Thirty-fourth Annual Report  
by the Trustee for the year ending on 31 March 1995
- No. 41 — Chinese Temples Fund  
Income and Expenditure Account with  
Balance Sheet and Certificate of the  
Director of Audit for the year ended 31 March 1995
- No. 42 — General Chinese Charities Fund  
Income and Expenditure Account with  
Balance Sheet and Certificate of the  
Director of Audit for the year ended 31 March 1995
- No. 43 — Report of the Brewin Trust Fund Committee on the  
Administration of the Fund  
for the year ended 30 June 1995
- No. 44 — Grantham Scholarships Fund  
Income and Expenditure Account with  
Balance Sheet and Certificate of the  
Director of Audit for the year ended 31 August 1995
- No. 45 — Queen Elizabeth Foundation for the  
Mentally Handicapped Report and Accounts 1994-95
- No. 46 — The Accounts of the Lotteries Fund 1994-95
- No. 47 — Hong Kong Housing Authority  
1994-95 Annual Report
- No. 48 — Hong Kong Housing Authority  
Annual Accounts for the year ended 31 March 1995 and  
Balance Sheet as at that date

**ORAL ANSWERS TO QUESTIONS****Mother Tongue as Medium of Instruction in Secondary Schools**

1. **MR IP KWOK-HIM** asked (in Cantonese): *Mr President, according to the findings of a research conducted by the Education Department, it is more appropriate for about 70% of Form One students to receive education in their mother tongue, but there are only 100 secondary schools (accounting for less than 20% of all the secondary schools in the territory) which have adopted the mother tongue as the medium of teaching. In this connection, will the Government inform this Council:*

- (a) whether it has promoted the importance of mother-tongue teaching to parents of secondary school students; if so, what are the details, and what achievement it has made in this regard; and*
- (b) what plans does the Government have to make more schools accept and adopt mother tongue teaching?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Mr President, the Government's policy is to encourage secondary schools to adopt Chinese as the medium of instruction, to allow individual schools to exercise discretion in the choice of their medium of instruction after taking into consideration whether their students can learn effectively in Chinese or English, and to strongly discourage the use of mixed code in schools. This policy is based on the following considerations:

- (i) that teaching and learning are generally more effective through the mother tongue; and
- (ii) that while students can learn more effectively in their mother tongue, those who have the ability to learn effectively in English should be given the opportunity to do so if they so wish.

Since 1994, parents of Primary six students have been provided with information on their children's language ability in Chinese and English. Schools have since been categorized into three groups as follows:



- (i) schools which should use Chinese as the medium of instruction;
- (ii) schools which may use either Chinese or English as the medium of instruction; and
- (iii) schools which may use Chinese or English for some classes and should use Chinese only for other classes as the medium of instruction.

At the same time, the Education Department has been vigorously promoting the benefits of mother tongue teaching by:

- (i) publicizing the results of research studies undertaken by the Education Department in conjunction with the University of Hong Kong and the Chinese University of Hong Kong between 1987 and 1994 on using the mother tongue as the medium of instruction. These studies indicated that students generally learned and performed better with their mother tongue adopted as the medium of instruction, particularly in language-loaded subjects. Abstracts of these results have been distributed to all kindergartens, and primary and secondary schools. The Education Department has also produced video tapes on the basis of the information concerned. Starting from 1995, such information is also given, in the form of pamphlets, to all parents of Primary six students who will have to choose a secondary school for their children;
- (ii) producing posters for schools to display on parents' days;
- (iii) holding roving exhibitions to explain the Government's policy on medium of instruction and the findings of the relevant research studies; and
- (iv) organizing seminars for secondary school headmasters on how to effectively implement mother tongue teaching.

As a result of these efforts, the number of schools adopting Chinese as the medium of instruction for all subjects except English has increased from 52 in 1994 to 69 this year. In fact, some 280 secondary schools or 70% of all the secondary schools use Chinese as the medium of instruction to varying degrees. Of these, some 150 schools use Chinese for most of the subjects.

To encourage more schools to use Chinese as the medium of instruction in the coming years, the Education Department will continue to adopt preferential measures which include -

- (i) providing additional teachers of English, movable partitions, wirefree induction loop systems as well as one-off library grants to enhance English teaching and learning;
- (ii) providing training courses to prepare teachers to teach in Chinese;
- (iii) providing incentives for publishers to produce good quality Chinese textbooks in various subjects — the Finance Committee of this Council has recently approved \$54 million for implementing phase four of the incentive scheme; and
- (iv) compiling glossaries of technical terms in both Chinese and English for major subjects.

In addition, the Education Department is currently conducting a three-year longitudinal study starting in 1994 to gauge the effects of different modes of medium of instruction on the academic achievement and learning process of Form One to Form Three students. Based on these findings, we will formulate and issue to schools clear-cut guidelines in 1997 on the appropriate medium of instruction to be adopted from September 1998 onwards.

These efforts will be reinforced by the following publicity activities to be launched by the Department in this fiscal year of 1995-96:

- (i) To organize eight seminars on the benefits of mother tongue teaching for primary school teachers in the hope that they will pass the message on to pupils and parents;
- (ii) To produce television programmes and Announcements of Public Interest (API) on radio, targeting specially on parents;
- (iii) To put up posters at MTR stations;
- (iv) To prepare and distribute new pamphlets to parents of Primary Four to Primary Six students; and

- (v) To publicize, through the mass media, successful examples of schools adopting mother-tongue teaching, particularly the outstanding achievements of their students with a view to promote mother-tongue teaching.

The total cost of these activities is estimated at \$2.6 million.

**MR IP KWOK-HIM** (in Cantonese): *Mr President, I would like to know more about the three-year longitudinal study which commenced in 1994 that the Secretary for Education and Manpower has mentioned earlier. He said that this study sought to assess different modes of medium of instruction. I would very much like to know clearly the content of this study. Can the Secretary provide more detailed information? What specific measures can the Administration take subsequent to the completion of the study to render mother-tongue teaching more acceptable to parents?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): *Mr President, this study which began in 1994 and which has mainly used 60 schools as samples, seeks to examine the progress of learning of students from Form One to Form Three who are taught in different modes of medium of instruction. The main purpose of this is that we would very much like to see the findings of this study match our previous studies, thus proving that the academic achievements of students learning through their mother tongue in this period (from Form One to Form Three) are better than students being taught under the so-called mixed code teaching approach. We will subsequently implement the guidelines which have already been issued to schools on the basis of the findings. Under the guidelines which we have issued to schools, as I have explained in the main reply, it is stated that some schools should use Chinese as the medium of instruction, some may use either Chinese or English while some should use Chinese only for some classes and use English or Chinese for other classes for better results. We very much hope that the findings of the study will further boost the confidence of schools and particularly parents in the effectiveness of mother-tongue teaching so that we can issue in 1997 a set of clear-cut guidelines as I have mentioned in the main reply, advising all schools to observe the guidelines of the Education Department and formally implement the policy of mother-tongue teaching across the board from the 1998 school year onwards.*

**PRESIDENT:** I have four more names on my list and I draw a line there.

**MR CHEUNG MAN-KWONG** (in Cantonese): *Mr President, it is mentioned in the main reply that the Government plans to issue a clear-cut guideline in 1998 to schools which are suitable only for mother-tongue teaching, asking these schools to adopt mother-tongue teaching for the benefits of their students. Can the Government inform this Council whether this clear-cut guideline is binding or is it just a "toothless tiger"? If these schools do not comply with this guideline of the Education Department, what measures will the Government take to ensure compliance?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Mr President, the guidelines will be issued in 1997, which is, in other words, two years away. We very much hope that in the next two years, through the series of measures and promotional campaigns that I have discussed in the main reply, an increasing number of schools will follow our guidelines by adopting the kind of language that we suggest to them as the medium of instruction. In consideration of the point that the Honourable CHEUNG Man-kwong raised just now, I will look into the need to draw up certain rules when the guidelines are issued in 1997. Of course, I can say that where secondary schools in Hong Kong are concerned, public secondary schools in particular, some of them are government schools and some are subsidized by the public fund. If we need to make the guidelines binding in implementation, even though the guidelines are not legally binding, there will certainly be other alternatives that we can consider to achieve this end. However, I do not wish to make a decision now regarding to what extent the guidelines are binding because I very much hope that through our on-going efforts, more and more schools will accept the guidelines that we have already issued to them.

**MR LEUNG YIU-CHUNG** (in Cantonese): *Mr President, I would like to follow up part (b) of the question. At present, secondary schools or secondary school teachers have found it rather difficult to accept mother-tongue teaching. The reason for that, I believe, relates to the medium of instruction at our universities because at present, as the Secretary for Education and Manpower has mentioned, it is not compulsory for our universities to adopt a particular kind of language as their medium of instruction. This has puzzled secondary school teachers who*

*are at a loss as to how the medium of instruction used in secondary schools can be linked up to that used at our universities. There are difficulties in the convergence of the medium of instruction particularly in subjects such as science, mathematics or natural science. May I ask the Secretary this: while secondary school teachers and secondary schools are being talked into adopting mother-tongue teaching in their schools, how can the Administration convince them that the difficulties faced by their students in respect of the medium of instruction used at our universities will be eliminated?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Mr President, from what I understand as the main point of Mr LEUNG's question, he is, perhaps, worried that students who study in Chinese-medium secondary schools may face certain difficulties when they go to university. I, however, do not quite agree with him. It is because basically, we have conducted a lot of studies and we have been telling parents since 1994 that in actual fact, some 33% of students in the territory can learn through either Chinese or English while a majority of the rest of the students should learn through their mother tongue, namely Chinese, in secondary schools. For students who learn through Chinese, I think they would not have problems in other disciplines when they study at university because there are such reference books as bilingual glossaries of technical terms. I have to stress that the mother-tongue teaching approach that I have presented just now does not mean that the subject of English must also be taught in Chinese. The subject of English can be taught in English. Therefore, the point I am making is that learning through the mother tongue does not necessarily mean a lowering of the English standard. Besides, as I have mentioned in the main reply, the Government will provide plenty of support to Chinese-medium schools, which includes additional teachers of English.

**MRS SELINA CHOW** (in Cantonese): *Mr President, as the Secretary for Education and Manpower has mentioned just now that while suggestions have been made to schools, very few schools seem to have adopted mother-tongue teaching of their own accord. There are a mere 69 schools which have adopted such approach so far while 70% of the schools have not yet accepted this approach. While that clear-cut guideline is to be issued only in 1998, can it be put across to schools earlier, telling them that this policy will definitely be implemented in 1998 so that they can make a choice earlier and actively change their language policy?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Mr President, as a matter of fact, all secondary schools know well and have received from the Education Department instructions as to which language, be it Chinese or English, should be adopted as the medium of instruction. Therefore, all schools are already aware of the guidelines. But why do we have to issue a set of guidelines in more explicit terms in 1997? As I have stated in the main reply, it is because a three-year longitudinal study was launched in 1994, seeking to collect data that are objective and which should be more convincing to both schools and parents to prove that learning through the mother tongue is effective indeed. Given that the study which started in 1994 will take three years, we can only have the findings in 1997. Such being the case, I hope to issue the clear-cut guidelines only in 1997 to dovetail with the findings of this three-year study. Yet, it does not mean that we are going to stop the measures in the interim. We will, as I have mentioned in the main reply, continue with the promotional and supportive measures concerned in order to encourage more schools to observe our guidelines.

**MR ANTHONY CHEUNG** (in Cantonese): *Mr President, although the Secretary for Education and Manpower has mentioned in his reply just now that some research studies showed that students who are taught in their mother tongue have demonstrated better performance in learning and that the Government has provided additional resources to support mother-tongue teaching in schools, the reality is that a great majority of secondary schools are reluctant to fully adopt the mother tongue as the medium of instruction. What are the reasons for this? Is it due to resistance from parents who are reluctant to let their children learn in their mother tongue? Are they worried that their children may face difficulties when they go to university; or is it because of reservations on the part of employers? Has the Government formulated any plans before, or does it have any at present, to conduct substantial studies in an effort to solicit the opinions of the community, including those of employers, universities or parents on mother-tongue teaching?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Mr President, the question raised by Mr CHEUNG consists of several parts. First, he asked why many schools remain unwilling to observe the guidelines of the Education Department and adopt mother-tongue teaching. This is due to a number of reasons. Of course, on the one hand it is because of the attitude of

parents, many of whom tend to feel that English-medium teaching will help improve their children's proficiency in English and this will be advantageous to their children in further studies and in seeking future employment. Another reason, which correlates with the above, is that some schools believe that if they switch from English-medium to Chinese-medium teaching, they might end up having to accept students with a lower academic standard owing to the attitude of parents in choosing schools for their children.

As to how we are going to allay their anxieties, first of all, as I have mentioned in the main reply, we will on the one hand publicize the effectiveness of mother-tongue teaching through promotional campaigns and on the other hand, as we have already mentioned, there is the three-year longitudinal study. We hope that more convincing and objective information will be obtained to prove the effectiveness of mother-tongue teaching. In the meantime, I also have to emphasize that we will continue to convey the message to parents that mother-tongue teaching will not in the least lower the students' English standard because the lowering of English standard may be due to a diversity of factors. Moreover, despite mother-tongue teaching, the subject of English can still be taught through the medium of English. In this connection, we will reinforce this message to parents.

### **Hospital Authority Merit Payments to Senior Staff**

2. **MR CHAN WING-CHAN** asked (in Cantonese): *Mr President, will the Government inform this Council:*

- (a) *whether merit payments are granted to senior executives of the Hospital Authority; if so, what are the criteria for granting such payments, which types of executives are eligible for receiving such payments, and what is the basis for determining the amount granted; and*
- (b) *of the annual amount appropriated for such payments by the Hospital Authority over the past three years?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Mr President, the Chief Executive and Hospital Chief Executives are senior executives of the Hospital Authority whose remuneration contains a performance related element. Such payments are determined by assessment panels set up to evaluate the overall performance of individual executives in discharging their management duties and achieving agreed service targets.

In the case of Hospital Chief Executives, the assessment panel comprises members of the Hospital Authority Board as well as the respective Hospital Governing Committees, and the payment ranges from 0% to 15% of pay. In the case of the Chief Executive, the assessment panel comprises Hospital Authority Board members, and the payment ranges from 0% to 30% of pay.

The amounts of performance related payments granted by the Hospital Authority in 1992-93, 1993-94 and 1994-95 were in the order of \$0.6 million, \$4 million and \$7 million respectively.

**MR CHAN WING-CHAN** (in Cantonese): *May I ask the Government if it is appropriate to set up this merit payment scheme for the Hospital Authority? If the Government considers this merit payment scheme appropriate, why is it that only a small handful of people in the higher echelons are eligible for this payment? Does the Hospital Authority think that other than this small handful of people, the efforts of other members of staff are not worthy of commendation and reward?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Mr President, this merit payment seeks to provide a mechanism to ensure that the performance of senior executives is up to a certain standard. In this connection, it is necessary to establish an administrative framework and set certain targets. This is a scheme drawn up by the Hospital Authority with the approval of the Government. Under the circumstances, it is an internal administrative decision of the Hospital Authority that such payment is made to senior executives and not to be granted to other members of staff.

**PRESIDENT:** I have four more names on my list and I draw a line there. May I again remind Members to keep their supplementary single-barrelled and keep



the preambles very, very short indeed.

**MR CHAN KAM-LAM** (in Cantonese): *Mr President, at present, a great majority of the Government's appropriation to the Hospital Authority and the main revenue of hospitals is spent on expenses relating to manpower and staffing matters. Under this system, how can the Government prevent individual executives who seek to procure a higher merit payment from deliberately suppressing departmental expenditures so that the money will go into the pockets of these executives?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): *Mr President, the performance related payment is meant to reward those members of staff who can meet the targets of improving the services. This payment is drawn from the money set aside for remuneration at a designated rate. Therefore, no extra expenses will be incurred. Nor will it have any impact on the expenditure required for the provision of services to patients. The Hospital Authority has a mechanism in place to determine the eligibility of their staff for this merit payment. As I said in the main reply, in the case of the Chief Executive, an assessment panel under the Hospital Authority Board is set up and in the case of Hospital Chief Executives, a panel comprising members of the Hospital Authority Board and the respective Hospital Governing Committees is set up to assess their eligibility. Therefore, I believe there is adequate information provided for the assessment and this payment will not jeopardize the services to patients.*

**MISS CHAN YUEN-HAN** (in Cantonese): *Mr President, I am not challenging the management system of the Hospital Authority. However, the fact is that rumours are spreading in the community. From the figures just presented to us by the Government, the granting of this payment alone in 1994-95 already amounted to \$7 million. If we calculate on the basis of the data that the Government has provided us earlier which indicate that there are 40 executives in the senior management level, 40 people sharing this \$7 million will mean over \$170,000 for each person. Given that the Hospital Authority is a non-profit-making institution, does the Government consider this merit payment scheme appropriate? I have to stress that at a time particularly when we are discussing inadequate expenditure on medical services, is it a right thing to do to adopt such a scheme?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Mr President, I think what the Honourable Miss CHAN Yuen-han has said may just be her personal opinion. But I can explain to Members that this payment has increased annually on a progressive basis because the newly introduced administrative framework is only implemented gradually. It was not commenced in full in 1992. It was only in 1994-95 that all Hospital Chief Executives required were recruited and this explains the annual increase in the payment. As for the question of appropriateness and whether this payment should be granted, the Hospital Authority can make its own decisions on the remuneration for their staff.

**DR LEONG CHE-HUNG** (in Cantonese): *The Secretary for Health and Welfare revealed in her reply just now that the annual amount of merit payment is on the rise progressively. Does this mean that there are more and more senior executives, or that the executives are doing their jobs better and better?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): I have in fact answered half of the question. First, there has been an increase in the number of executives between 1992 and 1995. Secondly, the executives have more opportunities each year to show good performance. Thirdly, I have to point out that not all the executives will definitely be granted this payment.

**MR CHOY KAN-PUI** (in Cantonese): *Mr President, is the morale of staff in the lower ranks affected by the merit payment and bonus scheme for senior executives of the Hospital Authority? How will the administration and operation of the Hospital Authority be affected without this scheme? In view of the concept of linking up charges with the cost, will patients be made to pay higher medical fees as a result of a rise in the cost due to this bonus system?*

**PRESIDENT:** I think there were three questions.

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Mr President, first of all, I have to stress that the payment is not a bonus. It is a payment determined by performance and it is clearly set out in the letters of appointment that such payment is granted only on the ground of good performance. It is part of the income, not a bonus, and the Hospital Authority is, as Members have pointed out just now, a non-profit-making institution. As to the question of whether there is any impact on the morale of other members of staff, as far as I know and from the information provided to me by the Hospital Authority, the morale is not affected. The granting of this payment and the charges for medical services are two entirely different matters, which are not in the least related.

### **Chief Executive (Designate) and Team Designate**

3. **MR LEE WING-TAT** asked (in Cantonese): *Mr President, as the Chief Executive (Designate) and Principal Officials (Designate) the Team Designate will be appointed in 1996, will the Government inform this Council:*

- (a) *what is the composition of the Team Designate as the Government understands it;*
- (b) *whether, in regard to providing assistance to the Special Administrative Region (SAR) Government (Designate) in its work during the transition, the Government will provide assistance to the Principal Officials (Designate), Executive Councillors (Designate) or the Team Designate as a whole in addition to providing assistance to the SAR Chief Executive (Designate);*
- (c) *in what ways will such assistance be given; and*
- (d) *whether the Government will urge the British Government to request the Chinese Government to state clearly that the secretariat consisting of a few hundred staff proposed to be set up by a member*

*of the Preliminary Working Committee (PWC) to provide assistance to the Chief Executive (Designate) will not result in the existence of a "shadow government", and whether the Government will request the British Government to clarify if the PWC's proposal contravenes Section four of the Sino-British Joint Declaration?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS:** Mr President, it is not for the Hong Kong Government to define for the Chinese side what the term "Team Designate" stands for. The only occasion that this term had been explained to us was in the context of discussions on the Court of Final Appeal. On that occasion, the Chinese side told us that the Team Designate would be led by the Chief Executive (Designate) and would include the Principal Officials (Designate) and others qualified to take part in the establishment of the Court of Final Appeal.

It is obviously in Hong Kong's interests to ensure that the transition will be as smooth as possible. It is, therefore, essential that we render assistance to the Chief Executive (Designate). In the Governor's policy address, we have already undertaken to do so. The details and the form of such assistance will need to be discussed with the Chinese side.

Under the Joint Declaration, the administration of Hong Kong before 1997 will remain a British responsibility. We have made it clear that we will maintain effective administration of the territory and will not accept any parallel or shadow government. We have noted from recent press reports that the Chinese side have affirmed their support for this principle and that there should not be an alternative centre of power before 30 June 1997.

**MR LEE WING-TAT** (in Cantonese): *By this time next year, there will be many organizations relating to the transition of the Hong Kong Government emerging, including the Preparatory Committee. The Chief Executive (Designate) will be known; and the Executive Councillors (Designate) and Principal Officials (Designate) after 1997 may be appointed in parallel with the existing Administration. How can the Secretary for Constitutional Affairs assure us that the discussions of these many organizations and the views they openly express will not interfere with the operation of the Hong Kong Government and will not affect the effectiveness and the authority of the existing Government in governing Hong Kong, as consistently emphasized by the Chief Secretary?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS:** Mr President, I would like to reiterate and stress again the provision in the Joint Declaration. It provides very specifically and very clearly that the administration of this place would be the responsibility of the British Government before 1 July 1997. So there is no question of us abdicating; there is no question of us being confused or confounded by discussions or happenings elsewhere. We would continue to maintain a very effective administration of this place before 1 July 1997.

**PRESIDENT:** I have four more names on my list, and I will draw a line there.

**DR YEUNG SUM** (in Cantonese): *Mr President, since the Government will establish a liaison office to maintain co-operation with the Team Designate, can the Government inform this Council how such liaison office will report to Members of the Legislative Council? Will it consult Members before any important decision is made?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS:** Mr President, as I have explained to Members of the Constitutional Affairs Panel on a number of occasions and as the Governor has indeed also explained in his previous Question and Answer session, our assistance to the Preparatory Committee and in future the Chief Executive (Designate) will be on the principle of openness and transparency and we certainly would keep the Legislative Council fully in the picture of the Hong Kong Government's activities in relation to co-operating with the Preparatory Committee. Of course, it is not the Hong Kong Government's responsibility to explain on behalf of the Preparatory Committee what it does, how it operates and why it operates in a particular fashion. But insofar as the Hong Kong Government's co-operation with the Preparatory Committee is concerned, we would certainly keep Legislative Council Members and the community at large generally informed of our activities. And I would like to also remind Members that our co-operation with the Team Designate, the Preparatory Committee and the Chief Executive (Designate) will be on the three important principles. Firstly, we would not do anything that would be against the Joint Declaration and the Basic Law. We would not do anything that would compromise the Hong Kong Government's commitment to governing this place effectively before 1 July 1997, and we certainly would not do anything that

would put civil servants into a position of double or conflicting loyalties.

**PRESIDENT:** Are you claiming your question has not been answered, Dr YEUNG?

**DR YEUNG SUM** (in Cantonese): *Yes, I am, Mr President. It is because I have also asked the Secretary whether Members of the Legislative Council will be consulted before any important decision is made.*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS:** Mr President, I do not quite understand what Dr YEUNG means by "before any important decision is made". Certainly, any decision made by the Preparatory Committee is not a responsibility of the Hong Kong Government. But insofar as how we co-operate, how we help the Preparatory Committee, we have made a commitment that we will certainly keep the community at large, including the Legislative Council, informed of developments. So there is no question of us making a decision on a particular subject. The general mode of co-operation, the general method of co-operation, the general system of co-operation obviously is something that we would let the Council and community know about, and our activities would be fully transparent and fully open. So it is not a question of us doing anything secretly.

**MR CHIM PUI-CHUNG** (in Cantonese): *Mr President, under the existing system of the British Government, the ruling Conservative Party invariably forms its cabinet. The opposition party, namely the Labour Party, also has its shadow cabinet. This should be particularly the case for Hong Kong, which is now in a transition period in the run-up to 1997. In this connection, does the Government consider the establishment of a shadow government or cabinet reasonable and necessary so long as these organizations do not influence the operation of the existing Hong Kong Government?*

**PRESIDENT:** Mr CHIM, are you seeking an opinion from the Secretary, or are

you asking for the Government's position on the existence of a Preparatory Committee?

**MR CHIM PUI-CHUNG** (in Cantonese): *Mr President, I raised this question mainly because of the strong resistance of the Government to a shadow cabinet or government. But if these organizations do not affect the operation of the Government, it should be unnecessary to put up any resistance to them. So what is the attitude of the Government towards a shadow government or cabinet which does not affect the operation of the Government?*

**PRESIDENT:** Are you prepared to rephrase your question along my lines?

**MR CHIM PUI-CHUNG** (in Cantonese): *Mr President, most importantly, .....*

**PRESIDENT:** Mr CHIM, you have to rephrase your question.

**MR CHIM PUI-CHUNG** (in Cantonese): *All right, Mr President. Let me re-organize my question. I am saying that .....*

**PRESIDENT:** I am sorry, you have stated your view twice. You are not asking a question, you are seeking Mr NG's personal view on a term called "shadow government".

**MR CHIM PUI-CHUNG** (in Cantonese): *Mr President, my question is this. The Secretary for Constitutional Affairs stated in paragraph three of his reply that the existence of a shadow government will not be accepted. If the so-called shadow government does not affect the operation of the Government, how will the Government deal with this issue? I would not mind if you rule that it is inappropriate for the Secretary to answer this question.*

**PRESIDENT:** Secretary, the Government position, not your personal view please.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS:** Mr President, with your tolerance, I will try to answer the points raised by Mr CHIM.

We have obviously undertaken to provide the Chief Executive (Designate) with the necessary assistance to help him to prepare for the formation of the SAR Government, but the thing to remember is that prior to 1 July 1997, the administration of this place rests in the hands of the Hong Kong Government, through the British Government's responsibility and therefore any planning or preparation by the Chief Executive (Designate) and his supporting team should not undermine the authority of the current Administration and we just fail to see how the question of shadow government comes into the debate. We would be responsible for running this place before 1 July 1997, and indeed Mr CHIM should note, as mentioned in my principal answer, that the Chinese senior officials, and only last week, at least two or three of them, have recently clearly indicated that there would not be any question of a second power centre or a shadow government existing in Hong Kong before 1 July 1997.

**MISS EMILY LAU** (in Cantonese): *Mr President, the Government said in the reply that the details and the form of assistance to be rendered to the Team Designate will need to be discussed with the Chinese side. However, neither do I believe nor accept that the Government, at this point in time, does not have any initial proposal in this regard. I have already put this question to the Chief Secretary when she was here last week. It is my hope that the Government can reveal more information to Members today. As the Government has frequently stressed the high transparency in the future operation of the Government, but if the Government refuses to tell the people of Hong Kong anything right from the start, I think nobody would believe that the Government would, in actual reality, let us know more. Therefore, Mr President, I hope that the Government can tell us right away how does the Government plan to deal with the Chinese Government and what sort of questions will be raised for discussion in an effort to provide assistance?*



**SECRETARY FOR CONSTITUTIONAL AFFAIRS:** Mr President, I am really surprised to hear Miss LAU saying that we have not said anything about how we are going to help or co-operate with the Preparatory Committee. I will leave the Chief Executive (Designate) for the moment because obviously the Chief Executive (Designate) would have at least another year to go, or at least a long while to go before we would need to face that scenario. But insofar as co-operating with the Preparatory Committee is concerned, if Miss LAU would care to refer to the 1995 Governor's policy address, paragraphs 133 to 137, we did set out the broad framework of how we were to co-operate. We suggested that we would establish a liaison office as a focal point of contact within the Hong Kong Government, as a focal point of liaison, as a focal point of provision of information to the Preparatory Committee. Now the actual size of the liaison office and the actual detailed operation as to how many meetings we hold, are obviously some of the details that we would need to discuss and would need to unfold depending on how the Preparatory Committee would operate in detail or in actual reality. But the framework is clearly set out and the principles of that co-operation are again very clearly set out in the 1995 policy address. With those principles and within that framework, we will be able to co-operate in an effective way with the Preparatory Committee and I can assure Miss LAU that if there are major departures from that framework, from those principles, the Legislative Council will be the first organization to hear about them.

**MR HOWARD YOUNG:** *Mr President, the Secretary for Constitutional Affairs refers in his second paragraph that the details and form of such assistance will need to be discussed with the Chinese side. I would like to know whether this is inferring that the Government plans to have the details and anything to do with assistance only discussed with the Chinese side, which I take it to mean through diplomatic channels, or will it be feasible also that once the Chief Executive (Designate) is known, then surely he should be able to directly discuss with the Hong Kong Government rather than him having to talk to Beijing, Beijing to talk to London, London to talk to Hong Kong, in a very roundabout way? Could the Secretary please clarify this point?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS:** Mr President, we certainly do not close our mind to any possible avenues of communication with the Chinese side, on any matter affecting the transition, including of course, how we co-operate with the Preparatory Committee and the Chief Executive

(Designate). Mr YOUNG is quite right in pointing out that apart from the established diplomatic channels, there are other opportunities, there are other occasions, there are other well-established avenues where we can communicate with the Chinese side, and as for his reference to when the Chief Executive (Designate) is around, that will be another avenue for us to communicate directly and more conveniently in dealing with the Chinese. It is obviously something we would bear in mind.

**PRESIDENT:** I will allow one more supplementary as I had overlooked the fact that Mr CHAN Kam-lam had pressed the request to speak button much earlier on.

**MR CHAN KAM-LAM** (in Cantonese): *Mr President, the Secretary for Constitutional Affairs stated in his main reply that it is obviously in Hong Kong's interests to ensure that the transition will be as smooth as possible and it is, therefore, essential that we render assistance to the Chief Executive (Designate). Given that the officials (designate) will be appointed in 1996, may I ask the Government if it should provide the Chinese Government with information of our government officials as soon as practicable so that the Chinese side and the Chief Executive (Designate) will be able to start the work relating to the appointment of officials?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS:** Mr President, obviously we would provide any information that is necessary or useful to help the Chief Executive (Designate) in the establishment of a new government. But I would not like, at this stage, to speculate as to what exactly would be the type of information that would be required by the Chief Executive (Designate). Our general commitment is to help him as far as we can, but against the three principles, the three broad principles that we have set out. So we would not do anything that would be against any of the three principles.

### **First-time Home Ownership**

4. **MR ERIC LI** asked (in Cantonese): *Since June 1994, the Government has implemented administrative measures to regulate property transactions and a curb property prices in order to enable families in need of a home to have the*

*opportunity to purchase homes for the first time at relatively reasonable prices. In this connection, will the Government inform this Council:*

- (a) of the number of new residential flats completed between June 1994 and October this year;*
- (b) what is the number of flats for which transactions have been concluded during the above-mentioned period; whether there is information to show how many of the transactions are in respect of flats purchased by first-time home-buyers; and what is the average vacancy rate during the period in question; and*
- (c) whether the number of first-time home-buyers and the number of new residential flats referred to in the above-mentioned period have shown an increase when compared with the corresponding figures in each of the three years immediately before the implementation of the measures to regulate property transactions; if not, what are the reasons?*

**SECRETARY FOR HOUSING** (in Cantonese): Mr President, since the introduction of the anti-speculation measures in June 1994,

- (a) the number of new residential flats completed up to October 1995 is 76 107 units, including all private and public housing flats;
- (b) the number of transactions concluded during the same period is 128 738. No separate statistics are kept on the number of transactions involving first-time home-buyers. The vacancy rate for private domestic flats, which is compiled on an annual basis, was 4.7% in 1994;
- (c) the number of new residential flats completed has increased by 4%, 8% and 23% when compared with those in the past three years respectively immediately before the introduction of the new measures.

**MR ERIC LI** (in Cantonese): *Mr President, I think my question is clear enough.*

*It is about the supply of private housing units and their transactions. However, I am disappointed that the reply is incongruous with the question in that it has mixed up the issue with public housing. I am still unable to get a full picture of the outcome reflected by the measures taken. First of all, I hope the Administration would supply us with correct information so that the public may not be misled. The second point, though less obvious, is whether these measures have enabled families in need of a home to purchase homes for the first time. I am sure that such information is what we in this Council want to know. It has now become obvious that these measures have not only lowered the prices of private properties but also reduced their speculation activities. At the same time, the supply of medium-and long-term housing has also decreased. There are less and less suitable private residential flats to attract purchasers, resulting in the presence of many "flats without occupancy". Now, 17 months after the introduction of these measures, the Administration has the audacity to tell us that it still does not know whether or not these measures have enabled those in need of a home to purchase their own homes.*

**PRESIDENT:** What is your question, Mr LI?

**MR ERIC LI** (in Cantonese): *The Administration is even unable to supply us with statistics. Will the Administration assure us when it will carry out a review of the misguided policies so as to let us know, firstly, whether it will increase the supply of medium- and long-term private housing, not just land supply (unless it is the intention of the Administration that the people should sleep on streets) and secondly, whether it can supply us with correct figures to show if families in need of a home have the opportunity to purchase their own homes?*

**SECRETARY FOR HOUSING** (in Cantonese): Mr President, the Honourable Eric LI has accused me of giving him a confused reply, but I have replied in accordance with the question asked. With your permission, I would like to provide additional information about private property transactions of the past three years or so. The numbers of transactions of private properties were 86 219 in 1992-93, 111 108 in 1993-94 and 111 832 in 1994-95.

As to providing middle-income families with the opportunity to purchase

their own homes, I think the SECRETARY FOR HOUSING has on a number of occasions pointed out that there are at present various programmes to help such families to purchase their own homes. In fact, Members have already been provided with so much information on public housing that they may probably not want to hear any more about it. As to private housing, we are of the opinion that there should be enough supply of land to encourage more residential flats to be built. The Government now envisages that 195 000 private residential flats will be built by 2001, hoping that this will help families in need of a home to purchase their own homes. As to programmes to encourage families to purchase their own homes, the Government has, as you all know, gone a long way towards helping the sandwiched class, that is, the middle-income families to achieve this goal. We hope to build at least some of the residential flats for them to purchase. With the increase in the number of public and private housing units during the next few years, I am sure that families wishing to purchase their own homes will have the opportunity to do so.

**PRESIDENT:** Mr LI, I have to allow time for other Members. I will have to draw a line there.

**MR ERIC LI** (in Cantonese): *Mr President, the Secretary has failed to answer my question which is very simple. We all know that the Housing Branch has many programmes on hand, but what I have asked is: When will the Administration really have a review of the relevant policies carried out? The Administration has never mentioned this point. My second point is about figures. When on earth will the Administration provide us with the figures required? These are the two major points which the Secretary has failed to respond to.*

**SECRETARY FOR HOUSING** (in Cantonese): Mr President, the review report has already been submitted to the Housing Branch. As the relevant figures are still under study, I am unable to provide you today with the exact figures required. Generally speaking, there should not be much difference between the figures of the review and the target figures set by the Government.

**DR LAW CHEUNG-KWOK** (in Cantonese): *Mr President, many people are of*

*the opinion that the slump in the second-hand property market is mainly due to the fact that the Administration has gone too far in interfering with the property market. What factors will the Administration consider in deciding whether or not to relax regulation of the property market?*

**SECRETARY FOR HOUSING** (in Cantonese): Mr President, it would seem that the second-hand property market has somewhat revived during the last month, as can be seen from newspaper reports. The programmes introduced by the Government last year have now achieved the expected results. As to private property transactions, we can all see that the market has begun to revive and therefore I think there is no need at the moment to interfere with it or to provide it with any assistance.

**MR JAMES TIEN** (in Cantonese): *Mr President, will the Administration supply this Council with information to indicate how many private building plans have been approved this year, that is, in 1995? I ask this question because, based on the number of building plans approved this year, we can forecast how many buildings will actually be completed in three years. We can thus tell if the number of buildings completed will greatly decrease, as pointed out by the Honourable Eric LI.*

**SECRETARY FOR HOUSING** (in Cantonese): I am sorry, Mr President. I do not have such information off hand, and so I cannot answer this question.

**PRESIDENT**: Could that figure be supplied in writing subsequently, Secretary?

**SECRETARY FOR HOUSING**: Yes, Mr President. (Annex I)

**MR LEE WING-TAT** (in Cantonese): *Mr President, everybody knows that the most important way to regulate or to stabilize property prices is to have a steady supply of a large number of private properties. However, there are three*

*unfavourable factors which have worried me a great deal. First, according to the information provided by the Rating and Valuation Department, the production of private properties in 1993 and 1994 was lower than expected. Secondly, there have been fewer redevelopment sites in urban areas. Thirdly, the record vacancy rate of 4.7% means that about 50 000 private domestic flats are vacant. Will the Secretary for Housing ascertain whether these three unfavourable factors will in the long run cause considerable obstruction to the target of providing sufficient private domestic flats for the public? If so, what are the solutions?*

**SECRETARY FOR HOUSING** (in Cantonese): Mr President, the Government has set up a Housing Project Action Team to look into the matter of land supply. As long as the number of flat units exceeds 500, the Team will try its best to help the responsible organization, be it the Housing Authority, the Housing Society or even a private organization, to solve the problem of land supply, or take whatever action to co-operate with the organization concerned. The Team is chaired by the Secretary for Housing. As regards the vacancy rate of 4.7% which means about 50 000 housing units are vacant, I think the vacancy rate has remained at more or less the same level recently. There is no indication that this year's figure is particularly high or particularly low. It has remained at this level during the past few years.

**PRESIDENT:** Mr LEE, not fully answered?

**MR LEE WING-TAT** (in Cantonese): *I would like to clarify one point. The Secretary for Housing has mentioned that during the past few years, the vacancy rate has remained at 4.7%, which means some 50 000 housing units are vacant. Will the Secretary for Housing inform us of the private housing vacancy rates of the years from 1991 till now? As far as I can remember, the lowest rate is 3.9% and the highest, 4.7%.*

**SECRETARY FOR HOUSING** (in Cantonese): Perhaps I will provide a written reply. (Annex II)

**Broadcasting Bill**

5. **MR ANDREW CHENG** asked (in Cantonese): *Mr President, the Government indicated to this Council on 2 November 1995 that it would seek the views of interested parties and consult the Chinese side on the Broadcasting Bill (the Bill). In this connection, will the Government inform this Council:*

- (a) *how it will go about seeking such views; whether it will conduct public consultations on major issues arising from the Bill, such as the restrictions on "cross media ownership" and the regulation of "interactive multimedia services", and*
- (b) *what progress has been made to date in its consultation with the Chinese side on the Bill; and what are the specific details of the consultation?*

**SECRETARY FOR RECREATION AND CULTURE** (in Cantonese): Mr President, as drafting of the Bill is still underway, we have not yet decided precisely how the consultation should be conducted, and neither have we initiated consultations with the Chinese side. However, I can say that it is our intention that all interested parties will have an opportunity to comment on all matters in the Bill, and that all comments received will be considered carefully before the Bill is finalized for approval by this Council.

**MR ANDREW CHENG** (in Cantonese): *The Government told this Council in the last Session that it would submit the Bill for deliberation by this Council. We, however, find it very disappointing that the Government did not honour its undertaking. Now the Government is saying again that it would table the Bill at this Council in this Session. Yet, the basic details of the consultation exercise have not been decided while the Chinese side still needs to be consulted. We all know that if the Chinese side is to be consulted on bills which are closely related to the freedom of speech .....*

**PRESIDENT:** Please come to the question, Mr CHENG.

**MR ANDREW CHENG** (in Cantonese): *..... there will certainly be many people who wish to know more about the Bill. However, the Government has not started consulting the Chinese side and its reply to this Council was*



*extraordinarily brief. For this reason, I deliberately speak at greater length to show my dissatisfaction. May I ask the Government how it can convince the public that the Government would proceed with the drafting of the Broadcasting Bill in this Session? If the Government is not going to proceed with this task, it should say so honestly and should not deceive us.*

**SECRETARY FOR RECREATION AND CULTURE** (in Cantonese): The Honourable Andrew CHENG was disappointed because my reply was too brief. In fact, I painstakingly did so with good intentions. It is because Members have been spending more and more time on the question session so I hope my words can be succinct and to the point by saying only what is needed and leaving out things which are deemed redundant.

I absolutely disagree with Mr CHENG's allegation that we have been deceiving the Legislative Council or members of the public. Mr CHENG can criticize me for being incompetent, brainless or even mediocre. I can stand the most scathing criticisms of all sorts but I have never deceived anybody. We are making an on-going effort in drafting the Bill and we hope we could submit the Bill as early as possible for Member's deliberation.

**MRS ELIZABETH WONG:** *Mr President, I think the Secretary has given a perfect answer to justify negativity and also prolonged delay. I do not think any other civil servant can emulate his perfection. I have heard previously of baking a chestnut cake. I think it is a hard nut to crack. We are still cracking the chestnut.*

*Will the Secretary inform this Council of the approximate timetable when he is likely to submit his Bill to this Council?*

**SECRETARY FOR RECREATION AND CULTURE** (in Cantonese): Mr President, I am grateful to the Honourable Mrs Elizabeth WONG for thinking so highly of me. I think not many officials here can give a reply which is commended by Members as perfect and I think I deserve it. I can assure Members that it is definitely not a chestnut cake that is being taken out from the oven because chestnut cake would always be the last thing I choose to eat. In

response to the question raised by Mrs Elizabeth WONG, I can only recapitulate that at present, the drafting of the Bill is still underway and we hope we could submit the Bill for Members' deliberation as early as possible. Besides, I can only reiterate, as the Acting Secretary for Recreation and Culture said in the written reply to a question on 2 November 1995, that it has always been the plan of the Government to submit the Bill for Members' deliberation in this Session. However, as to the question of when exactly the Bill will be tabled, it will depend on the progress of the drafting work and the time required for consultation with interested parties.

## WRITTEN ANSWERS TO QUESTIONS

### New Posts in the Political Adviser's Office

6. **MISS EMILY LAU** asked (in Chinese): *It is learnt that three new posts have been created in the Office of the Political Adviser. In this connection, with the Government inform this Council*

- (a) *of the reasons for the creation of these new posts;*
- (b) *of the salary scale and area of responsibilities of each of the posts; and*
- (c) *from which departments the officials presently holding these posts were transferred and what posts did they hold in the departments concerned?*

**CHIEF SECRETARY:** Mr President, the Political Adviser's Office has recently been reorganized, on a trial basis, to bring together those functions of the Hong Kong Government which derive directly from the United Kingdom sovereignty and which will cease in June 1997 when the office will be wound up. This has involved the transfer of certain responsibilities and loan of posts from other Secretariat Branches. The answers to the specific questions are as follows:

- (a) No new posts have been created on the establishment of the Political Adviser's Office. However as a result of the reorganization, there are now three additional officers designated as Deputy Political Advisers. Two of these posts are on loan from other Secretariat

Branches; the third is an officer filling an existing post which has been retitled;

- (b) All these officers are filling existing AOSGC posts at the D2 level. The Deputy Political Adviser (Security) post deals with certain security issues related to the United Kingdom sovereignty. The Deputy Political Adviser (General) post is responsible for contributing to the China advice function and supporting the Political Adviser as a member of the Joint Liaison Group;
- (c) The Deputy Political Adviser (Security) is filling the post of Principal Assistant Secretary (Security) D currently on loan from Security Branch. The Deputy Political Adviser (Personnel) is holding the post of Principal Assistant Secretary (Civil Service) Development on loan from Civil Service Branch. The third post, Deputy Political Adviser (General) is an existing AOSGC directorate post in the Political Adviser's Office which has been retitled.

### **Educational Needs of New Immigrant Children**

7. **MR EDWARD HO** asked (in Chinese): *Since the middle of this year, the number of Chinese immigrants arriving daily in the territory for permanent residence has increased from 105 to 150 and many of these immigrants are school-age children. In this connection, will the Government inform this Council:*

- (a) *whether, in the light of the increasing number of children (aged six to 12) from mainland China settling in the territory, the Education Department (ED) has made any assessment and co-ordination of their educational needs at various levels of schooling in the next five to 10 years; if so, what are the details of the assessment and co-ordination plan; if not, why not; and*
- (b) *whether the ED has set up any task force to provide assistance and counselling to such children and their parents to cope with the*

*difficulties the children may encounter in their studies?*

**SECRETARY FOR EDUCATION AND MANPOWER:** Mr President,

- (a) To meet the demand for primary school places from an increasing number of Chinese immigrant children who are aged between six and 12 over the next few years, we are committed to building five additional primary schools for completion in 1997-98. In the interim, we are making use of the existing vacancies in primary and secondary schools resultant from an overall decline in our school population to accommodate these children. We shall conduct a review of the longer-term requirements for school places at different levels, including secondary schools, as well as the various support services in 1996.
- (b) There is close co-ordination among various sections in the Education Department in the provision of services to immigrant children and their parents. These services include school placement, tailor-made induction programme, remedial teaching, and guidance and counselling service.

On guidance and counselling, student guidance officers/student guidance teachers are stationed in primary schools to assist in:

- (i) promoting pupils' positive behaviour, strengthening their motivation towards learning and enhancing their self-esteem;
- (ii) training on study or social skills so as to enable the pupils to cope with their learning, adjustment or behavioural problems; and
- (iii) providing individual guidance to help them deal with more complicated adjustment, social or family problems.

Regarding parents, the Education Department has provided subvention to 14 non-government organizations in the 1995-96 school year to run short adaptation courses for adult immigrants.

The course contents include the technique to help them cope with the difficulties their children encounter in studies.

The Home Affairs Department has been tasked to monitor and assess the services provided for new arrivals from China to ease the process of integration, to identify groups who are specially at risk, and to recommend the most suitable approach for responding to the practical problems as they emerge.

### **Reconstruction of Roads in the New Territories**

8. **MR CHOY KAN-PUI** asked (in Chinese): *At present, there are still a number of roads in the New Territories which were constructed by the Government many years ago and which have all the time been managed by the Government. These roads, which include Fan Kam Road, the Yuen Long Section of Lam Kam Road and Kam Tin Road, can no longer meet the current standards for highways nor can they cater for the needs of the rapid developments in the New Territories. In view of this, will the Government inform this Council:*

- (a) of the total number of such roads in the New Territories at present, together with their names and locations; and*
- (b) whether the Government has formulated a timetable for the reconstruction of these roads to meet the current road standards so as to ensure the safety of road users; if so, what are the respective dates for the commencement and completion of the reconstruction work; if not, why not?*

**SECRETARY FOR TRANSPORT:** Mr President, the road network in the New Territories has developed over the past 50 years. At the time individual roads were constructed, they all fully met the then prevailing standards. Higher standards have evolved over the years resulting in better and more modern roads. However, this does not mean that the other roads are either unsafe or of an unacceptable standard.

It is fully recognized that with the pace of development in the New Territories, some existing roads may not be able to cope with increased levels of traffic. These roads need to be improved. The Lam Kam Road (Yuen Long Section) and Kam Tin Road fall into this category.

The improvements currently proposed cover:

- (i) the widening of Kam Tin Road in two stages from the existing single carriageway to dual-two carriageway. The first stage from Au Tau to Kam Tin will start in early 1998 and is scheduled for completion in early 2000. The second stage from Kam Tin to Lam Kam Road will start in 2002 and is scheduled for completion in 2005; and
- (ii) the widening of Lam Kam Road from Kam Tin Road to Kadoorie Farm from the existing single carriageway to possible dual-two carriageway. This is scheduled to start in 2002 for completion in 2005.

A reconstruction and maintenance programme for Fan Kam Road, Kam Sheung Road, Yuen Long Section of Castle Peak Road and Route Twisk is also in hand and will be completed over the next five years. Improvement measures will include the provision of proper footpaths and drainage.

As regards minor roads, traffic management measures are implemented to maintain safe and efficient movement of traffic. For example, where necessary, speed limits are imposed or certain categories of vehicles are prohibited.

We shall continue to upgrade the road network to keep pace with traffic demand.

### **Servicing "999" Calls**

9. **MRS SELINA CHOW** asked (in Chinese): *It was reported that a member of the public recently had dialed "999" to report a bank robbery but only to receive the recorded reply "the line is busy". In view of this, will the Government inform this Council:*

- (a) *of the average number of police communication personnel*

*responsible for answering "999" calls and the average number of calls they have to handle per shift at present, and how do these figures compare with the corresponding figures in each of the past three years;*

- (b) of the total number of calls made to "999" to report crime which received the recorded reply "the line is busy" this year;*
- (c) of the average time currently taken for a call to "999" to be answered by the staff manning the number, and how does this figure compare with those of the past three years?*

**SECRETARY FOR SECURITY:** Mr President, the answers to the three parts of the question are as follows:

- (a) There are 18 Police Communications Officers and three Senior Police Communications Officers manning the "999" Consoles per shift in the three Police Regional Command and Control Centres in Hong Kong Island, Kowloon and New Territories. The number of staff deployed for such duties is the same for the past three years. In the first 10 months of this year, each shift handles an average of 445 calls. The average figures for 1992, 1993 and 1994 are 328, 338 and 401 respectively.
- (b) The pre-recorded bilingual broadcast message was introduced in September 1994. Our computer system does not capture statistics on the number of calls answered by the message. However, the pre-recorded message invariably asks the caller not to hang up in order that the call could be dealt with as soon as possible.
- (c) While we do not have statistics on the average time taken to answer a "999" call in the past three years, the findings of a recent snap-shot survey conducted by the police show that on an average a "999" call is answered within six seconds. It is possible that a caller may need to wait longer than six seconds to get through when a major incident takes place. However, this does not affect the response time of the police because such cases are often reported by more than one caller. For example, in the case referred to in the question, the police received two other reports of the same case at the time of

the bank robbery. It should be noted that the first police officer arrived at the scene six minutes from the receipt of the calls.

### **Implementation of Matrimonial Causes (Amendment) Ordinance 1995**

10. **MRS MIRIAM LAU** asked: *The Matrimonial Causes (Amendment) Ordinance 1995 was passed by this Council on 17 May 1995 but it shall come into operation on a day to be appointed by the Secretary for Home Affairs by notice in the Gazette. Will the Government inform this Council of the reasons why, after a lapse of six months since its passage, the Ordinance has still not come into operation; and when it is expected that a notice will be published in the Gazette to bring the Ordinance into operation?*

**SECRETARY FOR HOME AFFAIRS:** Mr President, I share the Honourable Member's wish for the Matrimonial Causes (Amendment) Ordinance (the Amendment Ordinance) to be brought into operation as soon as possible. However, before this can be done, it is necessary for the Matrimonial Causes Rules (the Rules) to be amended to bring court procedures in relation to matrimonial proceedings in line with its provisions. Amendments to the Rules are made by the Chief Justice. The Home Affairs Branch has been co-ordinating the preparation of the necessary amendments to the Rules. The relevant professional bodies are currently being consulted on an advanced draft. We expect to be able to finalize the amendments to the Rules and submit them to the Chief Justice for consideration within the next few weeks.

The Amendment Ordinance will be brought into force at the same time the amendments to the Rules to be made by the Chief Justice come into effect.

### **Misleading Advertisements**

11. **MR SIN CHUNG-KAI** asked (in Chinese): *As certain advertisements broadcast on television and radio, or carried in newspapers and magazines, contain incorrect or exaggerated information which mislead the consumers, will the Government inform this Council:*

- (a) *which government department is responsible for dealing with complaints about advertisements containing incorrect information*



*and how such complaints are handled;*

- (b) of the number of complaints about advertisements containing incorrect information received by the department concerned, as well as the number of companies which have been prosecuted as a result of such complaints in the past three years; and*
- (c) what regulatory measures have the Government put in place to ensure that advertisements released through the mass media contain no misleading or incorrect information?*

**SECRETARY FOR RECREATION AND CULTURE:** Mr President, the Broadcasting Authority (BA) issues Codes of Practice in respect of advertising on radio and television. Broadcasters are required under their licence conditions to adhere to these Codes, and to exercise reasonable care and diligence to ensure that the factual claims made in advertisements are correct. Through its executive arm, the Television and Entertainment Licensing Authority (TELA), the BA monitors broadcasts to check for compliance and also acts on public complaints. The BA may warn broadcasters who contravene the Codes, or impose a financial penalty up to a maximum of \$250,000. During the last three years, TELA received 110 complaints alleging incorrect information in advertisements broadcast on television and radio. After investigation, 80 of these complaints were found not to have contravened the Codes. Of the remainder, warnings were issued in 27 cases, and three cases have yet to be considered by the BA.

There is no overall control of advertising in the print media, although a variety of Ordinances governs specific types of advertisements. The Undesirable Medical Advertisements Ordinance (Cap. 231) regulates advertisements promoting medical treatments, and is administered by the Department of Health. That Department regularly screens newspapers and warns those who publish undesirable advertisements (or cause them to be published). Where warnings do not suffice, the cases are referred to the police. Over the past three years, 220 warnings have been issued, and six prosecutions taken out.

Under the Protection of Investors Ordinance (Cap. 335), the authorization

of the Securities and Futures Commission ("SFC") is required for all advertisements which contain a public offer of securities or investment arrangements, unless otherwise exempted. The SFC authorization vets such advertisements prior to issue for, among other things, incorrect, exaggerated or misleading information. In addition, the SFC also monitors the local papers for unauthorized advertisements and acts on complaints. Over the past three years, it has acted on 15 complaints, mostly by requiring the offending advertisements to be amended or withdrawn. Eight prosecutions have been mounted in recent years.

The Consumer Council also assists consumers to obtain remedies when they complain of incorrect or exaggerated information in advertisements, although it has no powers of prosecution. If appropriate, the Council may refer the case to the Customs and Excise Department for further examination under the Trade Descriptions Ordinance (Cap. 362). Statistics on the number of complaints about advertisements in the print media received by the Consumer Council are not readily available as complaints are entered by product or service specific categories.

### **Safety Standards for Glassware Products**

12. **MR CHAN KAM-LAM** asked (in Chinese): *Will the Government inform this Council:*

- (a) *of the number of accidents involving industrial and household glassware products and installations in the past three years; and*
- (b) *whether it will consider introducing regulations to stipulate the safety standards for glassware products and to require manufacturers to specify on their products the types of glass used and the level of durability measured in an impact-test?*

**SECRETARY FOR TRADE AND INDUSTRY:** Mr President,

- (a) We do not have statistics on the number of accidents involving industrial and household glassware products and installations.

Industrial accident statistics are analyzed by cause and by industry. There is no breakdown by either the material or the equipment involved in industrial accidents. The Hospital Authority compiles patient statistics according to international classification of diseases. It does not have separate figures on the number of accidents involving use or installation of glassware products.

- (b) The safety of glassware products for private use or consumption is already covered by the Consumer Goods Safety Ordinance, which came into force in October this year. This Ordinance imposes a statutory duty on manufacturers, importers and suppliers of consumer goods (including glassware products) to ensure that the goods they supply in Hong Kong are safe. Section 4 of the Ordinance further requires that consumer goods (including glassware products) supplied in Hong Kong must comply with a general safety requirement which includes, *inter alia*, the adoption of reasonable safety standards published by a standards institute. Any supplier who fails to comply with the requirement under the Ordinance commits an offence. The Commissioner of Customs and Excise will monitor the situation and take enforcement action as appropriate.

Accordingly, we do not see the need to introduce specific regulations to stipulate the safety standards for household glassware products and to require manufacturers to specify on their products the types of glass used and the level of durability measured in an impact test.

### **Relocation of Methadone Clinic to Tsui Ping Estate**

13. **MR FRED LI** asked (in Chinese): *The 10-year redevelopment programme for Kwun Tong Town Centre proposed by the Land Development Corporation includes the relocation of the methadone clinic at the Town Centre to Tsui Ping Estate nearby. As methadone clinics often bring nuisance to the community in which they are located, will the Government inform this Council:*

- (a) *whether it will consult local community groups and residents in this regard; if so, what are the details; if not, why not;*

- (b) *whether the Government will make alternative arrangements to set up the methadone clinic further away from Tsui Ping Estate in view of the worsening drug abuse problem in that Estate; and*
- (c) *what long-term and interim measures the Government has adopted to tackle the drug abuse problem in the neighbourhood of Tsui Ping Estate?*

**SECRETARY FOR SECURITY:** Mr President,

- (a) The Kwun Tong Town Centre Redevelopment Scheme proposed by the Land Development Corporation (LDC) is still being considered by the Corporation and the Administration. If the Scheme is to be implemented, the Kwun Tong District Board, and other relevant local bodies, where appropriate, will be consulted in advance on any proposal to relocate the methadone clinic.
- (b) No decision has been made on whether and where the methadone clinic in Kwun Tong should be relocated. The Government is open-minded about the location of methadone clinics. An important consideration is the accessibility of the clinic, as the objective of the methadone programme is to offer a readily accessible out-patient service for those drug abusers who seek treatment but, for various reasons, would not be able to take part in residential treatment programmes.
- (c) The drug abuse problem in the neighbourhood of Tsui Ping Estate is being tackled at source by stepped-up law enforcement action, and preventive education and publicity.

Police enforcement action against drug activities in Tsui Ping Estate has been stepped up. This can be seen from the number of arrests for serious narcotics offences in Tsui Ping Estate, which has increased from 46 in 1994 to 80 in the first nine months of 1995. At the street level, enhanced enforcement actions are taken on a daily basis against drug sellers and users. Information and intelligence on drug activities, with particular emphasis against drug sellers, are collected, collated and acted upon by the Kwun Tong District Special Duties Squad to target known drug sellers.

The police also contributes to anti-drug education by organizing school visits and seminars with school headmasters and discipline masters, focussing on the prevention of drug abuse by students.

Extra efforts have been put in preventive educational and publicity measures to arouse awareness among Kwun Tong residents on the drug problem. Emphasis has been laid on enhancing parents' understanding on the prevention and early detection of their children's involvement in drugs. In 1995-96, a total of seven programmes involving 10 000 participants have been/will be implemented by the social welfare service units in the district. Existing counselling services of family service centres and probation offices in the district have also been strengthened to help young people with drug problems and their families.

The District Social Welfare Office (DSWO) in Kwun Tong has formed a Working Group on "District-wide publicity campaign in combating illicit use of drugs among young people in Kwun Tong District" in April 1995, to promote co-ordination and co-operation among government departments and local organizations to tackle the drug problem. A "Drug Ambassador Scheme" is now being launched by the Working Group, with the aim of publicizing widely anti-drug messages among young people through a signature campaign. So far over 7 000 participants from more than 30 local organizations have been enrolled. The Working Group also compiles leaflets on district beat-drug activities on a regular basis to encourage participation of local residents.

In the longer term, the DSWO in Kwun Tong will continue to take active part in the Kwun Tong District Fight Crime Committee to plan and co-ordinate anti-drug strategies at the district level. Group work units in the district, particularly the Group Work Unit of the Kwun Tong Community Centre (which is located in Tsui Ping Estate) will organize regular activities to educate young people to stay away from drugs. Services from the "Against Substance Abuse Scheme" provided by the team of specially trained social workers newly set up by the Social Welfare Department would also

be tapped whenever necessary.

A paper on "Illicit use of drugs in Kwun Tong District" was discussed at the Kwun Tong District Fight Crime Committee meeting in May 1995 to co-ordinate district efforts in tackling the problem. Local non-government organizations will be encouraged to organize anti-drug activities through various channels such as the Kwun Tong District Committee on Family Life Education, the Kwun Tong District Group and Community Work Service Co-ordinating Committee. Social workers of the Society for the Aid and Rehabilitation of Drug Abusers working in the methadone clinic in the district will continue to provide casework services to drug abusers to facilitate their social rehabilitation.

#### **Air Services to Taiwan**

14. **MR LAW CHEUNG-KWOK** asked (in Chinese): *Will the Government inform this Council:*

- (a) *whether, in order to be eligible to apply for a licence to operate air services between Hong Kong and Taiwan, the China National Aviation Corporation (CNAC) has made a formal application to become an airline whose principal operation is based in the territory; if so, what factors the Government will take into consideration in determining whether a licence will be granted to CNAC to operate the route; if not, whether it will consider inviting CNAC to make such an application; and*
- (b) *what share of the market does the Cathay Pacific Airways (CPA) have in providing air services between Hong Kong and Taiwan, and whether CPA has adopted any policy which is not in the interest of the consumers?*

**SECRETARY FOR ECONOMIC SERVICES:** Mr President,

- (a) The China National Aviation Corporation (Hong Kong) Limited (CNAC(HK)) submitted an application for an Air Operator's Certificate (AOC) to the Civil Aviation Department (CAD) on 29 March 1995. Securing an AOC is a necessary prerequisite to operate Hong Kong registered aircraft for the purpose of public transport. An AOC may be granted if the Governor is satisfied that the applicant is competent, having regard in particular to his previous conduct and experience, his equipment, organization, staffing, maintenance and other arrangements to secure the safe operation of aircraft of the types specified in the certificate. CNAC(HK) has not yet submitted any documents in support of its application. CAD will give due consideration to the application when such documents are received.

An application for an AOC is the first of several steps which a company has to go through before it will be able to mount scheduled air services with Hong Kong registered aircraft. In addition, the company will also have to apply for registration of its aircraft, obtain a licence for a specific route from the Air Transport Licensing Authority and seek designation by the Government for the route concerned. It is not government policy to invite any particular airline to make an application for any route; the airline concerned would have to apply and fulfill all the necessary requirements before it will be permitted to operate.

- (b) At present, scheduled air services between Hong Kong and Taiwan are operated between Hong Kong and two cities in Taiwan, namely, Taipei and Kaohsiung. On the Hong Kong - Taipei route, the Cathay Pacific Airway's (CPA's) market share was 51.1% in the 12 months up to August 1995. On the Hong Kong - Kaohsiung route, CPA's market share was 53.8% in the same period.

On both of the routes between Hong Kong and Taiwan, there is a choice for consumers. On the Hong Kong - Taipei route (which constitutes 82% of the total traffic between Hong Kong and Taiwan), six other airlines, apart from CPA, operate on the route. They are British Asia Airways, China Airlines, Japan Asia Airways, Singapore Airlines, Garuda Indonesia Airways, and Thai Airways International. On the Hong Kong - Kaohsiung route where traffic

is only about 18% of the total traffic between Hong Kong and Taiwan, China Airlines operate on the route in addition to CPA.

### **Application and Approval of Search Warrants**

15. **MR CHIM PUI-CHUNG** asked (in Chinese): *In regard to applications for search warrants by government departments, will the Government inform this Council:*

- (a) *of the criteria on which the court's approval of an application for search warrant file by a government department is based and whether there is any system to keep this power in check;*
- (b) *whether the court or the department which files the application will be held responsible in the event that the application is subsequently proved to be at fault or ultra vires;*
- (c) *of the time normally taken for obtaining a search warrant; and*
- (d) *if members of the public have objections to the contents of an application for search warrant, to which department should they go to in order to raise their objection prior to the grant of the search warrant?*

**CHIEF SECRETARY:** Mr President,

- (a) In granting applications for search warrants, the court acts in accordance with the provisions in the relevant legislation under which the applications are made. The magistrate responsible will make sufficient enquiry to satisfy himself that there is reasonable cause to suspect that the items in respect of which the warrant is sought are on the premises to be searched. Such enquiry could include questioning the police officer requesting the search warrant under oath or affirmation or requiring the information in support of the warrant to be more precise.

The power to grant warrants is discretionary. Therefore, a magistrate is not required to accede to an application for a search



warrant even where the statutory requirements have been met. This together with the fact that a magistrate must refuse to grant a warrant if he is not satisfied that there is reasonable cause to suspect that the items in respect of which the warrant is sought are on the premises to be searched, serves to keep searches by government departments in check.

- (b) Whether the court or the department which filed the application would be held responsible in the event that the application is subsequently proved to be at fault or *ultra vires* depends upon the circumstances in which the search warrant was issued. In general terms, a court could only be held responsible where it was established that it was acting maliciously and without reasonable and probable cause; and a government department could only be held responsible where it was established that it was acting maliciously.
- (c) A department can normally obtain a search warrant from the court on the same day it files an application.
- (d) An application for a search warrant is made *ex parte*, that is, only the party making the application is present. To inform the owner of the premises to be searched of the application would defeat the purpose of the search.

### **Air-tickets for Civil Servants on Duty Visits**

16. **MR CHEUNG MAN-KWONG** asked (in Chinese): *With regard to the purchase of air-tickets by the Government for civil servants on overseas duty visits and training, will the Government inform this Council:*

- (a) *of its policy on purchasing such air-tickets;*
- (b) *whether agreements have been made with any airlines for the purchase of air-tickets; if so, what are the details and why such agreements have been made;*

- (c) *of the expenditure involved in purchasing such air-tickets during the past two years, together with a breakdown of the number of civil servants involved and their destinations;*
- (d) *whether the Government has information to show that the adoption of its present policy on the purchase of such air-tickets, as compared with purchases made through travel agents or by other means, will result in a higher expenditure of public funds; if so, what are the reasons for continuing with the present policy; and*
- (e) *whether consideration has been given to reviewing the present policy on the purchase of such air-tickets; if so, what are the details; if not, whether the Government will consider adopting other arrangements to purchase such air-tickets, such as placing orders with the airline purchase such air-tickets, such as placing orders with the airline charging the lowest fares or introducing other forms of competition?*

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

- (a) The Government has an agreement with the British Airways (BA) and Cathay Pacific Airways (CPA) under which air-tickets (from any airlines) for civil servants on overseas duty visits have to be purchased through Jardine Airways (BA's general agent) or CPA. Air-tickets for civil servants on overseas training are not covered by the agreement, and can be purchased through any travel agent which accepts direct payment by the Treasury.
- (b) The passage agreement with BA and CPA basically covers the Government's duty and school passages, but the Government may also make use of the contract fares for other passages to and from the United Kingdom. The main features of the agreement are:
  - (i) BA and CPA provide air-tickets at reduced fares on the Hong Kong - United Kingdom direct route (the United Kingdom route); and

- (ii) air-tickets on non-United Kingdom routes (from any airlines) have to be purchased through Jardine Airways or CAP.

The Government entered into an agreement with the two airlines because the service required by the Government was and remains mainly passages on the Hong Kong - United Kingdom direct route — the bulk of which relate to school passages. Until 1994 only BA and CPA provided direct-route service to the United Kingdom. With the exception of Virgin Atlantic Airways (VAA) which started operating on the Hong Kong - United Kingdom direct route in 1994, the other airlines do not provide direct-flight service on this route and therefore are unable to participate. We are discussing with BA and CPA the possibility of including the service of VAA in the current agreement.

- (c) The expenditure involved in purchasing air-tickets for civil servants' overseas duty visits and training in 1993-94 and 1994-95 is \$85.4 million, involving a total of 5 956 return passages. We have not kept specific records on the destinations of these passages.
- (d) On the whole, we are getting a reasonable deal out of the agreement with BA and CPA as the Government is able to benefit from the reduced fares on the Hong Kong - United Kingdom direct flights with guaranteed bookings in both peak and off-peak seasons. The current arrangement for the purchase of air-tickets for civil servants' overseas duty visits and training, even if considered on its own, does not incur a much higher public expenditure, since the costs of published-fare air-tickets are roughly the same irrespective of from which agent they are bought. We are using published fares because the lower-fare air-tickets available in the market are very often special or promotional-fare tickets with usage restrictions attached, which would frequently not meet the operational requirements of these duty visits.
- (e) With a view to achieving further savings, we are discussing with BA and CPA the possibility of including the service of VAA in the current agreement. We are also reviewing the scope of our being able to make use of the cheaper air fares available in the market for civil servants' overseas duty visits and training.

### **Green Island Public Dump Scheme**

17. **MR AMBROSE LAU** asked (in Chinese): *Now that the Government is consulting the public on the feasibility of the Green Island Public Dump Scheme and that the removal of Hong Kong International Airport has been scheduled for 1998, will the Government inform this Council whether consideration will be given to transporting construction waste on Hong Kong Island by land or by sea to the waters off the Airport and Kowloon Bay for dumping as an interim measure, as such a move will prepare that area for the future reclamation work on the one hand and allow more time for the public to study the policies relating to the Green Island reclamation on the other?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS:** Mr President, the Territory Development Department has commissioned a feasibility study on the proposed future development of Kowloon Bay and the current Hong Kong International Airport. The study will examine, among other things, the possible sources of fill material, including construction waste, suitable for the proposed reclamation at Kowloon Bay. Findings of the study will help the Government in considering the viability of public dumping at Kowloon Bay and/or the Airport. The study is scheduled to be completed in mid-1997. No decision will be made before the Government has examined the findings thoroughly.

### **Oxygen Content in Air**

18. **DR SAMUEL WONG** asked: *The proportion of oxygen in the air in some urban districts is sometimes found to be as low as 10%, although the normal oxygen content in the air is about 20%. In such circumstances, people will have to inhale more air, and hence more pollutants, than normal in order to get the oxygen required. In this connection, will the Government inform this Council whether:*

- (a) *the Government will consider releasing the multiplication factor of pollution intake in each district due to lower oxygen content along with the pollution indices now published daily by the Environmental Protection Department; and*

- (b) *if the answer to (a) above is in the negative, whether the Government will consider taking such factor into account in determining the pollution indices?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS:** Mr President, the Air Pollution Index is designed to reflect the quality of outdoor air, of which the oxygen content is constantly at the normal level of 20%. In the outdoor environment, the carbon dioxide level in Hong Kong is well below 0.5% and variations around this level of concentration will not affect the oxygen content of the air. The issue of low oxygen in outdoor air is only relevant to locations at altitudes above 10 000 feet; but this is not relevant to Hong Kong. It is therefore not necessary for the Air Pollution Index to take into account the oxygen content. Hence, the answers to both (a) and (b) are in the negative.

### **Monitoring of H Share Companies**

19. **DR HUANG CHEN-YA** asked (in Chinese): *Will the Government inform this Council whether:*

- (a) *the Securities and Futures Commission (SFC) will make a comparison between the profits predicted in the prospectuses of H share companies and the performance of these companies as published after the first year;*
- (b) *the SFC has carried out investigations into companies which have recorded marked discrepancies between the predicted and actual profits; if so, what are the findings; and*
- (c) *there are statutory provisions requiring merchant banks to be responsible for the accuracy of the information contained in prospectuses; if so, what are the liabilities of the merchant banks in the event that the particulars in the prospectuses are found to be incorrect, and what penalties will be imposed on them; if not, whether the Government will require merchant banks to assume*

*responsibility, so as to reduce the chance of investors being misled?*

**SECRETARY FOR FINANCIAL SERVICES:** Mr President,

(a) and (b)

The Stock Exchange of Hong Kong (SEHK) is the frontline regulator responsible for the supervision of listed companies and the administration of all related matters. The SFC oversees the SEHK but is not directly involved in such matters.

The SEHK reviews the performance of all newly listed companies, including H share companies, for the first accounting year after their listings, and compares that with the projected profits stated in the respective prospectus of the companies.

All listed companies are required to sign a Listing Agreement and to abide by the SEHK Listing Rules. Under the Listing Agreement, a listed company is obliged to notify shareholders promptly of the occurrence of any event which could cause the forecast assumptions to be materially different from those stated in the prospectus and to indicate the likely impact of such event on the projected profits. The Listing Agreement also requires a company in such circumstances to include an explanation for such material difference in its directors' report and accounts.

The SEHK monitors compliance with the Listing Rules and carries out inquiries where necessary. During the past three years, the SEHK has found two cases (one of which involves an H share company) where the actual results published in the directors' report and accounts differed materially from the projected profits stated in the relevant prospectus. In both cases, the company involved has issued a clarification statement to the public in accordance with the relevant Listing Rules.

(c) There are no statutory provisions which expressly impose special

responsibilities on merchant banks for the accuracy of prospectuses. However, there are statutory provisions under which merchant banks could be exposed to criminal and civil liabilities in respect of untrue statements in prospectuses. Such liability is imposed on every person who has authorized the issue of the prospectus containing untrue statements. Coming within the wide class of persons who authorize the issue of the prospectus can be brokers, merchant banks, solicitors and others associated with the prospectus.

Civil liability is created by section 40 of the Companies Ordinance (the Ordinance) in respect of Hong Kong companies, and section 342E of the Ordinance in respect of companies incorporated outside Hong Kong. The liability is to persons who subscribe for securities on the faith of a prospectus and sustain loss or damage by reason of any untrue statement contained therein.

Criminal liability is created by section 40A of the Ordinance in respect of Hong Kong companies and section 342F of the Ordinance in respect of companies incorporated outside Hong Kong. If a prospectus contains a false statement, any person who authorized its issue will be guilty of an offence unless he can establish certain specific defences.

The penalty for breaching section 40A or section 342F of the Ordinance is a fine of \$500,000 or imprisonment for three years on indictment, and a fine of \$100,000 and imprisonment of 12 months on summary charge.

If a merchant bank acts as a sponsor in relation to a listing, it also has to comply with the Model Code for Sponsors of the Listing Rules. The Code requires that the sponsor should be closely involved in the preparation of the listing document and in ensuring that all material statements therein have been verified and that it complies with the Listing Rules and all relevant legislation. Failure by a sponsor to meet its obligations under the Listing Rules without reasonable excuse may render that person unacceptable to the SEHK for performing the role of a sponsor in the future.

**Ocean Park Corporation Annual Report 1994-95**

**MR RONALD ARCULLI:** Mr President, tabled before the Council today is the 1994-95 annual report of the Ocean Park Corporation.

In the financial year that ended on 30 June 1995, the Ocean Park enjoyed another year of record attendance with 3.3 million visitors to the Park, an increase of 5% on last year's record of 3.2 million.

The Ocean Park's revenue grew by 6% to HK\$324 million. Operating income was HK\$319 million. The net operating surplus for the financial year was HK\$23 million, which compared with a net operating surplus of HK\$53 million in the 1993-1994 financial year.

These results are most satisfactory given the difficulties encountered during the year. The higher attendance figure was pleasing given that Hong Kong experienced a series of severe tropical storms during the year which necessitated partial closure of the Park.

The number of overseas visitors to the Park fell by 9% mainly due to the drop in the number of tourists from China and Taiwan. Fortunately, more local residents visited the Park. The record number of visitors was largely due to improvements in the Ocean Park and new attractions which opened during the year.

Three new attractions costing a total of HK\$58 million were opened in time for the Christmas-New Year holidays. On the Headland, we opened the 100-foot tall Ferris Wheel which provides spectacular views 400 feet above the South China Sea. We also opened the Eagle Ride which proved extremely popular. However, it is currently closed while modifications are made and tested. We plan to have the ride fully operational early next year. On the Lowland, we opened the Dinosaur Discovery Trail which, with its lifelike models and animatronic robots, proved an instant success with the public.

The largest influx of visitors came during the spring in response to the re-opening of the Atoll Reef. The Atoll Reef has traditionally been the Park's most popular attraction. The Reef has undergone a HK\$65 million refurbishment and is now the largest reef aquarium in the world.



During its first full year of operation, the Ocean Park Conservation Foundation announced a five-year plan involving 16 whale and dolphin projects which include identification of conservation problems, development and executive of action plans, and long-term research to direct and support future marine mammal conservation efforts in the region.

The Foundation also convened the first meeting of the Asian River Dolphin Committee. Scientists from nine countries, including China, and representatives of the IUCN Cetaccan Specialist Group and The Whale and Dolphin Conservation Society met to discuss strategies for protecting threatened marine mammals.

The Ocean Park has an on-going commitment to improve access to the Park's facilities for Hong Kong's disabled residents. This year, new facilities for the disabled included contour models for mechanical rides, tactile maps and guide books for the visually impaired, improved access for wheelchair-bound visitors and the installation of a special gondola for disabled visitors on the new Ferris Wheel.

While the recent difficulties experienced at the Park fall outside this financial year, it would be remiss of me not to congratulate the management and staff on the way they handled the consequences of the tragic Aberdeen landslide.

Through their work, the comfort and safety of both visitors and of the Park's marine mammals, fish and animals were assured, and the Park was able to return to normal operations in a speedy manner. Above all, we owe special thanks also to the Government Flying Service, the Fire Services Department and the Electrical and Mechanical Services Department.

Looking to the future, our long-term development plan is to continue to expand and to better serve the needs of all age groups and interests within the community. In the next year, we expect to have further improvements and add new attractions including the opening of a Mine Train roller coaster and a high-tech simulator ride.

After a year that was both rewarding and eventful, the Ocean Park will continue to work to fulfill its mission to provide a balanced mix of recreation, education and conservation. I believe the Ocean Park is well set to achieve even higher levels of popularity and success.

Thank you, Mr President.

## MOTIONS

### EMPLOYEES' COMPENSATION ORDINANCE

***THE SECRETARY FOR EDUCATION AND MANPOWER to move the following motion:***

"That, with effect from 1 January 1996, the Employees' Compensation Ordinance be amended as follows -

(a) in section 6 -

- (i) in subsection (1)(a), (b) and (c), by repealing "\$15,000" and substituting "\$18,000";
- (ii) in subsection (2), by repealing "\$219,000" and substituting "\$262,000";
- (iii) in subsection (5), by repealing "\$12,000" and substituting "\$14,000";

(b) in section 7 -

- (i) in subsection (1)(a), (b) and (c), by repealing "\$15,000" and substituting "\$18,000";
- (ii) in subsection (2), by repealing "\$248,000" and substituting "\$297,000";

(c) in section 8(1)(a) and (b), by repealing "\$297,000" and substituting "\$356,000";

(d) in section 11(5), by repealing "2,250" where it twice appears and substituting "2,450";

- (e) in section 16A(10) -
  - (i) in paragraph (a), by repealing "\$350" and substituting "\$420";
  - (ii) in paragraph (b), by repealing "\$700" and substituting "\$840";
- (f) in section 17A(1) -
  - (i) in paragraph (a), by repealing "\$350" and substituting "\$420";
  - (ii) in paragraph (b), by repealing "\$700" and substituting "\$840";
- (g) in section 36C, by repealing "\$24,000" and substituting "\$28,000";
- (h) in section 36J, by repealing "\$74,000" and substituting "\$86,000";
- (i) in paragraphs 1(b), 2(b) and 3 of the Third Schedule, by repealing "\$120" and substituting "\$160".

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

The purpose of this resolution is to revise the levels of compensation and certain compensation-related items under the Employees' Compensation Ordinance. The Ordinance provides for payment of compensation by employers to employees who are injured or killed as a result of employment-related accidents. Our policy since 1978 has been to review the levels of compensation every two years to take account of wage movements, inflation and other changes. The existing levels of compensation have been in force since 1 January 1994 and are now due for revision. We propose that the revised rates should take effect as from 1 January 1996.

We propose to increase the ceiling for monthly earnings from \$15,000 to \$18,000. This figure is the basis on which the maximum amounts of compensation for permanent total incapacity and for death are calculated under the Ordinance. We also propose to increase the minimum levels of compensation for death from \$219,000 to \$262,000, and for permanent total incapacity from \$248,000 to \$297,000. In addition, we propose that the maximum amount of compensation for the costs of care required by another person be revised from \$297,000 to \$356,000. For late payment of compensation, we propose to increase the minimum amount of surcharge imposed upon expiry of the payment period from \$350 to \$420 and the minimum additional surcharge imposed three months after expiry of payment period from \$700 to \$840. Each of these six proposed revisions represents an increase of about 19.7% over the existing levels, which is in line with the increase in nominal wages during the past two years.

The ceilings on three other forms of compensation are to be adjusted to take account of inflation since their last revision in 1994. The proposed changes include increasing the maximum amount for burial expenses from \$12,000 to \$14,000, and increasing the maximum payments to be made by an employer towards the costs of supplying and fitting a prosthesis or a surgical appliance from \$24,000 and \$74,000 respectively to \$28,000 and \$86,000 respectively.

We also propose to raise the maximum daily rate of reimbursement of medical expenses from \$120 to \$160 to take account of the increase in fees charges by public hospitals and clinics since 1994.

Finally, we propose to revise the amount that is deemed to be the minimum earnings per month for the purpose of calculating compensation from \$2,250 to \$2,450. This proposed increase serves to keep the deemed minimum earnings of an injured employee broadly in line with the existing rate of payment to a singleton under the Comprehensive Social Security Assistance Scheme.

These proposals have been endorsed by the Labour Advisory Board and I recommend them to this Council for approval.

Mr President, I beg to move.

*Question on the motion proposed.*

**MR LAU CHIN-SHEK** (in Cantonese): Mr President, I certainly support today's motion which seeks to increase the rate of compensation for workers who were injured or even killed in the course of their work. However, I would also like to take this opportunity to state again what I think are the shortcomings of the present Employees' Compensation Ordinance, hoping that the Government will review the whole system of workers' compensation as soon as possible.

The legislation currently in force has stipulated various ceilings for calculating the rate of compensation for workers who have permanently lost the ability to work in the course of their work and has made it impossible for workers to obtain the compensation that they deserve. First, concerning the calculation of the monthly wage ceiling. Although today's motion seeks to increase the monthly wage ceiling from \$15,000 to \$18,000, that is still an unreasonable restriction, especially in the construction sector in which workers suffer serious injuries. For the many steel fixers, scaffold erectors and the majority of other professionals who may be earning a monthly wage exceeding \$18,000, the present legislation has undoubtedly deprived them of the compensation that they deserve. Therefore the Government should consider abolishing the monthly wage ceiling. In fact, the present monthly wage ceiling for the calculation of severance pay and long service payment has already been increased to \$22,500, but that for the calculation of workers' compensation is only to be increased to \$18,000. This is obviously an unfair treatment to workers claiming workers' compensation.

Second, concerning the upper limit of the amount of compensation. According to the Employees' Compensation Ordinance, the maximum amount of compensation which workers can claim on the basis of injury or death sustained in the course of work is equivalent to seven years or eight years of their total income respectively. These ceilings, which have been set without any objective criteria, are particularly unfair to young workers seeking workers' compensation. For instance, a 17-year-old summer job worker was killed in an accident involving a hoist in North Point in June 1993. According to the law, he could only obtain compensation equivalent to eight years of his total wage and deductions had to be made according to the family's reliance on him. As a result, this worker's family could only obtain compensation amounting to \$100,000 plus. Do you think that is fair? Human life is invaluable and the law

which has imposed various restrictions on workers' compensation should absolutely be reviewed and improved. The Government may think that workers claiming workers' compensation can try to obtain more by suing their employers for negligence through civil proceedings. However, legal proceedings not only involve many problems of evidence, they are also very time-consuming; and a law suit will normally drag on for three to five years. That is undoubtedly unfair to the injured workers and their families. Therefore, I think a comprehensive review on the Employees' Compensation Ordinance should be conducted without delay so as to strengthen the protection given to workers claiming workers' compensation. Of course, what is more important is to improve industrial safety in Hong Kong so as to prevent the occurrence of accidents.

Mr President, with these remarks, I hope the Secretary for Education and Manpower can clearly respond to my demands in his concluding speech later on. Thank you.

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Mr President, I would like to thank the Honourable LAU Chin-shek for his speech as well as his support for this motion. I have listened very carefully to the views expressed by Mr LAU on some items. The Government will consider these views in detail in the next review. There is no doubt that we will fully consider the views of both the employers and employees with regard to this Ordinance in every review.

Thank you, Mr President.

*Question on the motion put and agreed to.*

## **PNEUMOCONIOSIS (COMPENSATION) ORDINANCE**

***THE SECRETARY FOR EDUCATION AND MANPOWER to move the following motion:***

"That, with effect from 1 January 1996, the Pneumoconiosis (Compensation) Ordinance be amended as follows -

(a) in the First Schedule -

- (i) in paragraph 1 of Part II, by repealing "\$2,100" and substituting "\$2,570";
- (ii) in Part IV, by repealing "\$3,500" and substituting "\$4,050";
- (iii) in Part VI, by repealing "\$12,000" and substituting "\$14,000";

(b) in the Second Schedule, in paragraphs 1(b), 2(b) and 3 of Part I, by repealing "\$120" and substituting \$160".

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

The purpose of this resolution is to revise the levels of compensation and certain compensation-related items under the Pneumoconiosis (Compensation) Ordinance. The Ordinance provides for payment of compensation for persons who were diagnosed after 1 January 1981 to be suffering from pneumoconiosis. We propose that the revised rates should take effect as from 1 January 1996.

We propose to raise the ceilings in respect of two items of compensation under the Ordinance to take account of inflation and wage movements since July 1993. First, we propose to increase the amount for calculating the monthly compensation for total incapacity, from \$2,100 to \$2,570. In this respect, it should be noted that under the Pneumoconiosis (Compensation) (Amendment) Bill which was introduced into this Council on 6 December 1995 (that is last Wednesday), the amount of \$2,100 was proposed to be made a separate compensation item for pain, suffering and loss of amenities which would be paid to all eligible pneumoconiotics regardless of their degree of incapacity. Therefore, if this proposed revision is approved, we will move a Committee Stage Amendment to the Bill to revise the amount to \$2,570. Secondly, we

prepare to increase the amount of compensation for care and attention from \$3,500 to \$4,050.

Separately, we also propose to revise the rates of funeral expenses and medical expenses payable under the Ordinance which have always been identical to those specified in the Employees' Compensation Ordinance. As the rates of such expenses under the Employees' Compensation Ordinance have just been raised by a resolution of this Council, I propose that the levels of these two items be similarly revised.

The proposed have been endorsed by the Labour Advisory board and I recommend them to this Council for approval.

Mr President, I beg to move.

*Question on the motion proposed, put and agreed to.*

## **STAMP DUTY ORDINANCE**

### ***THE SECRETARY FOR THE TREASURY to move the following motion:***

"That section 29I(1) of the Stamp Duty Ordinance be amended by repealing "31 December 1995" and substituting "31 December 1997"."

He said (in Cantonese): Mr President, I move the resolution standing in my name on the Order Paper.

I would like to first outline the background. In January 1992, Members approved amendments to the Stamp Duty Ordinance (Cap. 117). Among other things, these amendments required stamp duty to be paid on all agreements for sale of residential property. By contrast, stamp duty was previously only payable on the assignment of the property.

This measure was one of a series of actions to curb speculation in residential property. It is a disincentive to those who speculate on property in



the period between the conclusion of a sale agreement and the assignment. Apart from the additional stamp duty a speculator has to pay for each sale before assignment, the speculator also has a potential profits tax liability. The information on sale agreements provided to the Commissioner of Inland Revenue under the measure enables him to identify property transactions which may be liable to profits tax. This ensures that the speculators pay a fair share of profits tax. The cost of speculation has therefore been significantly increased. Genuine home-buyers are not affected by this measure except insofar as they have to pay stamp duty slightly earlier.

Under the terms of the original amendments, the measure would have expired at midnight on 31 December 1993. The intention was to allow both the administration and Members the opportunity to examine all relevant factors before deciding whether the measure should be extended. On 15 December 1993, Members approved a resolution to extend the measure for two years until 31 December 1995.

The residential property market has gradually softened. The problem of speculation has now been largely contained. This is the combined effect of measures proposed by the Inter-departmental Task Force on Land Supply and Property Prices, mortgage lending policy of banks, changes in interest rates, as well as the increased cost of speculation as a result of the stamp duty measure. It is therefore important that the stamp duty measure be extended. Otherwise, it would send a wrong signal to the market that the Government no longer wished to curb speculation in residential property. There would also be a significant risk that speculation may be rekindled to the detriment of genuine home-buyers.

The motion before Members today seeks the extension of the measure by a further period of two years beyond 31 December 1995. I am grateful that the Legislative Council Subcommittee formed to study the motion supports the extension of the measure in principle though I understand that there are different views in respect of the period of extension, that is whether the measure should be extended for one year or two years.

It is clear that the measure is effective in containing speculation. It does not affect genuine home-buyers. It has been in place for nearly four years and is well established and accepted by the public. I therefore do not see any reason why we should deviate from our previous practice of extending the measure for two years which may otherwise give a wrong signal to the market in respect of this Council's determination in containing speculation. In fact, we have also

informed the Subcommittee that it is our plan to seek the views of Members later on in this session with a view to introducing an amendment to the Stamp Duty Ordinance to make the measure permanent. This will eliminate unnecessary speculation which may otherwise occur each time the expiry date of the measure approaches. The proposed two-year extension would allow Members sufficient time to study the permanent arrangement proposal. However, if the measure were to be extended for one year only and the amendment to the Stamp Duty Ordinance to make the measure permanent could not be processed in time, we might have to seek an extension again before the end of next year, thereby adding an unnecessary burden to the heavy agenda of this Council. I therefore strongly recommend to Members that the two-year extension should be supported.

Finally, I am also grateful to the Members of the Subcommittee for their views on how we should revise the stamp duty system in order to alleviate the financial burden of genuine home-buyers and to safeguard against abuse. I can assure Members that we will examine these views carefully before we submit the permanent arrangement proposal to this Council.

Mr President, I beg to move.

*Question on the motion proposed.*

**PRESIDENT:** Mr Ronald ARCULLI has given notice to move an amendment to the motion. His amendment has been printed on the Order Paper and circularized to Members. I propose to call on him to speak and to move his amendment now so that Members may debate the motion and the amendment together.

***MR RONALD ARCULLI's amendment to the SECRETARY FOR THE TREASURY's motion:***

"To delete "31 December 1997" and to substitute "31 December 1996"."

**MR RONALD ARCULLI:** Mr President, I move that the Secretary for the Treasury's motion be amended as set out under my name in the Order Paper. A Subcommittee of 12 Members was formed on 20 October 1995 to study the resolution. I was elected Chairman of the Subcommittee. The Subcommittee held two meetings with the Administration, and I shall highlight two issues which were of concern to the Subcommittee.

The first concern was about the effectiveness of the stamp duty measure and its continued usefulness. While some Members of the Subcommittee agreed with the Administration that the measure could help stabilize the residential price, other Members were not as certain and pointed out that the price of other properties had also been stabilized even though they were not the subject of the same measure. Some Members also cast doubts on the continued usefulness of this measure in the light of the already softened property market and the need to stimulate the local economy.

The second concern was whether the ultimate objective of the measure was to raise revenue or to curb speculation on the residential property market. The Administration told the Subcommittee that the measure had been introduced with the principal aim of helping to curb speculation, although it had also achieved two other equitable results, which were the stamp duty payable on the sale and purchase agreement and that the Commissioner of Inland Revenue could more readily identify property transactions liable to profits tax.

The Administration acknowledged that at the time of introducing the measure, anti-speculation had been the prime factor, but in seeking its extension in the present exercise both factors were important and it was not possible to say which had a greater weight. On this particular point, my own view is that the Administration has in fact changed the stamp duty system, which has since the very beginning charged stamp duty on assignments of residential property. I cannot accept such change for the reasons of raising revenue.

The majority view of the Subcommittee was to support the Administration in seeking an extension of time on the stamp duty measure in principal, yet Members indicated they would have to make an assessment about the impact of the stamp duty measure on the local economic climate before they could decide whether the extension should be for one year, to cover until 31 December 1996, or two years until 31 December 1997.

On 6 December 1995, Mr President, I submitted an amendment to the Administration's resolution, the effect of which is to extend the operation of the relevant section to 31 December 1996 rather than 31 December 1997. I shall set out my reasons for moving such an amendment. Property speculation in the current economic climate is virtually non-existent. Indeed, it can be said that the stamp duty and other measures have achieved their objective some time ago.

It must be clear to all of us that steps need to be taken to stimulate the economy and one such step would be the removal of the stamp duty measure. At the very least, the situation should be reviewed after a shorter interval than that proposed by the Administration.

It has often been said that the Hang Seng Index and the property market act as a barometer of our confidence in Hong Kong, and we know that both are substantially below their peaks. Therefore, it cannot be objectionable to extend the stamp duty measure for one year only. I doubt very much whether the Administration will find it necessary to extend its operation for another year, but if it is, the Administration will of course be at liberty to table another resolution at the appropriate time. For now, however, I urge Members to support my amendment so that the existing measure will only be extended until 31 December 1996.

In conclusion, Mr President, I urge Members to give serious consideration to the Administration's stated desire to continue receiving the extra revenue from this so-called anti-speculation measure. The Administration does not need this Council's help to raise surplus revenue. Ultimately, the cost of any extra stamp duty will find its way into the pockets of end-users who will pay for it.

When the Secretary for the Treasury, Mr President, mentioned the two-year extension, the thought just dawned on me as to how many of us will be here in two years' time, so I would urge Members to support my motion so that the control of this measure will remain with Members of this Council.

Mr President, with these remarks, I move that the Secretary for the Treasury's motion be amended as set out in the Order Paper.

*Question on the amendment proposed.*

**MR LEE WING-TAT** (in Cantonese): Mr President, the Democratic Party believes that collecting stamp duty on sale and purchase agreements of residential property is an effective measure to curb speculation. That is because suppose two or more sale and purchase agreements have been entered into before the actual assignment of a residential property, stamp duty will be payable for each and every agreement. This measure will increase the costs of speculators without affecting the real users.

At present, property prices have fallen by about 30% compared with those in April 1994 and October 1995, but they are still not affordable by the general public. According to information contained in the Government's written reply given to me last week, in 1985, an ordinary Hong Kong citizen could buy a flat of 500 sq ft in the urban area with only an amount equivalent to 120 times the median monthly wage. Now in 1995, however, the same worker will have to pay an amount equivalent to 190 times the median monthly wage to buy the same flat. Therefore, Mr President, although property prices have apparently fallen, it is only a slight fall from a very high peak and they are still not affordable by the general public, especially the grassroots. In October 1995, about 10% of all property assignments were still short-term assignments. This percentage is only slightly lower than that of what we call the peak which is 22%. Therefore, speculation has not completely disappeared, it has only dampened slightly. Short-term assignments amounting to 22% is certainly an indicator of a lot of speculation at the time, but 10% is still a significant figure.

If anti-speculation measures are immediately relaxed just when there is a fall in property prices, suppressed speculative activities will easily become active again and the ultimate victims will be the real users. Moreover, now that property prices have only fallen slightly, property developers are already feeling anxious and, with the help of our Financial Secretary, they have spread the news that property prices have hit the bottom and promoted the opinion that they will rise again very soon. Many associations of property developers have continuously lobbied the Government to relax the mortgage restrictions. Therefore, now that property prices have fallen, we have to take steps to stabilize the situation. If not, there will be an upsurge of property prices once the anti-speculation measures are relaxed.

If we extend measure to collect stamp duty on sale and purchase agreements of residential property for only a year, then a year later, before the falling trend of property prices has stabilized, speculators will have the chance to enter the market and there will be a revival of speculation. In addition, there will still be a shortage of private housing units in the next two years and less land will be available for urban redevelopment. Relaxing the anti-speculation measure in the face of reduced supply will only lead to an upsurge in property prices.

Therefore, Mr President, we do not agree with the Honourable Ronald

ARCULLI's amendment and we will support the Government's motion. Thank you, Mr President.

**MR CHAN KAM-LAM** (in Cantonese): Mr President, up till now, the Stamp Duty Ordinance has really been effective in curbing property speculation and, therefore, the Democratic Alliance for the Betterment of Hong Kong supports the Secretary for the Treasury's motion to extend the measure to 31 December 1997. Besides, we would also urge the Government to review the present system of stamp duty as soon as possible so that, with the extra revenue obtained under the present system, tax concessions can be given to the real users in the community and the public can be encouraged to own their homes. Thank you, Mr President.

**MR EDWARD HO** (in Cantonese): Mr President, I remember that in the year in which the stamp duty measure was passed into law, I was Chairman of the Select Committee concerned. At that time, the Government made it clear that the measure was intended to curb property speculation. However, it seems that it has now become one of the Government's ways to grab revenue. Why do I say that?

The Honourable LEE Wing-tat talked about the question of property prices. The present level of property prices is certainly higher than that of 1985 and it is very much higher than that of 1967. There is no need for us to argue what is the level which we would consider it wrong to allow property prices to reach. However, we should be clear that it would not be possible to speculate on new flats at all. That is because with the implementation of the new measure, a flat cannot be sold earlier than nine months before the occupation permit is due to be issued and, after purchase, it cannot be assigned until the occupation permit has been obtained. Therefore, it would not be possible to speculate on new flats. Now, the subject for discussion is the speculation of old domestic units. Would it be possible to speculate on old domestic units? What does "speculation" mean? Speculation means trying to make a profit by means of assignment with very little money, that is, before all the money and costs have been paid. However, to purchase an old domestic unit, the price has to be paid in full, which means it would not be possible to speculate and we also know clearly that there are no speculative activities on property in the market. If we support the Government's motion to extend the measure for two years, we would be

supporting the Government to grab revenue by using this method. It is not a question of curbing speculation. Thank you, Mr President.

**MR JAMES TO** (in Cantonese): Mr President, I would like to briefly respond to the Honourable Edward HO's viewpoints. In fact, I agree that it would not be possible to speculate on new flats. If there are restrictions forbidding any assignment of uncompleted flats before the occupation permit is issued, the question of how many times a new flat can be assigned between the time that a purchase agreement has been signed and the final stage when the assignment is entered into simply does not exist. Here the question is: Would it be possible to speculate on old domestic units.

When purchasing an old domestic unit, one does not necessarily have to pay the price in full because theoretically, the deposit can be set, for instance, at 10% or 20% of the price and then the agreement can be signed. If no stamp duty is payable at this stage, the purchaser and the vendor can decide on a transaction date in the more distant future. Experience shows that speculation does occur in this interim period and a unit can be assigned several times before occupation or before the assignment is entered into.

This measure will not affect the real users adversely. I believe we will agree that this is true if we really want to help the real users, no matter to which political party we belong; unless my honourable colleagues can provide any evidence that this measure will affect the real users adversely, then that will be a different matter. In fact, whether tax concessions and deductions of mortgage interests payable should be allowed and whether the amount and percentage of mortgage loan should be increased will be practical and useful measures for us to discuss now. I believe this measure will not be used to grab revenue, but even if it will, it will only be used to grab revenue from the property speculators and potential speculators, not from the users. Actually, even if this measure does not exist, stamp duty is payable anyway at the final stage when the assignment is entered into.

**MRS SELINA CHOW** (in Cantonese): Mr President, earlier on, I heard the Honourable James TO mention "theoretically" and, very often, we hear

colleagues from the Democratic Party say "theoretically"; I think that is not the way we should consider problems.

In fact, it is not easy to differentiate clearly who are the buyers and who are the users. We have to consider clearly not only the effect of a measure on the buyers, the users or the speculators, but also the effect on the property market as a whole. Earlier on, we heard the Honourable LEE Wing-tat's speech and there is nothing much to it. Basically, he thinks that the property prices at present are not low enough; they should fall even lower and it would be best if they were reduced by half or even more. He only cares for those who want to buy their own flat, but neglects those who have already done so and have lost a fortune because they may have used up all their assets to pay for the deposit.

I believe we are not relaxing the measure. The question is: the Government said that this measure was introduced because there was a problem and that this was a temporary measure to cool off the over-heated property market. If it is temporary, then it should not be extended arbitrarily for two years, for two more years and yet two more years so that it would become a permanent measure to intervene in the market until the price reaches a level which is considered to be acceptable by some. This is not the way in which this measure should work. I am only hoping that we can understand that we are actually intervening in the market. Do we want to adopt this approach as a long-term policy? Alternatively, we can continue to give the market the message that this is actually a temporary measure: when there is a serious problem, certain measures have to be adopted; when the problem is less serious, we do not wish to intervene.

Thank you, Mr President.

**MR ALBERT HO** (in Cantonese): Mr President, I would like to make only a very short response. First, what is "property speculation"? To put it very simply, it means purchasing a property with a very small outlay and trying to assign it within a certain period of time after a wait-and-see period (there is already an intention of assignment at the time of purchase).

What is the method commonly used? Earlier on, the Honourable James



TO has said that after the purchasers have paid the deposit, they would speculate on property by means of assignment. That was the case with the purchase of uncompleted flats in the past and that is still the method used in the speculation of old domestic units. That is not a theoretical situation. As a solicitor who has practised for more than 10 years, I have seen many people doing it. Now, with the introduction of the stamp duty measure, the assignee has to pay the stamp duty for every assignment. I think this is an effective measure to curb speculation and its effectiveness has also been generally acknowledged. Although this measure is still inadequate, the question, as the Honourable Mrs Selina CHOW suggested, is : What will be the result if this measure is cancelled?

Earlier on, Mrs CHOW has mentioned that many people have lost a lot of money as a result of the suppression of property prices and it is hoped that property prices will rise again. I hope that is not what Mrs CHOW meant. I really hope that that is not what she meant. However, we have to be very clear that this is only a temporary measure, though I do not think it will cause any unfairness. We have to emphasize time and again that at present, it is the assignee who has to pay the stamp duty. In fact, it is only fair that stamp duty is payable on every assignment of property rights. Therefore, when the Secretary for the Treasury said that a long-term review has to be carried out, I think that is a good thing. However, in the meantime, we have to spend time to review the situation and we must not give people a wrong message. We will certainly not agree should this be a measure to intervene in the market; but this is in fact a measure to increase the costs of property speculators and a way to obtain money and revenue for the Inland Revenue Department through what we think is a reasonable approach. I do not see any disadvantage and it has not created an unfair situation.

Mr President, I would like to emphasize one last point. Relying on the levy of stamp duty to curb property speculation and to stabilize property prices is not enough, good co-ordination and continued efforts by the Government are also necessary. We certainly do not agree to take any steps at this stage which would give other people a wrong message that the Government intends to relax the measure. Mr President, we support the Government's motion today in the hope that a review can be completed in two years' time so that we will know what steps should be taken in the long run. I therefore oppose the Honourable Ronald ARCULLI's amendment. Thank you.

**MR ALLEN LEE** (in Cantonese): Mr President, I would only like to point out that perhaps the Honourable Albert HO might have got it wrong; he used the word "cancel" just now but the Honourable Ronald ARCULLI has proposed to review, and not to cancel the measure, after a year. The use of the word "cancel" may mislead Members of this Council.

**SECRETARY FOR THE TREASURY** (in Cantonese): Mr President, although speculative activities in the property market have now slowed down, this does not mean that we can lower our guard. We must do our best to avoid sending any message which may make the market think that we would gradually relax or even cancel the measure related to stamp duty. In fact, with respect to property transactions which occur before or shortly after the signing of deeds of assignment, this is, cases of property re-sale, although the number has dropped from 16 023 cases in 1993 to 15 184 cases in 1994-95, 5 000 such cases were still recorded in the first six months of 1995-96. For that reason, we believe that there is a great need for the continued implementation of this particular measure. I do not accept the argument that cancelling the measure related to stamp duty can boost the economy. I believe that as far as property speculation is concerned, this will only reduce .....

**PRESIDENT:** Mr Allen LEE, do you have a point of order? Are you seeking elucidation?

**MR ALLEN LEE:** Yes.

**PRESIDENT:** Are you prepared to yield, Secretary for Treasury?

**MR ALLEN LEE:** The Secretary kept mentioning about cancelling. But Mr ARCULLI is not proposing cancelling. It is an extension to one year. So he has used the word three times already.

**SECRETARY FOR THE TREASURY** (in Cantonese): Mr President, perhaps

the Member could not hear clearly what I just said. I said we should avoid giving any message that would make the market think there would be gradual relaxation or cancellation of this measure. I was only referring to the giving of a message. Allow me to continue with my speech.

I do not agree with the point that cancellation of the stamp duty measure can stimulate the economy. I think this will only cut the cost of the property speculators and indirectly encourage speculation activities on the property market. I have to emphasize that the measure on stamp duty is working well and it does not affect the genuine home buyers. The Honourable LEE Wing-tat has just explained the reason for this. In fact, if there are more speculation activities because of the cancellation of this measure, the cost of the genuine home buyers will be increased. Therefore, I hope Members will support the proposal to extend the stamp duty measure for two years.

*Question on the amendment put.*

*Voice votes taken.*

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

Mr Ronald ARCULLI 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 question that the amendment moved by Mr Ronald ARCULLI be made to the Secretary for the Treasury's motion.

**PRESIDENT:** Will Members please register their presence by pressing the top button in the voting units on their respective desks and then proceed to vote by selecting one of the three buttons below?

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

Mr Allen LEE, Mrs Selina CHOW, Mr NGAI Shiu-kit, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Dr LEONG Che-hung, Mr CHIM Pui-chung, Mr Frederick FUNG, Mr Eric LI, Mr Howard YOUNG, Mr James TIEN, Mr Paul CHENG, Mr CHOY Kan-pui, Mr David CHU, Mr Ambrose LAU, Dr LAW Cheung-kwok, Mr Bruce LIU, Mr MOK Ying-fan and Miss Margaret NG voted for the amendment.

Mr Martin LEE, Mr SZETO Wah, 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 Samuel WONG, Dr Philip WONG, Dr YEUNG Sum, Mr WONG Wai-yin, Miss Christine LOH, Mr LEE Cheuk-yan, Mr CHAN Kam-lam, Miss CHAN Yuen-han, Mr Andrew CHENG, Mr CHENG Yiu-tong, Mr Anthony CHEUNG, Mr CHEUNG Hon-chung, Mr Albert HO, Mr IP Kwok-him, Mr LAU Chin-shek, Mr LAW Chi-kwong, Mr LEE Kai-ming, Mr LEUNG Yiu-chung, Mr NGAN Kam-chuen, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE, Mrs Elizabeth WONG and Mr YUM Sin-ling voted against the amendment.

THE PRESIDENT announced that there were 21 votes in favour of the amendment and 33 votes against it. He therefore declared that the amendment was negatived.

*Question on the original motion put and agreed to.*

## **MEMBER'S MOTIONS**

### **INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

***DR LEONG CHE-HUNG to move the following motion:***

"That in relation to the -

- (a) Civil Aviation (Aircraft Noise) Ordinance (Amendment of Schedule) Notice 1995 published as Legal Notice No. 539 of

1995;

- (b) Airport Authority Ordinance (71 of 1995) (Commencement) Notice 1995 published as Legal Notice No. 540 of 1995;
- (c) Import (Radiation) (Prohibition) (Amendment) Regulation 1995 published as Legal Notice No. 541 of 1995;
- (d) Import and Export (General) (Amendment) Regulation 1995 published as Legal Notice No. 542 of 1995;
- (e) Import and Export (Fees) (Amendment) (No. 2) Regulation 1995 published as Legal Notice No. 543 of 1995;
- (f) Import and Export (Registration) (Amendment) Regulation 1995 published as Legal Notice No. 544 of 1995;
- (g) Ferry Services (Hongkong and Yaumati Ferry Company, Limited) (Determination of Fares) (Amendment) Ordinance 1995 published as Legal Notice No. 545 of 1995;
- (h) Leveraged Foreign Exchange Trading (Calls) (Amendment) Rules 1995 published as Legal Notice No. 555 of 1995;
- (i) Tax Reserve Certificates (Fourth Series) (Amendment) Rules 1995 published as Legal Notice No. 556 of 1995;
- (j) Tax Reserve Certificates (Rate of Interest) Notice 1995 published as Legal Notice No. 557 of 1995;
- (k) Prisoners' Education Trust Fund Ordinance (19 of 1995) (Commencement) Notice 1995 published as Legal Notice No. 558 of 1995;
- (l) Official Languages (Amendment) Ordinance 1995 (51 of 1995) (Commencement) (No. 2) Notice 1995 published as Legal Notice No. 559 of 1995;

- (m) Tax Reserve Certificates (Amendment) Ordinance 1995 (99 of 1995) (Commencement) Notice 1995 published as Legal Notice No. 560 of 1995;
- (n) Official Languages (Authentic Chinese Text) (The Hongkong and Shanghai Banking Corporation Limited Ordinance) Order published as Legal Notice No. (C) 115 of 1995;
- (o) Official Languages (Authentic Chinese Text) (Tramway Ordinance) Order published as Legal Notice No. (C) 116 of 1995; and
- (p) Official Languages (Authentic Chinese Text) (Peak Tramway Ordinance) Order published as Legal Notice No. (C) 117 of 1995,

and laid on the table of the Legislative Council on 6 December 1995, the period referred to in section 34(2) of the Interpretation and General Clauses Ordinance for amending subsidiary legislation be extended under section 34(4) of that Ordinance until 10 January 1996."

**DR LEONG CHE-HUNG:** Mr President, I move the motion standing in my name on the Order Paper on behalf of the House. The motion seeks to extend the scrutiny period for the 16 items of subsidiary legislation tabled in the Council on 6 December 1995. As there is no sitting of the Legislative Council between 13 December 1995 to 10 January 1996, the deadline for Legislative Council intervention for these items of subsidiary legislation will fall on 3 January 1996 when there is no sitting.

In order to preserve Members' rights to amend any of these items, it is necessary to move an extension resolution to extend the period for intervention until 10 January 1996.

Mr President, I beg to move.

*Question on the motion proposed, put and agreed to.*

**LEGISLATIVE COUNCIL (POWERS AND PRIVILEGES) ORDINANCE**

***MR LAU CHIN-SHEK to move the following motion:***

"That for the purposes of enquiring into the circumstances surrounding the recent labour disputes involving imported workers under the Special Labour Importation Scheme for the Airport Core Programme Projects and related issues, the Legislative Council Panel on Manpower be authorized under section 9(2) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) to exercise the powers conferred by section 9(1) of that Ordinance."

**MR LAU CHIN-SHEK** (in Cantonese): Mr President, I move the motion standing in my name on the Order Paper.

Recently, labour disputes involving foreign workers of the airport projects have aroused much public concern, especially in relation to accusations of wage deductions and payment delays. In order to have an in-depth discussion of the matter, the Legislative Council Panel on Manpower held a special meeting on 5 December this year. Upon hearing the Administration's report on the labour disputes, the Panel was greatly shocked and disturbed about the unfair treatments received by the foreign workers. Although the Labour Department has stepped up its monitoring and enforcement efforts, the result is still disappointing. The Panel thinks that in order to assess the effectiveness of the new steps that have been taken or will be taken by the Government to protect the interests of foreign workers, it is necessary to understand the various arrangements for the importation of foreign labour, the role of the labour affairs companies and the extent of the contractors' responsibility. While the Government may conduct inquiries into individual cases on other aspects, the Panel thinks that it is necessary to conduct an in-depth inquiry in order to achieve the following aims:

1. To understand the present procedures for the importation of labour and the circumstances under which wages are deducted and payments delayed;
2. To assess whether the legislation enacted and the administrative measures adopted with a view to implementing and monitoring the Labour Importation Scheme are effective or not;

3. To assess whether the new measures proposed by the Administration to control unlawful acts are effective or not;
4. To put forth feasible means to strengthen the supervision, especially that of the Labour Importation Scheme; and
5. To identify persons responsible for any unlawful acts.

In conducting this inquiry, the Panel on Manpower has to ask the parties concerned to provide evidence and relevant documents, but such parties may refuse to attend the inquiry or invoke the Legislation (Powers and Privileges) Ordinance for protection. In the circumstances, we have to ask this Council that the Panel be authorized under section 9(2) of the Legislative Council (Powers and Privileges) Ordinance to exercise the powers conferred by section 9(1) of the Ordinance. The Panel on Manpower, having submitted a report to the House Committee and obtained its support on 8 December, proposes the motion in this Council today. Now, I shall formally move the motion that the Legislative Council Panel on Manpower be authorized under section 9(2) of the Legislative Council (Powers and Privileges) Ordinance to exercise the powers conferred by section 9(1) of that Ordinance.

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

*Question on the motion proposed.*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Mr President, the recent outbreak of labour disputes on Airport Core Programme (ACP) work sites is a matter of serious concern to the Government. I should like to assure Members that a thorough investigation into each of the cases is being conducted. Hong Kong is a civilized society where the rule of law is paramount. We will not tolerate abuse of imported workers and will instigate prosecutions against those who may have breached the laws of Hong Kong. We fully appreciate Members' understandable concern about such cases and their desire to get to the truth to find out what went wrong and who is responsible. We share these sentiments entirely. However, it is not necessary nor appropriate for the Council to confer on the Manpower Panel the power under section 9 of the Legislative Council (Powers and Privileges) Ordinance to conduct an enquiry into the circumstances surrounding the labour disputes for the following reasons.

First, these labour disputes are already under investigation by the law



enforcement agencies. The Labour Department has been making good progress in its investigations. In some of these cases, the investigations are at an advanced stage. Prosecutions relating to breaches under the Employment Ordinance are being considered in most of the disputes and hearings for the contractors and subcontractors involved have been arranged for this purpose. These hearings are an integral part of the due process which must be observed before taking a final decision on whether or not to lay charges. These investigation procedures are likely to be affected if the Manpower Panel of this Council is to conduct a parallel inquiry into the disputes. The use of the Legislative Council (Powers and Privileges) Ordinance whether to summon persons involved in the dispute or to ask for documents relating to the disputes will run the serious risk of delaying or jeopardizing our inquiries. I am sure Members would not wish to see this happen.

The Immigration Department is investigating into the various dispute cases to see if there are any offences under the Immigration Ordinance. The police are also at present investigating six constructions sites in connection with the recent labour disputes to ascertain whether any person has breached the law. Before these investigations are completed, any action taken by the Legislative Council to invoke the powers under the Legislative Council (Powers and Privileges) Ordinance to enquire into the circumstances of the cases may prejudice the outcome of such investigations. Any discrepancies in the statements and testimony of the same witnesses called by the police, the Immigration Department and the Panel, and the premature release of documents or evidence in connection with the cases possessed by the law enforcement agencies may impede the progress of our investigations and may adversely affect the chance of subsequent prosecutions.

Secondly, we have been in contact with the New China News Agency and are working with the relevant Chinese authorities with a view to improving communication and co-operation particularly in respect of the operation of and the legal charges imposed by the Chinese labour service companies to ensure that imported workers from PRC are aware of their rights and benefits, and to safeguard them from being exploited. I understand that the Chinese authorities have already set up a special team to investigate at their end the complaints about wage deductions. There is therefore no urgent need for this Council or the Manpower Panel to carry out an enquiry at this stage. Indeed, Members should await the outcome of the efforts by both Governments before deciding whether any further action is warranted.

As an open and accountable Government, we fully acknowledge that the public has the right to know more about the causes of and the results of our investigations into the current labour disputes. We have no intention of hiding the truth from members of the public. I intend to present to this Council in about three months' time a detailed report on the results of all our investigation efforts. This report will not only set out the outcome of investigations in Hong Kong, but will also include information about the role of the labour service companies and the result of our liaison efforts with the Chinese authorities. This will enable both Members and the general public to have a full picture of the problems involved, their causes, the effect of the various remedial measures we have recently taken and any further recommendations we may put forward to enhance the integrity of the system. Members will be given ample opportunity to discuss and raise questions on this report.

I personally led the team of officials and senior representatives of the Airport Authority (AA) and MTRC to answer questions on the ACP labour disputes at the Special Manpower Panel Meeting on 5 December 1995. My colleagues and I, including the authorities concerned, AA and MTRC, are very much prepared to continue to co-operate fully with the Manpower Panel without prejudice to our investigations. The exercise of the Legislative Council powers and privileges, if targeted at the Administration and the other institutions mentioned above, is absolutely unnecessary.

We have already provided information to the Manpower Panel on the nature of the recent labour disputes. I do not wish to repeat here. However I would like to reiterate that we have already added new conditions to strengthen our monitoring system to minimize the possibility of abuse of the scheme. With effect from 1 November 1995, employers are required to: (1) give a copy of employment contract to his imported workers; (2) provide them with details of their monthly earnings; (3) provide them with a monthly statement showing all transactions of their bank accounts. Within eight weeks upon the arrival of an imported worker in Hong Kong, the employer is required to grant him paid leave to enable him to attend briefings on his statutory rights as an employee under Hong Kong labour laws and his contractual rights under the employment contract. On top of these measures which are already in force, we intend to require employers to give an undertaking to the Labour Department that the imported workers have received a copy of the employment contract specifying the post and amount of wages before they come to Hong Kong. Officers of the Immigration

Department will ask the imported worker to present his employment contract for inspection purpose shortly upon their arrival in Hong Kong.

I would like to assure this Council once again that we do not and will not tolerate any abuse of imported workers. We are committed to upholding the integrity of the ACP Labour Importation Scheme. Malpractices by a few threaten the good name of other law-abiding employers and the good name of Hong Kong. We are fully committed to do everything within our power to combat abuses and malpractices. Labour Inspectors of the Labour Department conduct regular inspections to the places of work of imported workers to check whether provisions under the Employment Ordinance and the Employees' Compensation Ordinance have been complied with and to guard against other abuses which constitute breaches of the conditions under the Scheme.

I would also like to make clear, once again, that without prejudice to any prosecutions under the laws of Hong Kong, employers who are found to have contravened conditions of the scheme will be liable to: (1) withdrawal of quotas in hand; (2) refusal of application for extension of stay of the employee upon expiry of visa; and (3) refusal of application to import labour under the ACP scheme in future.

To conclude, I would assure Members again that we have been proceeding with our investigations into the labour disputes and related problems as a priority task. We are making every effort to improve the effectiveness of the various controls and safeguards under the ACP Scheme. The whole process of our work is open and transparent. We will work closely with concerned Members of this Council, the Manpower Panel and other interested parties during this process. We are open and receptive to any suggestions and advice on how we can improve the operational and monitoring system of the Scheme.

We do not see a need at this stage for this Council to empower the Manpower Panel under section 9 of the Legislative Council (Powers and Privileges) Ordinance to conduct hearings and enquiries into these labour disputes. We are very concerned that this will run the risk of prejudicing the Government's investigation efforts and thus will not be in the interest of the workers or the community as a whole. I would therefore ask Members to consider this motion in the light of my comments and vote against it. In the event this motion is passed, I will urge Members of the Council and the Manpower Panel to await and examine the Administration's detailed

investigation report which we will, I repeat, submit in about three months' time before considering whether or not to invoke the Legislative Council (Powers and Privileges) Ordinance to conduct hearings and enquiries.

Thank you.

**MR TSANG KIN-SHING** (in Cantonese): Mr President, on 26 September this year, a strike took place involving 800 Thai workers of the Route 3 and airport projects over wage deductions. From that day, until November this year, there were altogether seven cases in which the wages of the foreign workers of the new airport projects had been deducted. More than 2 000 workers, representing half of the total number of foreign workers in the new airport projects, were involved in these cases. They were Filipinos, Thais and Chinese by race. I do not wish to argue with the Secretary for Education and Manpower over what he said earlier about China, but in fact the countries involved included the Philippines and Thailand.

I have taken an active part in dealing with the wage deduction cases involving foreign workers, helping them fight for their reasonable interests. In the course of my involvement, I have come to understand that this is a modern version of the story of marketing labour to be exploited. I think that our policy of importation of labour has attracted workers from nearby countries to Hong Kong, only to be exploited by various parties. They might have regretted coming to Hong Kong, but they still could not avoid paying back the debts owed to the so-called labour affairs companies and other persons in their native countries. This is because they are bound by contracts into which they have entered. In the circumstances, they have no choice but to bear with the exploitation and work patiently.

Such were not cases which happened in the 19th century when Chinese labour was marketed to San Francisco to be exploited as railway workers. They actually happened in the 20th century in connection with the Airport Core Programme of Hong Kong. As a citizen of Hong Kong, I think that is really shameful.

The Democratic Party is of the opinion that wage deductions are directly related to the implementation of the policy of the importation of labour. The present circumstances have shown that the Government is not able to control the incidents of exploitation. In view of this, we think that the Legislative Council

should follow up the cases and inquire into the matter so as to do justice to the people of Hong Kong and review the work done by Government departments.

The Democratic Party thinks that an inquiry into the cases of wage deductions should be conducted without further delay. The Secretary for Education and Manpower said that it would take three months, but we can imagine what the situation would be during the Chinese New Year holidays in Hong Kong in about a month's time. Many of construction sites will be closed and it is common for workers, especially the Chinese workers, to return home for the holidays. However, many people are worried that they cannot come back to Hong Kong after they have returned home. In the past, workers who had gone on strike were repatriated from Hong Kong to their native countries by the so-called labour affairs companies. Therefore, the Democratic Party urges the Legislative Council to invoke the Legislative Council (Powers and Privileges) Ordinance to conduct an open inquiry into the matter. This will not only serve to redress the grievances of the foreign workers, but also make the people of Hong Kong more aware of the loopholes of the policy of the importation of labour and of the role of the Government. The Democratic Party will take an active part in the inquiry, so as to find out the truth and do justice to the people of Hong Kong.

The Democratic Party hopes that Members of this Council will take the same stance and lend their full support to the Panel on Manpower to invoke the Legislative Council (Powers and Privileges) Ordinance to conduct the inquiry.

These are my remarks.

**DR PHILIP WONG:** Mr President, as a member of the Airport Authority, I wonder if I should declare interest. Can you give a ruling? And if so, may I have your permission to vote?

**PRESIDENT:** I do not see any direct personal pecuniary interest involved.

**MR IP KWOK-HIM** (in Cantonese): Mr President, the recent incident of wage deductions concerning the foreign labour of the Airport Core Project has really aroused much public concern in Hong Kong. It is understandable that my colleagues in this Council have demanded to follow up the case by making an

inquiry into the matter. The Democratic Alliance for the Betterment of Hong Kong (DAB) also agrees that the matter should be followed up.

We notice that the Chinese Government is very concerned about this incident of exploitation of the foreign labour. Mr ZHANG Liang-dong, Secretary for Economic Affairs of the Hong Kong and Macau Affairs Office, has said that in the 1990s of the 20th century, marketing of labour to be exploited which occurred about a century ago should not happen again. To tackle the present problems, including wage deductions and the poor living environment of the foreign labour, the department concerned in China is planning to set up an investigation unit which will first inquire into the labour affairs companies in the two provinces of Guangdong and Fujian. Last month, the central authorities also held a joint meeting in which a demand was made for the authorities of the two provinces of Guangdong and Fujian to find out the reasons for the strike of the foreign labour in Hong Kong and to submit a report to the central authorities. Furthermore, Mr TSANG Yuk-shing and Mr TAM Yiu-chung, Chairman and member of the DAB respectively, after meeting with the officials of the Secretariat for International Co-operation, Ministry of Foreign Trade, have been given to understand that the Chinese Government is planning to step up the control of the labour affairs companies by means of legislation in order to plug up the present loopholes of the administrative rules to control the companies.

Earlier, I heard the Government's commitment to inquire into the matter and to produce a report after three months which will identify the loopholes of the present operation of the Labour Importation Scheme of the Hong Kong Government, make suggestions of improvement and introduce ways to monitor the agents for the importation of foreign labour. The report will be submitted to the Legislative Council.

Now that both the Governments of China and Hong Kong have started making inquiries into the matter, should this Council use resources at this time to serve an overlapping purpose? Or would it be more appropriate for us to consider whether to hold an inquiry after the Government has submitted the report in three month's time? These are my remarks.

**MR FREDERICK FUNG** (in Cantonese): Mr President, the Hong Kong

Association for Democracy and People's Livelihood (ADPL) supports the Honourable LAU Chin-shek's motion because we think that, for many years, there has been much controversy in Hong Kong over the issue of the importation of foreign labour. Such an issue is by no means a recent one. During the past few years, we have expressed the concerns of the public and of Members of this Council and we have also given advice in this Council. On every occasion, the replies given by the Government in this Council was that things could be accomplished and there would be no problem, but problems have at last arisen. The recent disputes have provided us with an insight that despite all the information, data, methods of implementation and systems revealed by the officials, the Government has been unable to accomplish what they promised to accomplish. In any case, not enough has been done. As members of the Legislative Council, we have given our support to the work of the Government, we have allocated funds for the Government to do its work and we have also approved staff increase, especially in the Labour Department, to deal with the problems of foreign labour.

Now that problems have arisen, I think there are at least four points which we members of the Legislative Council have to attend to and which we have to find out more through the Panel on Manpower.

We demand the Panel be authorized to exercise powers and privileges. We wish to achieve the following:

1. understand the whole issue, but we have to make it clear that we are not demanding to investigate the case. We have to understand what has happened and why things have come to this situation.
2. We have to understand the system which the Government has established, because the operations in the past could neither give protection nor prevent such disputes from happening, thereby causing problems. We have to stress that we are only trying to understand the system but not to find out who is responsible and who should bear the responsibility.
3. We want to understand the situation and the present system because we wish to give advice and make recommendations concerning the present system with a view to solving the present problems.
4. We want to examine the problems with the Government's entire

monitoring system over foreign labour so as to enable us to give advice accordingly.

Therefore, I do not understand why we should not try to understand the problems and make recommendations accordingly.

Earlier, the Secretary for Education and Manpower told us that government departments such as the Immigration Department and the police might be carrying out investigations and preparing reports and that they might even institute prosecutions. But will the work of the Panel affect them? I think it can be left for the Panel to decide in its meetings whether we should exercise the powers immediately or postpone the exercise of such powers after considering the reasons given by the Government and the prevailing circumstances. In the Alex TSUI's case, we did postpone the exercise of such powers. I notice that Members of the Legislative Council do not share the worries of the Government officials who think that we would, regardless of the correspondences, force the Government into a corner so that it cannot move at all.

Finally, I would like to mention one point. We would certainly welcome the great amount of efforts made by the Chinese Government and the local governments of China and we would certainly welcome the Democratic Alliance for the Betterment of Hong Kong to influence some of the policies of China through its many contacts and connections. But we think the Government of Hong Kong and the legislature of Hong Kong can handle local problems. As regards overseas problems, we think they should be dealt with by the overseas governments or the governments concerned. Coming back to the question, should the local Government and the local legislature deal with these problems? And do they have to deal with them? I think they should do so and have to do so. The more active the Chinese Government deals with the matter, the more active we should be because it is a matter of co-ordination. I do not think that such co-ordination should be left to the executive. Since the legislature has such powers and responsibilities, it should deal with the matter. I therefore support Mr LAU Chin-shek's motion.

**MR JAMES TO** (in Cantonese): Mr President, having taken part in two enquiries conducted by this Council through invoking the Legislative Council (Powers and Privileges) Ordinance, I would like to respond to the Secretary for



Education and Manpower on some technical points.

The Secretary for Education and Manpower just now said that he was very worried. He even pointed out that the normal investigation would be hindered if witnesses were summoned by this Council to attend an enquiry held under the said Ordinance. He cited two concrete examples. Firstly, he pointed out that if the witnesses to be summoned to appear at a hearing of this Council were the same as those who had been summoned to a court or police station, then the outcome might be prejudiced should different testimonies were given on different occasions. However, the Secretary seemed to have failed to further explain what problem would be resulted from such discrepancies.

In response to the Secretary's opinion, I would ask a question: Should the same witness give two different statements, especially when he is under oath on both occasions? If two different statements are given by the same witness, then logically, whether he is a government official or a man in the street, the Government should investigate to see whether someone has committed perjury on some occasion. Further investigation might be needed. In such a case, it will not affect the appropriateness of the questions raised by the Legislative Council or a court of law. Moreover, there is safeguard provided by the Ordinance that evidence given at this Council cannot be availed of in any other legal proceedings, regardless of whether it is self-incriminating, unless the Attorney General is considering to prosecute the witness or this witness has committed perjury in an enquiry conducted by this Council. Logically, these are the exceptions. Other than that, the evidence given is not allowed to be used for other purposes. In the circumstances, the Council has to grasp all the facts which will be our basis for monitoring the Government or for future legislation purpose. Thus we do not see any reason why there will be adverse influence caused by summoning the same witnesses, who have testified in a court for the same incident, to attend this Council's enquiry.

Secondly, the problem is about the so-called premature release of documents. The Secretary did use the words "premature release of documents". Should there really be such a document whose influence is far-reaching, please do have confidence in the Legislative Council, as we have invoked the Ordinance on two previous occasions. Everybody knows that we will exercise caution and will seek a lot of legal advice before we invoke the Ordinance. Should there be any problem, I believe the Government will provide us with legal advice and will remind us of the possible implications on legal proceedings. At the same time,

legal advisors of the Legislative Council will also advise us. I would emphasize that the enquiry conducted by this Council is really of different nature from investigations conducted by different departments or the law enforcing arms of the Government. What the Members want to do is to find out shortcomings within the system rather than with an eye to prosecute the law breakers by invoking the existing laws.

In the past, we had conducted an enquiry for the incident at Kwun Lung Lau. At that time, the Government was also investigating the incident. It was possible that some people might have to bear criminal or civil liabilities. Yet this Council was not stopped from conducting an enquiry by the Government for that reason. Furthermore, the Legislative Council has refrained from invoking this power in a number of important incidents. Whenever this power is invoked, prudence will be exercised. May I cite an example. Teargas was used by the Correctional Services Department or the police in two riots involving the Vietnamese boat people. It was said that deaths and severe injuries were caused. In these incidents, the Governor handled the situation in a wise manner because he was aware that these were important incidents catching the attention of the international community and might lead to disgrace to Hong Kong people. Thus, he immediately appointed some Justices of the Peace to look into the matters or commissioned an independent committee to investigate the incidents. But this time, the Government is handling the problem in a clumsy way. The Government should have responded by appointing an independent committee for this would at least earn more votes in this Council. However, if the Government insists that the problems with the system could be solved by referring the incident to the Immigration Department or the police, I believe no responsible Member will agree to it.

I must also point out that the Government's viewpoints as mentioned above should be rebutted. I hope Members will support this motion and work together to get down to the truth in order to avert unnecessary criticisms that Hong Kong will suffer because of this incident.

**MR JAMES TIEN** (in Cantonese): Mr President, the Liberal Party supports the Honourable LAU Chin-shek's motion. Our objectives may be the same in some aspects but different in other aspects. It is our common objective, however, to find out who are responsible for the wage deductions. We see eye to eye on this point. But from another point of view, Mr LAU may want to scrap the

Importation of Labour Scheme for the New Airport and Related Projects or even all kinds of labour importation schemes through the conducting of this enquiry. From the point of view of the Liberal Party, we want to find out any shortcomings in this system and to see whether the employers, especially those foreign-based contractors, many have paid the wages but the wages do not go to the pocket of the workers. What we want to know is the problem within this process.

Mr President, the importation of labour scheme has been implemented in Hong Kong for a long period of time. Minor problems are inevitable. But in this incident, although the number of companies involved is small, the number of people affected is a great one, involving hundreds of people. In view of this, we want to know why this has happened. It is incredible that the internationally renowned contractors would illegally deduct wages from the workers. So we support the proposal of conducting a hearing in order to get a thorough understanding. Should there be any loopholes, we hope to improve upon them so that our labour importation scheme will continue to operate for the early completion of our new airport. Thank you, Mr President.

**MR CHAN KAM-LAM** (in Cantonese): Mr President, the public is undoubtedly discontented with the incident that wages of our imported workers have been withheld. Fortunately, the incident has almost been fully settled.

Although I do not have any strong view in regard to the Honourable LAU Chin-shek's motion, I must point out that should the Panel on Manpower be authorized to exercise such powers, we must exercise them with caution. Any attempt to override the investigation being conducted by the law enforcing departments or to abuse the powers and privileges enjoyed by the Legislative Council will be improper.

In my opinion, the Panel on Manpower should respect the independence of the government department in conducting the investigation concerned.

Thank you, Mr President.

**MR MICHAEL HO** (in Cantonese): Mr President, the Secretary for Education and Manpower had just now emphasized time and again in his speech that it would be unnecessary for this Council to conduct an inquiry. He also told us

that the Government was investigating the matter, repeatedly saying that our inquiry might affect the normal procedures and obstruct the investigation. Moreover, the Secretary also mentioned that the Immigration Department would find out in how many of the cases had offences actually been committed. Here I would like to point out that the Immigration Department will only be inquiring into cases which have contravened the Immigration Ordinance and the Labour Department's investigation will mainly be concerned with whether anyone has contravened the labour laws. A case which has neither contravened the labour laws nor the Immigration Ordinance may fall outside the terms of reference of the Immigration Department and the Labour Department.

I hope we can examine the whole system of importation of foreign labour and find out whether there are any shortcomings. That is the responsibility of the Legislative Council of Hong Kong towards the people of Hong Kong.

The Secretary for Education and Manpower said that its investigation might be affected if documents and evidence were prematurely disclosed. He mentioned many other similar presumptions. Mr President, I wish to tell the Government that it does not have to worry. In fact, we have already conducted two similar investigations. This legislature is one which works with reasons and we would certainly be careful, but we would also thank those who remind us to consider certain matters. Therefore, I wish to tell the Government to forget about the presumptions. We do appreciate that the staff of the Labour Department and the Immigration Department have made a lot of efforts and they have done a lot of hard work on the airport construction sites. Many of them have worked overtime, or have even worked so hard that they have become sick. I believe colleagues of this Council understand very well that these people have worked very hard.

Concerning the policy of importation of foreign labour, we realize that there have been incidents of exploitation. This clearly shows that there are problems in the monitoring mechanism. As a monitoring authority, we are responsible for problems in monitoring. Earlier today, I have spoken with some Government officials and they tried to convince us that this inquiry was unnecessary. They told us that even under a good system, there are bound to be people who would make use of the loopholes and exploit others, just like there would still be thieves even though we have the police. However, upon seeing the thieves, we would certainly question the authority responsible for security.

Similarly, in this incident, no matter how well the mechanism has been designed, we will question what is the problem with the whole system and what is the problem with the monitoring system once incidents of exploitation have occurred. I am very pleased that investigation is being carried out by the Government as well as the Chinese Government. Although such investigation is somewhat overdue, it is better than nothing.

The Honourable IP Kwok-him said we could wait, but I think that my colleagues here who have become Members of the Legislative Council through elections are representatives of the people of Hong Kong. As such, we are responsible to sort matters out when there is a problem with the systems of Hong Kong. If we leave it to the Government to investigate and if we only invite the Chinese authorities and the Chinese Government to investigate, then we have not fulfilled our responsibilities.

Mr President, today I hope that my colleagues would lend their support to this motion so that we can invoke the Legislative Council (Powers and Privileges) Ordinance to inquire thoroughly into the matter to account to the public of Hong Kong.

These are my remarks.

**MR LAU CHIN-SHEK** (in Cantonese): Mr President, since the occurrence of the modern version of marketing labour to be exploited, my colleagues and I have mentioned time and again that this incident has brought shame on the people of Hong Kong. Talking about shame, I would like to tell Members that the shame brought on the Hong Kong people may be great or small. Some feel that it is abstract and others feel that it is concrete. Some feel that it may go on for just one or two days while others feel that it would last for a long time. However, considering the sufferings and unpleasant experience of the victims, that is the exploited foreign workers, the shame we face actually reminds us of our responsibility.

What has deeply impressed me is that almost all imported workers of the airport projects have told me that they regret having come to work in Hong Kong. I think you are well aware of the whole procedure and I am not going to repeat it. As we are confronted with this incident today, I would like to point out that many labour organizations have been complaining to the Government as well as some

government-related organizations that there are many problems, such as illegal deductions of the wages of foreign workers. The Honourable Frederick FUNG has already given us details about this. But the Government told us that it had already done something to improve the situation and that we can set our mind at ease for there will be no problem. But just let us look at the result!

I want to point out that the problem exposed this time is not discovered by the Government. Not a single problem has been discovered by the Government. They are exposed by the imported workers themselves or by some labour organizations. The Secretary for Education and Manpower has said that what we propose to do would affect the prosecution process. But I would like to remind him that we also have legal advisors who will advise us what we should do. Moreover, the Panel will exercise great caution. But most importantly, as the Government is the policy maker as well as the organization which implements it, the Government itself is the root of the problem. The Government said that investigation had been completed, but is it all that it should do? I am not saying that investigation is not appropriate, but I think the Government should also allow this Council to conduct an objective and unprejudiced enquiry into this matter.

Finally, this incident reminds me of a Jewish friend who told me that when he was on his way back to Israel, he witnessed the miserable plight of the Palestinians. As a result, he decided to stay there to help them despite their political, religious or even economic and cultural differences. Today, confronted with the situation of these unfortunate imported workers in connection with the airport projects. Members of this Council are duty-bound to offer their help, regardless of our standpoint in politics, religions, cultural and economic issues, in the hope that such incidents will not occur again and that our policy can really be implemented in a fair manner.

Mr President, with these remarks, I would like to express my thanks to all Members, whether they will vote for or against my motion or will even abstain from voting.

*Question on the motion put.*

*Voice votes taken.*

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

Dr Philip WONG claimed a division.

**PRESIDENT:** Council shall proceed to a division.

**PRESIDENT:** I would just like to remind Members that they are now called upon to vote on Mr LAU Chin-shek's motion. Will Members please register their presence by pressing the top button in the voting units on their respective desks and then proceed to vote by pressing one of the three buttons below?

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

Mr Allen LEE, Mrs Selina CHOW, Mr Martin LEE, Mr SZETO Wah, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr Henry TANG, Mr James TO, Dr YEUNG Sum, Mr Howard YOUNG, Mr WONG Wai-yin, Miss Christine LOH, Mr James TIEN, Mr LEE Cheuk-yan, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Andrew CHENG, Mr CHENG Yiu-tong, Mr Anthony CHEUNG, Mr Albert HO, Mr LAU Chin-shek, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr LEE Kai-ming, Mr LEUNG Yiu-chung, Mr Bruce LIU, Mr MOK Ying-fan, Miss Margaret NG, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE, Mrs Elizabeth WONG and Mr YUM Sin-ling voted for the motion.

Mr CHIM Pui-chung, Dr Philip WONG, Mr CHOY Kan-pui, Mr David CHU, Mr Ambrose LAU and Mr LO Suk-ching voted against the motion.

Dr LEONG Che-hung, Mr Eric LI, Dr Samuel WONG, Mr CHAN Kam-lam, Mr IP Kwok-him and Mr NGAN Kam-chuen abstained.

THE PRESIDENT announced that there were 42 votes in favour of the motion and six votes against it. He therefore declared that the motion was carried.

**PRESIDENT:** I have accepted the recommendations of the House Committee as to the time limits on speeches for the motion debates and Members were informed by circular on 11 December. The movers of the motions will have 15 minutes for their speeches including their replies and another five minutes to speak on the proposed amendment. 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.

## **REDUCTION OF EMISSIONS FROM DIESEL VEHICLES**

***MRS MIRIAM LAU to move the following motion:***

"That this Council supports that measures be taken to reduce emissions from diesel vehicles, but as both petrol and diesel vehicles attribute to air pollution and before it can be confirmed which one of the two types of vehicle is more environment-friendly, urges the Government to review the mandatory scheme of phasing out diesel vehicles of four tonnes or below in the consultation paper "Further Proposals to Reduce Emissions from Diesel Vehicles" and to replace the proposed scheme with incentive measures to attract owners of diesel vehicles to change to petrol vehicles on a voluntarily basis, as well as to expeditiously explore other measures which are more effective and generally accepted by the public, in order to improve the air quality in the territory."

**MRS MIRIAM LAU** (in Cantonese): Mr President, I move the motion standing in my name as set out in the Order Paper.

In September this year, the Government published a consultation paper which proposes the diesel-to-petrol scheme offering concessions to the trade in order to encourage operators of diesel vehicles of four tonnes or below to switch to petrol. Apart from that, stringent emissions controls against heavy diesel



vehicles will be exercised. It is considered that the public and the trade would welcome the Government's endeavours to improve air quality, to protect the public health and to cope with the loss that the operators of diesel vehicles may suffer under this scheme, but ever since the commencement of the consultation period has begun, different opinions have been aired and no unanimous conclusion could be drawn. What is more, voices of opposition from the affected trade is lingering in our ears.

The ultimate purpose of my motion today is the in line with the Government's objective, that is, to improve the air quality of Hong Kong and to protect public health.

The Government has been warning that the respirable suspended particulates (RSP) emitted by vehicles running on diesel is often exceeding the acceptable level and RSP may lead to various kinds of respiratory illnesses and even cancer. The Government also quoted a report from a United Kingdom newspaper that the RSP has caused death of tens of thousand of people a year. It seems to imply that those who do not support the Government's proposal should be held responsible for the death of these people.

In fact, the RSP is only one of the numerous harmful substances emitted by vehicles. Emissions by diesel vehicles contain more particulates and nitrogen oxides, while emissions by vehicles running on petrol contain more carbon monoxide, carbon dioxide, and benzene, which may cause cancer. Since the diesel vehicles and petrol vehicles emit different pollutants which are harmful to the environment and posing a health hazard to us, some academics find that there is no clear conclusion whether diesel or petrol is more environmental friendly.

However, it is the Government's foregone conclusion that petrol is more environmental friendly than diesel. The Government admits that by switching to petrol harmful pollutants in the air will increase but insists that such pollutants can be kept at a safety level. Unfortunately, apart from some homemade charts explaining the Government's views, there is no further substantiation such as academic report and research literature to support its argument or to rebut the academics' conclusion drawn from their study.

If other pollutants are ignored and only suspended particulates are the only pollutant to be dealt with, the Government can feel justified and confident to target at diesel vehicles. However, according to a research report by the Hong

Kong Polytechnic University, the emissions of taxis and public light buses in the busiest areas only account for 23.5% of the particulates found in those areas. Besides, according to another research report by the Hong Kong University, particulates emitted by heavy vehicles and big buses account for a great proportion while particulates emitted by taxis and small buses only account for a small proportion.

These two research reports have coincidentally pointed out that the main culprit of emitting a large amount of particulates is not taxis, small buses or light diesel vehicles. However, the Government is targeting at diesel vehicles of four tonnes or below and force them to switch to petrol. What the Government is doing is obviously putting the cart before the horse and reflects that it lacks a sense of proportion.

Even though the Government's proposal can really lead to reduction of suspended particulates in the air, can the people breathe fresh air once the proposal is implemented? Certainly not, because when the problem of suspended particulates has been solved, another pollution problem will emerge. After the diesel vehicles have switched to petrol, the number of cars running on the road will not decrease. In the future, there will be the same number of petrol vehicles running the same mileage that the diesel vehicles are now running. Harmful emissions will also be produced by these vehicles. If suspended particulates may cause death, carbon monoxide and benzene are also lethal, though the cause of death is different.

The Government has emphasized time and again that all problems can be resolved once petrol vehicles are fitted with catalytic converters. But will all pollutants emitted by petrol vehicles disappear? Certainly not. The Government also admits that some air pollutants will increase, but nevertheless will be kept within the safety level. Although mandatory renewal of catalytic converters will be part of the Government's proposal, no one can guarantee that catalytic converters will not be out of order. Neither is there any research to show that the performance of catalytic converters will not be affected even after they have become worn out. If the catalytic converters do not perform satisfactorily or if it has totally failed, the harmful emissions produced by petrol vehicles will be more lethal than the emissions produced by diesel vehicles as the former can kill without any trace.

Mr President, the Government has proposed fuel duty concessions,

reduction of the annual licence fees for vehicles and the first registration tax in order to lower the operating costs of the taxis, public light buses and small school buses. Yet these concessions are provided only during the first 10 years.

Under the veil of concessions in order to attract the taxis and public light buses to switch to petrol, these are in fact mandatory measures which induce the drivers into a snare who will then find themselves reap the benefits first and then bear the hardships later. Like it or not, the diesel vehicle owners have to switch to petrol as soon as possible, otherwise, they have to bear a substantial increase in licence fees. Operators of light vans will suffer most because they will not enjoy any concession as the Government is of the opinion that these operators can absorb the extra cost with their clients and fuel constitutes a small proportion of transport costs. I really cannot understand the logic behind the Government's argument. Taxis and public light buses can enjoy concessions so that their customers, that is the passengers, can benefit, but the clients of the light vans cannot. In fact, not all light vans are owned by large companies, most of the light van owners are self-employed. The current proposal of the Government will directly affect their livelihood.

On the other hand, the Government does not agree that increase in the annual licence fee for vehicles which continue to stay on diesel is a punitive measure. It said that it was necessary to raise the operating costs of the diesel vehicles in order to be fair to other vehicles which have switched to petrol. The Government's argument is just like saying that if A is robbed of \$10, then B must be robbed of \$10 in order to be fair to A. This is a novel sort of "fairness" put forth by the Government.

Obviously what the Government is going to provide is not real concessions. The diesel vehicle owners now pay less fuel duty, which will be increased by the Government in the future. The Government will not incur any fiscal loss but the public will suffer when the concession period is over in 10 years' time, operating costs of petrol vehicles will increase as fuel duty also increases. Eventually the extra cost will be shifted onto the commuters who have to pay a fare higher than that of other public transport running on diesel.

The public do not mind paying higher fare in order to enjoy fresher air. But if the fare increase is not as moderate as the Government has estimated and the fuel is not as environmental friendly as the Government has expected, will the public be willing to support an expensive but not effective scheme?

In regard to the operating costs, which include both the costs of maintenance and fuel, of taxis and public light buses running on petrol, there are discrepancies between the estimation by the Government and by the trade. If the trade's estimation is correct, then the current proposal of the Government will indeed deal a heavy blow to the trade and jeopardize the future development of the trade.

The trade is worried that after switching to petrol, the performance of the vehicles will be worse than diesel vehicles and will no longer be suitable to the road situation in Hong Kong. Despite that, the Government points out that in many American cities such as New York, petrol taxis run a longer mileage than Hong Kong taxis. It further argues that as taxis in these foreign countries can run on petrol, there is no reason why it is not feasible in Hong Kong.

I would like to ask the Government some questions: Are taxis in Hong Kong operated in the same way as the taxis in New York? Are the road situations in these two cities the same? Do they have the same climate and geographical environment? If the answer is no, how can the Government conclude that the foreign model can apply to Hong Kong? Since there are discrepancies between the estimated operating costs presented by the trade and the Government's estimate, and the foreign model may not be applicable to Hong Kong, why not the Government conduct an experiment to compare the performance of a diesel taxi and a petrol taxi. Only in so doing will the data obtained can truly reflect the discrepancies in operating costs by running on diesel and petrol and prove that the fare increase will be as moderate as the Government has expected. Most importantly, we have to obtain data which are acceptable and trusted by the public and the trade.

Mr President, as I have raised so many questions on the effectiveness of the Government's proposal, this may lead some to query whether I am urging the Government to stop doing anything and allow the worsening of our air quality. Certainly not. I must reiterate that I share the objective of the Government and the environmentalists: to show our determination to improve the air quality by our acts.

The current proposal put forth by the Government is exactly what Dr BARRON of the Hong Kong University has suggested. He recommends that all

light vehicles should run on petrol and tighter emission controls and testing should be imposed on heavy vehicles. However, Dr BARRON also agrees that there is another alternative as suggested by Dr RUSCO and Dr WALLS of the Hong Kong University: to use high quality diesel and upgrade the emission standard of new vehicles. In addition, maintenance should be upgraded in order to reduce the amount of pollutants, including suspended particulates, emitted by all diesel vehicles. Dr RUSCO and Dr WALLS are of the opinion that their suggestion is more effective but less expensive than Dr BARRON's.

Thus we are facing many alternatives rather than either "death" or the Government's proposal as it warns. In fact, we do not come to the end of a blind alley, for there are many viable routes to take.

According to a research conducted by the Hong Kong Polytechnic University, if all taxis and public light buses have switched to petrol, the total amount of suspended particulates and RSP will be reduced by 12% and 18%. However, if low pollution diesel is used, the respective figures will be 8% to 10% and 12% to 15%.

The report by Dr RUSCO and Dr WALLS also points out that by switching to quality diesel of low sulphur content, emissions will be reduced by 25%, and the particulates and nitrogen oxides emitted will be reduced by 22.5% and 21.7% respectively. A report by the Hong Kong University of Science and Technology has quoted an overseas experiment result that a 0.25% to 0.05% reduction in sulphur content will lead to 70% reduction in suspended particulates emitted.

It is clear that the use of low sulphur content diesel will reduce the emissions of diesel vehicles, including suspended particulates. Moreover, we will get an instantaneous and overall improvement in air quality. In fact, the Government has planned to introduce 0.05% sulphur content diesel in April 1997 and the effect is yet to be seen. But now the Government is trying to implement a costly but ineffective policy. It is hardly convincing. In fact, what the Government should do now is to introduce low sulphur content diesel at an earlier date and further lower the sulphur content of diesel.

The use of low sulphur content diesel should be accompanied by a proper

testing and maintenance scheme in order to ensure that emissions by diesel vehicles do not exceed the standard required. As early as 1991, Dr BARRON pointed out that the root of air pollution in Hong Kong is that no one can guarantee that the engine of diesel vehicles are correctly tuned. Although the problem has been highlighted, what has the Government done in this aspect? Has it provided any maintenance guideline or standard to the trade? Has it adopted any measure to prevent the mechanical parts responsible for the emission from being tuned arbitrarily? The Government emphasizes time and again that no regulatory authorities in the world can develop an effective maintenance programme for the light diesel vehicles and that as there is no effective maintenance programme, the ban on diesel will be the only prudential policy.

The Government's policy is somewhat like trimming the toes to fit the shoes. It shows that the Government is both incompetent and ignorant. I want to point out that in many states of the United States, various kinds of testing or maintenance schemes are in place. A research on light diesel vehicles has been carried out in Colorado which shows that effective testing and repairs will reduce the amount of particulates by 31%. Although these schemes may not be totally applicable to Hong Kong, they are at least important consideration before we can come up with any testing and repairs scheme applicable to Hong Kong. Unfortunately, we do not see any effort exerted by the Government in this aspect.

Mr President, I think the Government is aware that only diesel vehicles in bad repairs will lead to serious pollution problem. Why not examine the problem and formulate some stringent measures to compel proper testing and repairs rather than turning a blind eye to the installation of sub-standard spare parts in the diesel vehicles and the arbitrary tuning of oil pump of the diesel vehicles? Now the trade has proposed a repairs and maintenance scheme for the emission system in order to upgrade and tighten the repairs standard, which will also completely eradicate arbitrary tuning. Unfortunately, the Government thinks that it is not worth considering and insists its "clean-cut" approach, that is to eliminate all diesel vehicles of four tonnes and below. Other than that, no suggestion is accepted. Is this fair to the trade which is sincerely offering help to improve the air quality?

Finally, I would like to point out that the Government should review the proposed concessions and put forth real concessions rather than disguised ones. If the concessions are genuine, does it have to worry that the car owners are reluctant to switch to petrol? If some car owners voluntarily switch to petrol, the amount of suspended particulates emitted will be reduced to a certain extent.

However, as not all fleets for business operation are forced to switch to petrol, our worry about emissions by petrol vehicles will be alleviated.

The suspended particulates emitted by diesel vehicles will be greatly reduced if multi-measures are adopted at the same time. These include the use of low sulphur content diesel, the implementation of stringent testing and repairs scheme, a voluntary diesel-to petrol concession scheme, as well as the tightening of the emission standard proposed by the Government. Furthermore, it will effectively reduce the amount of the other pollutants emitted by diesel vehicles. In the long term, the Government should proactively consider the use of other fuels, such as natural gas or LPG, which have been proved to be more environmental friendly.

Mr President, the Honourable IP Kwok-him, at the joint meeting of the Panel on Environmental Affairs and the Panel on Transport, described the diesel-to-petrol scheme as somewhat like "resisting a tiger at the front door but letting a wolf creep in from the rear door". However, the Government thinks that they are not only resisting a tiger and a wolf but also bringing in a tame cat. I hope the Government will not be over-excited and open the door too early before it has confirmed that it is really a cat and not in fact a leopard.

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

*Question on the motion proposed.*

**PRESIDENT:** Miss Christine LOH has given notice to move an amendment to the motion. Miss LOH's amendment has been printed on the Order Paper and circularized to Members. I propose to call on her to speak and to move her amendment now so that Members may debate the motion and the amendment together.

***MISS CHRISTINE LOH's amendment to MRS MIRIAM LAU's motion:***

"To delete "but as both petrol and diesel vehicles attribute to air pollution and before it can be confirmed which one of the two types of vehicle is more environment-friendly," and substitute with "and"; to insert "public

response to" after "the Administration to review"; to delete the word "mandatory"; to delete "replace" and substitute with "amend"; to delete "with incentive measures to attract owners of diesel vehicles to change to petrol vehicles on a voluntarily basis, as well as to expeditiously" and substitute with "to make it as widely acceptable as possible to the public and owners of diesel vehicles, including reconsideration of the proposed principle of revenue neutrality by agreeing to plough back any possible revenue so acquired into health care development and, to continue to"; and to delete "which are more effective and generally accepted by the public,"."

**MISS CHRISTINE LOH:** Mr President, I move that Mrs Miriam LAU's motion be amended as set out under my name in the Order Paper. I want to explain, first of all, why I am seeking an amendment to Mrs LAU's motion.

I believe Mrs LAU has based her motion on the wrong premise. The motion states that "both petrol and diesel vehicles attribute to air pollution". No problems there. But the motion goes on to say that "before it can be confirmed which one of the two types of vehicle is more environmentally-friendly", the Administration should not insist on a mandatory scheme to switch from diesel to petrol vehicles.

You could say that neither of the vehicle types are environmentally-friendly since they both emit harmful pollutants. Further, the exhaust compositions of the two types of vehicles are inherently different. Thus, to phrase the motion in terms of their comparative environmental-friendliness is misguided.

A more useful focus for this Council to assess the public health benefits of the proposed scheme, is the Air Quality Objectives which Hong Kong has set for itself. Regrettably, our air quality is consistently failing to meet them, especially for respirable suspended particulates (RSP). It is not in dispute that the adverse health effects of RSP include serious respiratory and cardiovascular illnesses, with the elderly and children being the most susceptible. Recent international studies show that RSP may be the most worrisome air pollutant in the urban environment.

The biggest culprit for the emission of RSP right now in Hong Kong is the diesel fleet. The Hong Kong Polytechnic University study, commissioned by the Taxis and Public Light Buses Concern Committee, does not actually dispute this.



What is surprising about the study, is that it does not point out the obvious, that is, that RSP is the pollutant that consistently, and by a large margin, fails the Air Quality Objectives. I am mystified why the study spends 40 pages on air pollution and vehicle emissions and skirts around the issue of the Air Quality Objectives? Furthermore, the study does not tell us by how much our air quality will improve if Hong Kong does as it suggests by adopting a better maintenance scheme for small diesel vehicles, and drop the proposed diesel to petrol scheme. This is surely, Mr President, a significant and an incomprehensible omission.

Mr President, there should be no dispute that RSP is the single greatest air pollution threat to public health today in Hong Kong. Thus, there should be no dispute that we need to address RSP urgently and reliably.

It is for this reason, urgency and reliability, that Hong Kong cannot wait for developing technologies, such as electric vehicles, to mature. The proposed diesel to petrol switch is underpinned by reliable technology. There is enough data both here in Hong Kong and around the world to assure us of the levels of improvement to our air quality that we can expect if the scheme were implemented.

I would only like to say that if the Administration gets to the state of drafting legislation, it should include in it periodic review to ensure that developing technologies will not be overlooked or discounted in future by Hong Kong having opted for the diesel to petrol switch scheme today.

In addition, since the scheme targets diesel vehicles below four tonnes, which causes the greatest air pollution in Hong Kong's most densely populated areas, the Administration must also continue to tighten control over larger diesel vehicles. Moreover, the Administration must do more to reduce nitrogen dioxide which also exceed the Air Quality Objectives. However, these are not reasons for holding back on the scheme overall.

Mr President, the rest of Mrs LAU's motion, which calls for the scheme to be a voluntary one, is hinged on the logic of comparative

environmental-friendliness, which I hope to have shown is erroneous.

What my amendment proposes is simply that the Administration should review public responses to the scheme, which would of course include the views of the taxi and public light bus trade and those of other like vehicles, and to make the scheme "as widely acceptable as possible" to them and to the public.

The Environmental Affairs and the Transport Panels held two long unprecedented meetings to discuss with the trade and with government officials the two main issues of the proposed scheme. The first is on health, which I have already dealt with. The second one is the financial viability of the scheme.

In this regard, the calculations upon which the Administration based its various concessions to promote the scheme, and to ensure that the livelihood of the trade will not be adversely affected, are very different from those presented by the trade. I have already publicly criticized the Administration before for not consulting the trade prior to the publication of its consultation paper. If the Administration cannot come to some agreement with the trade on them, then the scheme will not succeed, whether it be a mandatory or a voluntary one.

The Administration's response to the lack of prior consultation is that it would not have been able to get the consultation paper out on time. The Administration wants to only consult the trade now. The problem here is that the Administration has lost the trust of the trade, whose co-operation is crucial for the success of the scheme.

I would also like to call on the trade to now sit down however with the Administration to compare their calculations. The Administration should give an unequivocal undertaking here that if its calculations are wrong, that it will review the various concessions to ensure that the livelihood of the trade will not suffer.

The last point I want to make is on the issue of revenue neutrality. The Administration advises that its initial revenue loss in implementing the various concessions is expected to be around \$485 million in the first five years. But since petrol consumption will correspondingly increase, that will create a surplus of about the same amount.

Mr President, if the Administration has to increase its concessions to make the scheme work, then I suppose there could well be a revenue loss. This

prospect should not, however, hold the Administration back since public health is imperative.

At the other end of the spectrum, it could be that the Administration would end up making some sort of a greater surplus than they have calculated for. If that were the case, then what I propose in my amendment is that the revenue should be plowed back into health care development preferably, directly to deal with the air pollution.

Mr President, I urge Members to support my amendment.

*Question on the amendment proposed.*

**MRS SELINA CHOW** (in Cantonese): Mr President, I believe every one of us looks forward to an environment with fresh air and a wholesome body. Unfortunately, modernization brings only materialistic improvements. The quality of life has, however, deteriorated. This is due to the worsening problem of environmental pollution, a topic we are debating today. Therefore, I am in full support of tackling the problem of car emissions. Nevertheless, I must ask: Do we need to hastily propose, as the Government does, draconian measures to lay down rules to make it mandatory for vehicles to use of petrol in place of diesel?

Who should be responsible for the present problems? The culprit could be those owners of smoky cars who never keep their cars in good repair. The Government is in fact the accomplice, guilty of laxity in law enforcement. It has failed to set up a mechanism to ensure that cars on the roads are adequately maintained and overhauled to meet environmental requirements.

From the point of view of environmental protection, the Environmental Protection Department (EPD) has never in the past done anything concrete to reduce the amount of respirable suspended particulates (RSP) in car emissions. Just take a look at the chart given to us by the EPD the day before yesterday and we can see that if the Government had adopted the proposed administrative controls, the RSP pollution index could have been lowered by 20%, even in the absence of any diesel-to-petrol conversion measures. How come the

Government did not take any action in the past but in the face of a worsened situation, it has now decided to take drastic measures to ban the use of diesel?

Why does the Government have to wait until 1997 to introduce a reduced sulphur content of 0.05% in diesel when most places in the world have already adopted the same? Furthermore, while some foreign countries are already exploring the possibility of further reducing the sulphur content of 0.01%, why does Hong Kong appear to have lagged behind in this regard? How come Hong Kong continues to tolerate a high level of sulphur content while at the same time tries to take on an avant-garde position by banning the use of diesel oil?

Now that the RSP pollution index may be reduced by 20% through administrative control, has the EPD ever tried to find out how to further improve this percentage?

Mr President, in the course of this Council considering the Government's proposed diesel-to-petrol scheme, I have queried the relevant departments for going to the abstruse and forgetting the obvious. When the relevant Panel discussed the proposal, the Government obviously had not taken practical measures to improve vehicle emission standards, to introduce suitable maintenance requirements or to prosecute the polluters. Nor had it assessed the effectiveness of all of these steps to ascertain whether they can solve most of the problems. The Government started to make comparisons only when Members insisted that it did so. Is this not an obvious instance of lacking in objectivity and a sense of priority on the part of the Government?

The Honourable Mrs Miriam LAU has pointed out clearly the views of the trade on the proposal and she has even analysed such views from an economic angle. In terms of attitude, I am very much dissatisfied with the position held by the Transport Department (TD) in conducting the consultation. I am more so with the fact that this time Members were obviously swamped with numerous data from the TD and from the trade. Members were therefore at a loss as to who to believe although they could in fact have been able to obtain objective data in considering the relevant policy. The Government could say the data from the trade are for its own interests. But are the data from the TD and EPD not geared to give support to the Government policy? To maintain its credibility, the Government has to be fair and neutral and it has to tell the truth. If the TD finds

some part of the data provided by the trade hard to understand, it should spend some time to discuss with the trade in a patient manner in order to unearth some trustworthy data for Members to look at before they make a decision.

Without having done its part, the Government hurried to put forward a strongly worded proposal in its present form. This is an ostrich policy, or rather this is like furthering self-interest by hurting others, which, I think, is a more appropriate phrase to use.

Even if the Government opines that petrol causes less pollution than diesel, it should not impose control with means harsher than is necessary. As the saying goes, tyranny is fiercer than a tiger. Draconian measures can only make residents lose faith. We could borrow the experience from the introduction of unleaded petrol. The Government promoted the product and encouraged car owners to use it. Why do diesel car owners have to be penalized when it comes to the question of diesel-to-petrol switch? I understand most diesel cars are put to commercial use, but this should not be a reason to reward car owners in one situation but penalize them in the other.

Mr President, I would like to say a few words on the Honourable Miss Christine LOH's amendment. If she had such high ideals, why did she not urge the Government to make it mandatory for residents to stop using diesel vehicles and petrol vehicles, and to introduce a full scale use of electric vehicles, as this best protects the environment? Nevertheless, I do not think Members can represent all environmentalists. I can tell everyone that I talked to some rather authoritative persons from the Friends of the Earth about the issue. Some of them said that proper maintenance of diesel vehicles could solve all the problems, and that if there were no proper maintenance, even petrol vehicles could cause more severe problems.

So, Mr President, I am in full opposition to the Government's proposal to jump to the enforcement of a policy that is far from being convincing or acceptable.

**MR LEUNG YIU-CHUNG** (in Cantonese): Mr President, there have been a number of "expert encounters" in the Legislative Council a short while ago. This morning, we had a discussion on whether electromagnetic fields would

affect our health. Now, we talk about whether it is diesel or petrol that does the most damage to our health. In both debates, numerous expert reports and research data were involved which stun the general public. Nevertheless, all these show that people are concerned about environmental protection, and that is a promising social phenomenon. But there is an interesting point to note among all these "expert encounters". In the discussion this morning on the laying of power cables by China Light and Power Company in the vicinity of residential units, the Government held that there was no conclusion among experts on the matter and hence the local residents' worries were an over-reaction. The Government's position was an apathetic one. It even stressed that it would allow power cables to be laid near housing units. However, on the matter of diesel-to-petrol switch, the Government has made an about-turn. It showed great concern for the health of the general public by adopting draconian measures to force people to comply with the standards set by Government experts. Owing to these completely different positions taken by the Government, one cannot help thinking that the Government is having a split personality.

No matter whether the Hong Kong Government has some mental problems or not, these "expert encounters" clearly demonstrate that the Government consistently tries to "pre-empt" and high-handedly forces people to accept proposals that are not yet scientifically conclusive. The Government only chooses to implement policies beneficial to itself and manages to diminish the responsibilities it needs to shoulder, in the name of environmental protection.

In the current debate on the diesel-to-petrol scheme, the Government has, in its consultation paper, centred its discussion only around respirable suspended particulates (RSP) released from diesel fuel combustion. As regards toxic or carcinogenous substances such as carbon monoxide, nitrogen oxides and benzene released from petrol combustion, the Government has either avoided or just briefly mentioned the consequences or harm caused by these substances. The Government has even publicly indicated that in order to abate the harm caused by RSP, it is prepared to accept the intensifying green-house effect caused by carbon dioxide released from petrol combustion, that is, it is oblivious of the consequences brought about by melting glaciers on the human race and the world. This is unacceptable.

Nonetheless, the Government's high-handedness in executing imprudent policies has proved effective on certain short-sighted parties. Already, some environmental protection groups have indicated that they will be agreeing to the

policy of a compulsory diesel-to-petrol switch in view of the fact that the Government will not be considering other ways to improve the environment in the next 10 years. But I should point out to the Government that a forced implementation of its policies may not bring about any desirable results. As the consultation paper also underestimated the impact of the diesel-to-petrol policy on people's livelihood, lots of organizations in the trade, including minibuses drivers, taxi drivers and van drivers have recently accused the Government of working behind closed doors and divorcing itself from reality. They also accused the Government of having lost sight of the possible consequences arising from the implementation of the policy. In fact, basically it is those above-mentioned drivers who will be affected by the diesel-to-petrol scheme. Vehicles driven by these drivers are closely linked to the general public. Hence, whatever effects arising will eventually be shifted to the general public. One of the effects would be that the operating costs of vans will be shifted to the currently ailing medium and small enterprises, thereby further impeding the Hong Kong economy.

Mr President, I do believe everyone in the world wants to live in a healthy, happy, fresh and clean environment. However, in implementing environmental protection policies, we must not lose sight of people's livelihood. We must not work our way through compulsory means. If we do, policies with good intentions will at the end of the day become disruptive or even oppressive. This would be very much against the principles of environmental protection. Eventually, we would become rash environmentalists or hypocritical ones. This is the last thing we want to see.

Mr President, we are not in a position to take part in these "expert encounters". Since some experts think it is one entirely impossible to control pollutants emitted from the use of diesel fuel, why do we not step up the examination of vehicles or control the import of cars? At the same time, many experts hold that we may explore and develop a variety of alternative fuels to take the place of existing fuels such as petrol or diesel, which contain pollutants. Some such possibilities are liquefied petroleum gas and natural gas. Why does the Government not do that? Why does the Government not carefully consider development in this direction in the consultation document? Why does it just force us to accept the diesel-to-petrol policy? Lastly, Mr President, I do hope the Government can pay attention to people's livelihood and to society at the same time as it promotes environmental improvement. I hope the Government will not enforce this as a mandatory policy as it will have a direct impact on the

general public.

These are my remarks.

**MR IP KWOK-HIM** (in Cantonese): Mr President, I am very pleased with the Government's effort in trying to minimize the emissions from diesel vehicles. Since 1992, the Government has introduced unleaded petrol and environmentally-friendly car-engines. These actions have positive effects on protecting the environment and should be recognized as such. However, the Government's proposal to make it compulsory for vehicles to switch from diesel to petrol is open to question.

First, the Government is of the opinion that petrol causes less car exhaust and hence less pollution than diesel. Whether this is really the case has yet to be confirmed. Undeniably, diesel vehicles will emit large amounts of respirable suspended particulates (RSP). A lot of researches done locally and overseas have demonstrated that breathing in RSP may result in a number of diseases such as chronic bronchitis, asthma, heart diseases and cancer. Nevertheless, petrol vehicles will also emit toxic gases such as carbon monoxide (CO), nitrogen oxides (NOX) and hydrocarbons (HC). These gases may cause leukaemia, anaemia and so on and depletion to the ozone layer. They may also cause the temperature to rise and produce a green-house effect. So they pollute the environment. In addition, emissions from diesel vehicles are visible whereas those from petrol ones are not. Invisible emissions are very dangerous as people may have inhaled them without knowing it. To replace one type of toxic gas with another is an action without careful consideration. Today, when the amount of RSP in the air increases, we demand that vehicles switch to petrol. Later, when the amount of CO in the air increases, do we need to switch to yet another type of fuel? Therefore, the best thing to do to improve the Hong Kong environment is for the Government to conduct another thorough and comprehensive research involving a comparison of the relative impacts of the use of petrol and diesel on our air quality so that the public know exactly what is the best thing to do for the environment.

Second, the Government wants to gradually phase out diesel vehicles of four tonnes or less, that cover taxis, minibuses and light goods vehicles. However, taxis and minibuses account for only 15% of all diesel vehicles in Hong Kong and they are responsible for only 5.7% of the emissions. Among all



diesel vehicles, only one-tenth are light goods vehicles. Can phasing them out really improve air quality in Hong Kong? But then the Government allows medium and large diesel vehicles of four tonnes or more to continue to use diesel after installing catalytic converters when RSP emitted by medium and heavy vehicles account for a quarter of the RSP emitted by all diesel vehicles and those emitted by large buses account for 14%. Can we actually achieve the "ideal" objective of environmental protection simply by requesting vehicles of four tonnes or below to switch to petrol?

Undeniably, a switch of fuel or the installation of catalytic converters may drastically reduce the amount of RSP in the air within a short time. The situation will however deteriorate if vehicles lack sufficient maintenance as the amount of RSP emitted by diesel vehicles will increase with time due to natural wear and tear. Most car-owners will not carry out periodic maintenance or checks on their cars in view of the high costs involved. Petrol vehicles exhibit marked depletions in its power and functions if no proper maintenance is provided. So, although the Government euphemistically says the switch is meant to compel car-owners to periodically check their cars, the fact remains that the switch increases the financial burden on car-owners. Unfortunately, the quality of current car maintenance in Hong Kong leaves much to be desired. Owing to insufficient Government supervision, many service centres either fail to conduct maintenance work according to procedures specified by the manufacturers or use spare parts not supplied by the original manufacturers. Since maintenance is problematic in terms of quality, it is extremely doubtful whether the installation of catalytic converters on medium to large diesel vehicles can in the long run curb pollution.

Furthermore, taxes levied on petrol vehicles are heavier than those levied on diesel ones. The switch to petrol vehicles will undoubtedly increase the operating costs of taxis, minibuses and light goods vehicles. Although the Government will implement relevant concessions to reduce the fuel tax, licence fees and First Registration Tax to make up for losses sustained by the trade, these concessions will diminish year by year. It is estimated that taxis and minibuses will start to suffer losses from the fourth year on. In addition, maintenance costs for diesel vehicles are high. Private operators will find it difficult to break-even and will resort to increasing fares. It is the general public who ultimately suffer.

Mr President, although the distribution of RSP in Hong Kong is becoming worrying, the air quality reports released by the Government daily tell people that the air quality is still good. So, before a detailed report on the use of petrol and diesel is available, the Government should not hastily implement the relevant policy. Afterall, to substitute petrol for diesel cannot be a long-term means to improve the environment. To my mind, the present Government proposal to use petrol to take the place of diesel is just a decoy that succeeds in fending off one danger only to fall prey to another. That decoy would not succeed in improving our environment effectively. I sincerely hope that the Government will adopt something that truly benefits the people of Hong Kong.

The Honourable Miss Christine LOH has proposed to appropriate any revenue from the diesel-to-petrol switch scheme to the development of health care on the premise that there is neither revenue gain nor loss for the Government. My view on that proposal is that it contravenes the Government's stated fiscal principle of not specifying the use of any income from taxation.

These are my remarks.

**DR LEONG CHE-HUNG:** Mr President, some time ago, the Administration put forth an air pollution index, analyzing and reporting the degree of air pollution in the different parts of this territory. At the same time, residents were advised to stay at home when the index reached a certain level. Yes, that may well be the best alternative as an immediate measure. The irony is that, instead of attempting to remove the root of pollution, the Government is proposing an impractical issue. Furthermore, it has produced the effect of "cry wolf".

Mr President, medical research and statistical data has shown conclusively that air pollution, in particular the presence of excessive suspended particles, is harmful to the breathing apparatus in the lungs of human beings, and it will aggravate and accentuate breathing problems in people who have already had respiratory problems such as asthmatics and victims of pneumoconiosis. Any move, therefore, to effectively reduce respirable suspended particulates (RSP) will be very welcome by the medical profession that I represent.

It therefore came as an initial, and I said "initial", pleasant surprise when a consultation document, "Cleaner Air - Further Proposals to Reduce Emission from Diesel Vehicles", was published. Regrettably the pleasant surprise was

only short-lived. The consultation document, with respect, is too simplistic, incomplete, superficial and one-sided. So, as a start we all agree that diesel is the main culprit of RSP. Yet I failed to identify in the consultation paper or otherwise, whether the Government has today done its best to control the RSP emission of those vehicles below four tonnes. Have motor vehicle manufacturers been approached on the availability of a diesel exhaust filter? Could more frequent vehicle inspections significantly reduce RSP? How often should such inspection be done before it is effective, taking into consideration the fact that these vehicles are almost certainly constantly on the road and whether such frequency of inspection is acceptable to the trade?

The consultation paper seeks to remove diesel vehicles below four tonnes from the roads, but it is lenient on the heavy-duty vehicles that actually represent more than 50% of the diesel road users on the grounds that most of such heavy vehicles belong to large organizations where proper maintenance could be available. But is this really true? In the last four months alone, there were already four reported incidents where the wheels of heavy-duty buses of three franchised bus companies were found to be improperly fixed, and had it not been for the swift action of the very conscientious drivers, major accidents and possible tragedies would have occurred.

Other than a few vague lines in the consultation paper, the Administration owes the public a concrete plan on how and when to tighten controls over these heavy-duty vehicles that no doubt contribute heavily to the pollution of our air. Repeatedly, the consultation paper calls for the abolition of diesel vehicles to reduce the harmful health effect of RSP that these vehicles emit. This we in the medical profession support. Yet, by abolition of diesel, the recommendations replace with petrol engines. In no way has the paper nor the Administration informed the public of the possible harmful effects of the combustion of petrol, unleaded or otherwise, that they will bring. Are the carbon monoxide, hydro-carbons, nitrogen compounds that petrol vehicles emit harmful in other ways to health? Are we replacing a rotten orange with a rotten apple. Which is more harmful to health at the end of the day?

Mr President, it is an undeniable fact that diesel engines are much more economical in actual fuel consumption than petrol engines. Health aside, are we meeting the other principles of environmental objectives? Are we taking energy-sustainable development into consideration? Would the use of electric

or LPG vehicles be more environmentally preserving? Should the whole package of environmental needs and objectives be taken and analyzed together for the benefit of Members of this Council and the public? The Administration must address all these queries and come out with a clear answer if it is genuine in its effort in controlling air pollution and to maintain the environmental sustainable development.

Finally, Mr President, while the whole consultation paper has based its action on health improvement, it has not submitted any concrete projection on reduction in diseases and thus estimated possible savings in health expenses. In this context, these figures must be available, not only as a means to indicate its cost-effectiveness but also as an indication of the Government's commitment to achieve certain health targets. In this context, it would only be right and fair to plough such savings back into public health and the medical field, and I so seek the Government's assurance, lest we wonder whether diesel-to-petrol proposals are for economic gain in the disguise of health and environmental protection.

Mr President, with respect, the motion and amendment before us today did not seek to address all these satisfactorily or enough. While both the motion and the amendment agree that diesel engines are deleterious to health through air pollution, the only main aim of the motion is to call for the phasing out of diesel engines on a voluntary basis with no timeframe, while the amendment maintains that such phasing out should be done on a mandatory basis with a timeframe. It is very obvious that the motion speaks for the trade, that is, owners of taxis and public light buses, while the latter bases its argument entirely on an environmental protection basis.

Mr President, if we want to clean up our air, if we want to breathe clean air, if we want our next generation to decrease their rates of asthma and lung diseases, we need a timeframe to perform the necessary changes. Furthermore, Mr President, the medical profession urges that diesel to petrol should only be the first step and that we look forward to the Government to set a timeframe for other measures to clean up our air.

With these remarks and reservations, I support the amendment.

6.08 pm

**MR CHAN WING-CHAN** (in Cantonese): Mr President, the lack of quorum.

**PRESIDENT:** I order that the Council be counted.

**PRESIDENT:** I now suspend the sitting and summon Members to return to this Chamber.

*A quorum was then formed.*

**PRESIDENT:** Council shall resume now.

**MR AMBROSE LAU** (in Cantonese): Mr President, while Hong Kong is experiencing a depression, the Government has announced a series of proposals to eliminate light diesel vehicles under four tonnes on the ground that they will help clean the air. If implemented, the proposals will squander large amounts of resources and cause costs to increase. The increased costs will be shifted to the consumers. This will exacerbate inflation. Furthermore, as the measures contained in these proposals will make it impossible for diesel vehicles from China to enter Hong Kong, this will indirectly affect trade between China and Hong Kong.

Mr President, the relevant scheme was put forward hastily, as can be seen from three aspects:

First, up to now, it is still inconclusive whether diesel vehicles or petrol vehicles will cause more pollution and harm to human beings, despite years of expert research. Notwithstanding this, in the consultation paper, the Government only stresses the harm to the human body caused by respirable suspended particulates emitted by diesel vehicles but leaves out that caused by colourless and toxic gases emitted by petrol vehicles. In fact, toxic gases emitted from petrol vehicles can also cause harm to our brain cells; give rise to leukaemia, anaemia and tumour; and hinder our spinal vitality. Furthermore, petrol vehicles consume 30% more fuel than diesel ones. If vans, taxis and

public light buses below four tonnes all switch to petrol, more fuel will be consumed and this will intensify air pollution. Regrettably, in the consultation paper this was avoided by the Government.

Second, the Government's proposal will squander large amounts of resources, increase costs and boost inflation. Take taxis as an example. At present the average daily diesel consumption costs about \$230. This amount will increase to \$540 if unleaded petrol is used. Other factors that have to be taken into consideration include charges for changing vehicles and parts, and the fact that petrol vehicles have shorter lives than diesel ones and, unlike diesel vehicles, cannot be operated 24 hours a day. Petrol vehicles can only be operated for 10 hours or so a day. Furthermore, compared with diesel vehicles, petrol vehicles entail extremely expensive maintenance. Because of all these factors, it is estimated that the operating costs for taxis and public light buses in urban areas will surge, while the operating costs for vans will rise by at least 40%. Following the shifting of costs to the consumers by the concerned operators, bus fares and fares charged by the three railway companies will increase too. This domino effect will stimulate inflation, and affect the operating costs of all trades. Thus, consumer spending will shrink further.

Third, the scheme mentioned is not just a bone of contention between the Government and public light bus associations or taxi associations; nor is it purely an argument on scientific evidence, despite the fact that opposing views have been expressed by these associations and that different views have been presented by research reports produced by the Hong Kong Polytechnic University. The scheme is a matter of importance affecting the operating costs of tens of thousands of light diesel vehicles and the entire economy. Geographically, Hong Kong is close to the sea, and air spreads quickly. In fact, even some inland cities in Europe and the United States which value environmental protection have not put forward such proposals. The scheme will deal a heavy blow to the Hong Kong economy and increase the burden on the public. The Government, however, ignores this. It hurries to pre-empt by launching the scheme. This is unacceptable.

Mr President, as all trades are having a difficult time in their business operations, the Government ought to prudently lend them a helping hand rather than do anything harmful to the economy on the pretext of environmental protection. I would like to make several recommendations: First, the Government should make a full assessment of the negative effects the relevant

scheme has on the economy of Hong Kong. Secondly, before any conclusion can be reached as to whether diesel or petrol is more harmful to the environment, the Government should be cautious in dealing with scientific evidence in support of the relevant proposals. Thirdly, a research should be conducted on the geographical environment and air quality index of Hong Kong to see if there is a need to immediately replace diesel vehicles. Fourthly, the Government should study the possibility of using particulate separators to obviate the need to adopt the present proposals which may have far-reaching effects.

Mr President, these are my remarks.

**MR WONG WAI-YIN** (in Cantonese): Mr President, the Government published a consultation document last September in which it proposes to phase out over a period of five years all diesel vehicles of four tonnes and below and to adopt strict control measures with regard to emissions by the remaining larger-size diesel vehicles. In a number of joint meetings of the Legco Environmental Affairs Panel and the Transport Panel, officials from the Environmental Protection Department (EPD) did their best to explain to Members that the level of respirable suspended particulates (RSP) in Hong Kong's busy urban districts persistently exceeds the yearly air quality targets. The officials, citing the research findings of other countries, pointed out to us that RSP could heighten the death rate. The EPD repeatedly stressed that only by requiring diesel vehicles of four tonnes and below to switch to unleaded petrol and to install catalytic converters will it be possible to reduce the amount of RSP dispersed into the air so that it will conform to the air quality targets. Undeniably, the Government's proposal stems wholly from its concern for the health of Hong Kong people. Everybody has the obligation to protect the environment. To improve the air quality so as to ensure that Hong Kong people will live in a healthier environment is a task which falls squarely on the Government.

However, when we carefully scrutinize the contents of this scheme, we will find that the scheme will have a direct impact on the livelihoods of part of the population. It is because most of the diesel vehicles of four tonnes and below, targeted to be phased out, are vehicles for hire including taxis, public light buses (PLB), private school buses and light goods vehicles. The switch to petrol will raise the operating costs of these vehicles and directly affect the income of drivers and owners for the following reasons: the duty on petrol is higher than diesel; petrol vehicles consume more fuel, petrol vehicles have a

shorter life span; petrol vehicles need more intense maintenance. The Democratic Party fully understands the worries cherished by people within the trade about their future livelihoods. Therefore, we urge the Government, in considering the switch to petrol by diesel vehicles of four tonnes and below, to dispel the worries of the vehicle operators by attempting to strike a balance between environmental protection and the impact the scheme will have on these operators.

The Government stresses in the consultation document that the switch-to-petrol scheme will have only a minimal effect on the operating costs and livelihoods of the vehicle operators concerned and that there is no need for them to worry. However, in the last joint meeting of the Legco Environmental Affairs Panel and the Transport Panel, a Member asked the EPD if they had consulted the affected operators or organizations in the course of drawing up the scheme and drafting the consultation document. The reply from the EPD officials was that if consultation was carried out during the course of drafting there would be no way of knowing when this consultation document would be completed and ready for publication. The reply from the EPD officials would seem to imply that they had indeed expected strong opposition to the switch-to-petrol scheme from the vehicle operators concerned; they would not wish to consult the operators during the drafting process for fear that it would hold up or delay the drafting work. But if we accept the EPD's argument that the switch scheme would have only a minimal effect on the operators, I do not understand why the EPD should have been afraid to consult the operators prior to the drafting. Were they worried that their data and way of calculation would be subjected to query to such an extent that they would not be able make answer?

As a matter of fact, what the vehicle operators are most concerned with is the extent of the increase in operating costs after they switch to petrol. It is because the increase in operating costs will directly affect their net income. In the consultation document the authorities admit that assessment of the rise in operating costs has been based on overseas information and data supplied by vehicle manufacturers because there are at present no petrol-driven taxis or PLBs in Hong Kong. The question before us now relates to the wide gap between the operators' assessment of operating costs for petrol vehicles and the Government's assessment. The operating costs as assessed by the operators are much higher than the Government's assessed costs. In the many joint meetings of the Legco Environmental Affairs Panel and the Transport Panel, the operators and the Government stood firm on their own respective assessments. Each side had an



arguable case; each side maintained that they were experts in this regard. Few Members of this Council had the expertise to tell who was right and who was wrong. Therefore the Democratic Party hopes that government experts and vehicle operators will discard their hostile attitude towards each other and strive to reach a consensus. Failing which, this Council will not have sufficient grounds to support either side.

The Democratic Party in principle supports the diesel-to-petrol switch scheme. But it has not been proved conclusively that petrol vehicles are more environmentally friendly. This, coupled with the fact that the Government lacks substantive data in regard to petrol vehicles, means that it would seem risky, irrational and hasty to adopt the "broad-brush" approach of implementing a mandatory switch scheme. Therefore we think that now is not an opportune time to enact laws to effect a mandatory diesel-to-petrol switch. We hope the Government will introduce yet more attractive concessionary measures to induce diesel vehicle operators to switch to petrol. At the same time, the Government should observe for one year and on a test basis how petrol-driven taxis and PLBs will operate in order to understand the petrol vehicles' air polluting effect and their impact on the operating costs of the operators. And after that, the Government will formulate a long-term policy in this respect.

The consultation document further points out that to encourage light diesel vehicles to switch to unleaded petrol the Government will, during the 10-year switching period, introduce a series of financial measures which will let these vehicles, including taxis, PLBs and private school buses enjoy concessionary rates of fuel duty. Apart from private cars, all other light petrol vehicles can enjoy reductions in first registration tax and annual licence fees. Although the proposed scheme seems to incorporate an element of tax concession, yet the Government will be able to balance expenditure and revenue in this respect in the tenth year. In other words, the scheme will not constitute a charge on government revenue in any way. Since the Government is of the view that this scheme must be implemented because of its salubrious effect on people's health, why is the Government reluctant to bear part of the costs but instead is asking the operators and passengers to bear them? The Democratic Party urges the Government to grant more concessions to vehicles which switch to petrol in order to induce more diesel vehicle owners to switch voluntarily to petrol. The Democratic Party suggests that the Government drop its proposal to cut the duty on petrol (including petrol duty for private cars) starting from the sixth year after implementation of the switch scheme. The Government should instead further

cut the duty on petrol for petrol-driven taxis, PLBs and light buses and extend the concession years. This would enable owners of petrol-driven business vehicles to run their operations at costs lower than what would have been the case with diesel so that they would enjoy greater economic benefits. We hope the Government will carefully consider our suggestion.

During the consultation period, vehicle operators, environmental groups and Members of this Council have made submissions to the authorities with regard to this scheme. The Democratic Party hopes that the authorities will carefully deal with the suggestions from various quarters.

Thank you, Mr President.

**MR CHOY KAN-PUI** (in Cantonese): Mr President, every citizen wants to live in an environment with fresh air. Who would want to breathe in polluted air in the streets day-in, day-out? Everyone would like to see an improvement in air quality and a reduction in the level of pollution.

In Hong Kong, a major source of pollution can be traced to industry and cars. Car exhausts, in particular, are the major source of pollution. Both diesel and petrol vehicles can emit all sorts of toxic materials. Diesel vehicles emit large amounts of respirable suspended particulates (RSP), affecting our respiratory system and our lung functions. Petrol vehicles, on the other hand, emit a lot more carbon monoxide and benzene. Benzene, which is carcinogenous, may impair our body co-ordination and is deleterious to pregnant women and those with heart and circulatory problems. So, both types of vehicles are harmful. But are the exhausts from diesel vehicles more harmful and polluting than those from petrol vehicles? Before a definite answer to this question can be found, it would be imprudent of the Government to implement the plan to gradually phase out diesel vehicles of four tonnes or less.

If, however, the plan is made mandatory, operators of taxis and minibuses would be among the hardest hit. The next group of people to suffer are citizens of Hong Kong, who are forced to face a price increase because cost increases in converting diesel vehicles into petrol ones will ultimately emerge as increased passenger fares. We all agree that pollution should be checked in order to protect our health. To achieve this end, why does the Government not consider strengthening vehicle inspection and maintenance? To do so will not

necessarily involved government departments. The Government can in fact assign the job to authorized inspection and maintenance centres which are duly supervised. The Government can require vehicles which have been running on the roads for a certain number of years to undergo periodic inspection and to obtain certification before their licences are renewed.

As vehicles switch fuels, the Government has to provide three major preferential treatments as a matter of policy, namely, concessions on fuel duty, licence fees and first registration taxes. However, these are only short-term measures. In the long run, operating costs for taxis and minibuses will inevitably increase. According to the profit and loss account provided by a working committee of a taxi trade commission to oppose the conversion to petrol vehicles, the operating costs of each diesel taxi are much lower than those of their petrol counterpart. Items accounting for major increases are maintenance and depreciation rather than fuel costs. Who else but the consumers, that is, Hong Kong citizens are ultimately required to share the cost increases?

Furthermore, manufacturers of petrol vehicles are looking into ways and means of reducing the emission of particulates which cause air pollution. It is envisaged that five years later, engines of diesel vehicles will show great improvements in the light of the keen competition manufacturers need to face and the amazing pace at which technology advances.

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

**MR CHAN WING-CHAN** (in Cantonese): Mr President, I believe most people understand very well that we should commit ourselves to protecting the environment and reducing pollution. On this premise, the Government recently proposed to control the emissions from diesel vehicles. I fully support the spirit of this proposal. However, the proposed measures suggest all diesel vehicles of four tonnes and below be replaced by petrol vehicles within five years. This is somewhat improper and the Government seems to be "doing a bad job with good intent".

There are two points contained in the Government's consultation paper:

1. diesel vehicles pollute the air more than petrol vehicles do;

2. concessionary measures will be introduced by the Government to attract petrol vehicles so as to bring the impact of the scheme on the drivers and the citizens to a minimum.

I have some reservations about the above two points. Regarding the first point, it seems that there is no sound data to support this viewpoint. The arguments as contained in the Government's study report and the opinions of some academics and experts are quite divided. I believe Members may have read through quite a lot of similar reports and research papers. The two sides hold fast to their own views and no unanimous conclusion can be drawn. In view of the fact that there is no consensus, is it necessary for the Government to take a "broad-brush" approach to phase out all small diesel vehicles, so that all the people in the trade have to suffer from hardship?

I have asked for the opinions of the trade. They hold the opinion that to switch to the use of petrol as the fuel for commercial vehicles will lead to the following problems:

First of all, the fuel consumption of petrol vehicles is about 30% more than that of diesel vehicles. On average, each taxi will have to consume an additional 5 000 litres of petrol each year and public light buses (PLB) will have to consume an extra 11 000 litres. The additional consumption of petrol will not only boost the operating cost, but will result in even more emissions. And similarly, the emissions degrade our environment and are hazardous to our health. In addition, according to the conservative estimation of the trade, the maintenance cost for petrol vehicles nearly doubles that for diesel vehicles. More fuel consumption will shorten the life span of vehicles, thereby further pushing up the maintenance cost. The expenditure for the additional cost will push up the operating cost and the travelling fares will inevitably rise. The people in the trade estimate that the increase in travelling fares will be far more significant than the Government's estimation. It was estimated that the taxi flag-fall would rise to as much as \$30 or even higher after the five-year period. The increase in fares will be passed on to the general public and will deal a direct and severe blow to the livelihood of the drivers. The people in the trade estimate that, by that time, their business will be cut by two-thirds.

Apart from the issue of cost, the issue of petrol consumption alone will have a tremendous impact on the operation of commercial vehicles. Taxis

have to run on the road for about 20 hours a day and engines of petrol vehicles cannot keep going for too long because if they run continuously on the road for as many as eight hours, the mechanical parts will then become overheated and the water inside the radiators of the engines will then "boil". At that time, the engines of the vehicles have to be turned off to avoid the possible breakdown of the vehicles. In addition, if flooding occurs on the road, petrol vehicles are more prone to possible breakdowns. If the Government's proposal is put into practice, we can hardly imagine what the situation will be.

Mr President, I must stress the point that I lend my unreserved support for protecting the environment and improving the air quality. However, before it is well-substantiated that burning diesel will pose a greater threat to human health than burning petrol does, we do not need to make the hasty decision of taking a "broad-brush" approach and to replace all diesel vehicles with petrol vehicles. Furthermore, for the commercial vehicles, the switch to petrol as fuel will involve the above problems such as the cost effectiveness and the operation of the vehicles. There will be adverse effects on the people in the trade as well as the consumers.

In fact, in regard to the pollution problem of diesel vehicles, there are some other alternatives to control the smoke emitted from diesel vehicles apart from this "broad-brush" proposal raised by the Government. Some studies pointed out that the particles emitted by diesel vehicles can be reduced through the following means and it is not necessary to abandon the use of diesel completely:

1. exercise of proper and quality monitoring and maintenance so as to reduce the emissions from diesel vehicles.
2. control over the quality of diesel by improving the sulphur content of diesel, which is also conducive to reducing the level of particulate emission. According to the information supplied by the oil companies, it is absolutely feasible to refine and produce diesel with sulphur content as low as 0.05%. The price of which will be even lower than that of leaded petrol.
3. specification of the quality standards of imported vehicles. At present, the Hong Kong Government does not exercise control over the quality and function of imported vehicles, resulting in vastly different qualities of imported vehicles. However, the quality of

vehicles will directly affect their emission of smoke. If the Government succeeds in controlling the quality of new vehicles, it will be conducive to reducing the smoke emitted by diesel vehicles.

Mr President, since we can achieve the same purpose of protecting the environment by monitoring, inspecting and maintaining the vehicles, why should we take the compulsory measures of replacing diesel vehicles with petrol vehicles? Why should the Government be dead set on having its own way and take the risk of affecting the livelihood of the people in the trade and jeopardizing the interests of the public?

Mr President, I so submit.

**MR MOK YING-FAN** (in Cantonese): Mr President, the Government has recently published the consultation paper, "Further Proposals to Reduce Emissions from Diesel Vehicles", proposing the diesel-to-petrol scheme to improve the air pollution situation. The community has expressed many opinions and arguments, criticizing the Government's proposal as plagued with inadequacies. In the past few months, I have met many different groups, including taxi associations and green groups, and I have heard of the comments of some academics regarding the Government's proposal. After summing up the opinions of all parties, the Hong Kong Association for Democracy and People's Livelihood (ADPL) holds that there are a lot of points in the paper that are controversial and have not been well-substantiated. Therefore, the ADPL and I cannot fully support the Government's proposal for the time being. We will now try to explore the problems arising from the diesel-to-petrol scheme from four perspectives, namely the environment, the operating costs, the technicalities and the social effects.

First of all, from the angle of environmental protection, the ADPL wholly supports the principle and direction of the Government. Since our air pollution has reached an unbearable state, as pointed out in the consultation paper, the ADPL will lend our support to the Government's proposal if the Government can come up with some proper arrangements and if their arguments are well-substantiated. However, studies conducted by some academics since the Government put forwards the proposal point to the fact the emissions from both diesel and petrol vehicles have adverse effects on air quality and their actual differences bear some resemblance to the differences between oranges and

mandarins, that is, both are sour. The taxi trade and some academics have indicated that petrol vehicles emit even more carbon monoxide and benzene and if all public light buses (PLBs) and taxis switch to petrol, then in the seriously polluted areas, such as Mong Kok and Kwun Tong, the level of Total Suspended Particulates (TSP) and Respirable Suspended Particulates (RSP) will only be reduced by 12% and 18% respectively. Therefore, it now remains inconclusive as to whether it is worth the cost to launch the diesel-to-petrol scheme. The Government only emphasizes that this scheme will cut the concentration of particulate emissions by half by 2002, while no consideration is made regarding changes in the concentration of other pollutants in the air and the overall changes of the air quality with increased use of petrol subsequent to the implementation of the scheme. On the other hand, someone has observed that after switching to petrol, the carbon dioxide emitted by vehicles will increase by 20% or 30% and that will intensify the greenhouse effect. The divided opinions show that we, the legislators and the public cannot decide right now as to whether diesel or petrol will contribute more to improving our air quality.

Other than that, the operating costs of diesel vehicles and petrol vehicles are considerably different. Will the Government compensate the diesel vehicle owners in respect of the price paid by them? Is it worth the while to pay such a price in exchange for the carbon dioxide emitted by petrol vehicles? At present, diesel vehicles are generally more durable, with a life span of 10 years. However, after switching to petrol, the taxi trade estimates that the operating costs will be more than twice as much because petrol vehicles are more expensive to run in view of the higher excise duties on petrol than diesel, more fuel consumption, a shorter operational life and more maintenance requirements. As to the catalytic converters which must be used together with petrol, the mileage of which is only about 80 000 kilometres. A taxi's mileage will well-exceed this figure after running on the road for one year. In addition to this, the maintenance of the catalytic converters will also add to the burden on the vehicle owners. Furthermore, this proposal is targeted only at some of the diesel vehicles. For those heavy diesel-powered vehicles such as buses and heavy-duty transport vehicles, they are not within the scope of consideration. We feel that the Government's proposal is hardly fair.

As to the technicalities involved in switching from diesel to petrol, at present, the Government has proposed a five-year conversion period to allow more time for taxis and PLBs to attune to the arrangement. There lies the problem. During the five-year conversion period, diesel vehicles and petrol

vehicles will operate side by side; however, since taxis serve the public and have to charge the public directly, should the Government adopt uniform charges or differential charges so as to balance the cost differences between petrol and diesel? The Government is yet to give us a reasonable reply in respect of this question.

May I ask: Has the Government ever considered any alternatives other than petrol with a view to improving the prevailing air pollution situation? According to a report published by the Hong Kong Polytechnic University, the Government may consider strengthening the existing control over diesel vehicles, such as tightening the emission standards, introducing "cleaner diesel" and exercising stricter control over the owners so that they will have to maintain properly and check their diesel vehicles. For vehicle owners who fail to do this, their Driving-Offence Points will be deducted and their driving licences will be suspended. Has the Government ever considered all the above proposals? I have heard the Government pointing to certain difficulties regarding the maintenance and checking of diesel vehicles. However, if that is carried out in conjunction with other monitoring measures, then will air pollution be improved so that the diesel-to-petrol scheme can be dispensed with? It seems that the Government has not given any serious thought to this possible alternative.

With regard to the social effects, a controversial policy cannot be compulsorily implemented when only one-sided arguments are presented. We need to take into account the overall social impacts, including the impacts on the trade and on the general public, that is, the benefits and acceptability to the consumers, so that the scheme can be launched in a reasonable manner. Failing which, only social unrest and public frustration will result. As time passes, that will develop into a time bomb. We hope that the Administration can take into full account the views of all parties before implementing the relevant policy.

However, the ADPL has to state clearly that if the Government can come up with a clear formula to prove that petrol can more effectively reduce the concentration of air pollutants than diesel, instead of reducing the concentration of only a single pollutant, then the public and the ADPL will support the Government's proposal. As suggested in the surveys conducted by some newspapers, the public is willing to pay more to improve the overall air quality.

However, when it comes to the fuel for vehicles, I think that it is incumbent upon the Government to introduce many other complementary



measures if our air quality is to be improved. These include suppressing the growth of private cars, and conducting a detailed assessment of air pollution caused by emissions from transport vehicles running between China and Hong Kong. If the Government focuses only on one aspect, then even if the switch to petrol is really set in motion, there is not going to be an overall improvement in our air quality.

With these remarks, I support the motion moved by the Honourable Mrs Miriam LAU.

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

**MR EDWARD HO** (in Cantonese): Mr Deputy, everyone in Hong Kong wants to breathe in good clean air. There can be no doubt about that. I believe that the community is prepared to accept reasonable measures to improve air quality and people may be willing to pay for the relevant measures. Therefore, the objectives that the Government publishes the consultation paper, "Further Proposals to Reduce Emissions from Diesel Vehicles", are correct. Members from the Liberal Party are in support of the objectives.

What I am concerned about is that while the proposal seems to suggest that the diesel-to-petrol scheme must be set in motion, a host of questions unanswered have been raised by experts and various sectors of our community, such as the question of economic costs and even the appropriateness of that proposal. Therefore, we must look into these issues with prudence.

We must acknowledge that there will have to be financial costs to be borne by the community if air quality is to be improved, just as there are legislation governing the payment of industrial fuel charges, sewage charges and other relevant charges. All these are the prices that we have to pay. But, it is incumbent upon the Government to assess correctly the impacts of these proposals on various sectors and to re-examine the information supplied by the trades. Those trades that are directly affected by the diesel-to-petrol switch claim that the Government has underestimated the economic impact on their trades and on the general public subsequent to a switch to petrol. They have now presented reference figures which differ drastically from those supplied by the Government in support of their arguments. These information have to be

re-examined in detail and in a fair manner.

In dealing with environmental protection, social costs ought to be taken into account but it is not the only concern. Members were visibly shocked to hear from a representative of an environmental group testifying before the Legislative Council Panel on Environmental Affairs that it was not proven, from an overall medical and health point of view, that petrol vehicles are more environmentally friendly than diesel vehicles. We understand that petrol vehicles would consume more fuel and cause global warming and they would emit other harmful substances such as carbon monoxide and benzene, which are also carcinogenic. Dr the Honourable LEONG Che-hung has also raised this point but to my surprise, despite that being said, he is still going to support the compulsory diesel-to-petrol scheme.

These viewpoints have prompted me to look into this consultation paper a little further, and I have found that the Government's consultation paper does not contain any information on the other side of the argument.

In my efforts to understand the matter more deeply (which means I have to read through papers piled up to almost one inch thick), I have found that a large number of researches done by academics here and abroad indicated that the argument on diesel and petrol vehicles is not such a black and white case as was presented by the Government in the consultation paper. There are a lot of points for further detailed study.

Mr Deputy, it would not be possible to cite all the technical arguments on both sides in this debate. With one accord, many academics and experts have held the opinion that there are many alternative solutions that the Government can but does not implement. These measures or solutions may be more cost effective and possibly less harmful to the environment. In the long run, alternative kinds of energy which are more environmentally friendly should also be explored.

On the question of the use of diesel powered vehicles, I learned that in Germany, tax reduction for diesel vehicles had been effected recently to encourage the use of diesel vehicles because of its fuel economy and lower carbon dioxide emissions.

According to a study conducted by Mr HUNG Wing-tat, Assistant Professor at the Hong Kong Polytechnic University, emissions from larger diesel vehicles are responsible for more than 60% of emission pollution in the busy areas of Mong Kok. The Government has not indicated whether it has any plans to expedite the introduction of low sulphur content diesel fuel, albeit sulphide being one of the major components of particulate emissions. The lowering of sulphur content in diesel to 0.05% (as compared to the present level of 0.2%) means that all diesel vehicles can have an improvement.

What we must urge the Government to do is that it should consider more seriously and urgently a comprehensive and long-term approach to achieve cleaner air. Apart from advocating the use of low sulphur content diesel, the Government should also consider introducing other kinds of clean energy. In particular, the means to cleaner air must include the use of clean fuel in public transport, such as electric trains, cars and so on.

I have said many times that an important way to reduce busy traffic flow is by town planning. Simply put, this means decentralizing business and work centres so that people do not have to travel long distances between their homes and workplaces.

The Honourable Mrs Miriam LAU has suggested in her speech a whole range of interim and long-term measures that the Government can consider and adopt before the implementation of the mandatory scheme. Her motion does not preclude any measures which may be made mandatory in the future. Therefore, her motion is worth our support.

With these remarks, Mr Deputy, I support Mrs Miriam LAU's motion.

**MR PAUL CHENG:** Mr Deputy, first of all I should declare an interest in the this subject as I am associated with a company which provides a large number of taxis and public light buses in Hong Kong. Having said that, I should also point out that, while switching from diesel to petrol will cause a certain amount of disruption in the short term, the longer-term impact to our overall business will not be significant as we sell petrol and diesel vehicles.

Through my association with the motor trade, I have access to experts in the sector, and thus feel able to speak with some knowledge on this important

issue. After all, my colleagues work closely with many international motor manufacturers around the world, and are very familiar with studies on fuel emissions and standards, and with the latest developments in engine technology.

There is certainly a lot of information out there. And the one thing it all seems to point to is that the argument about whether diesel is more of a pollutant than petrol — or vice versa — is totally inconclusive.

The Government has decided overwhelmingly in favour of petrol as the cleaner option. However, there is a significant body of opinion that thinks otherwise. It is also interesting to note that diesel vehicles are still widely used as rental vehicles in many developed countries, including the United Kingdom, Germany, Belgium, Denmark, Finland, Portugal and even Singapore.

The government consultation paper oversimplifies this complicated issue, and, perhaps in order to support its own recommended course of action, seems to gloss over a number of points.

The paper focusses on the potential threat to health from diesel, and especially from respirable suspended particulates (RSP). Yet it says little or nothing about the health threats from carbon dioxide, carbon monoxide, nitrogen oxides and hydrocarbons given out by petrol engines. The focus on RSP is understandable as this is perhaps the most visible of pollutants, but we should not be misled into believing "what you cannot see would not hurt you".

According to taxi and light bus operators, the proposed conversion from diesel to petrol will lead to an increase in fuel consumption of between 25% and 60%, depending on vehicle type. These estimates are considerably higher than the Environmental Protection Department's own assumptions. Such a dramatic increase in fuel consumption is surely against the amount of carbon dioxide produced. Higher fuel consumption by public service vehicles will also impact on the general public, who will inevitably have to pay more for transportation.

Before we rush into introducing drastic and costly measures to convert diesel vehicles to petrol, further study is required, especially when there are a number of experts who would dispute the wisdom of those measures. This is a long-term strategic decision with long-term consequences. Switching from diesel to petrol will not happen overnight, it will be more of an evolutionary process. Meanwhile, technological improvements are continuing to be made

and motor manufacturers are continuing to research alternative fuel sources.

The issue is not just about petrol versus diesel, but more about the whole question of air pollution and vehicle fuel management.

Meanwhile, the Government should focus on methods which can help to reduce air pollution in the short term. These include:

- Stricter emission standards with stronger enforcement and heavier penalties for offenders. Put more teeth into these measures;
- Tougher controls on diesel engine maintenance through legislation perhaps and not just merely encouragement; and
- To make use of the cleaner possible diesel fuel, making them mandatory if they are available.

There is another area often overlooked in discussion relating to air pollution and this is reviewing of the regulations governing transportation of vehicle fuel, and petrol station management. To support this point, I would like to quote a recent report that a modern saloon car being driven from Bristol to London at a steady speed pollutes less than a teaspoonful of petrol spilt at the petrol station.

Cleaner air and a cleaner environment is something we all wish to see. However, the diesel versus petrol debate is not as straightforward as the Government would have us believe. The Government has stated its opinion, but it has not proved its case. And the jury is still out elsewhere in the world too.

With these comments, I intend to support the original motion calling on the Government to further review this issue and reconsider the mandatory nature of their proposal.

These are my remarks, Mr Deputy.

**MISS CHAN YUEN-HAN** (in Cantonese): Mr Deputy, I believe no one in Hong Kong will doubt the importance of a clean environment and fresh air to our health. However, from the recommendations of the Government published last month, I can see that when the Government raises a question in one aspect, it is

negligent in another aspect. That would make us feel that the Government adopts double standards or that the Government favours one particular side at the expense of another or that the Government acts with undue haste. Why do I have this sort of feeling about the consultation paper? The reason is that when I go over this consultation paper, I can see that the Government's proposal in respect of diesel vehicles of four tonnes or below is in fact a "broad-brush" approach whereby all these vehicles of four tonnes or below are to be phased out compulsorily within five years. However, I would like to ask the Government: "How about those which are above four tonnes?" The Government's consultation paper does not give us any answer. Some of our information reveals that, as at April 1995, there were almost 70 000 taxis, public light buses (PLB) and light duty vehicles that were diesel powered; other heavy duty vehicles using diesel including the heavy duty trucks, container trucks and buses, numbered over 60 000. In other words, the numbers of these two categories of vehicles are almost the same. Can the Government tell us why such a biased attitude is adopted?

Although we can see that taxis and PLBs run on the road for longer periods each day, the pollutants emitted by heavy duty container trucks and buses are almost three times the pollutants emitted by light duty vehicles. In addition, the growth rate of heavy duty container trucks for the last year was almost 66% but the growth rate of taxis and PLBs was only 1.8%. The two differ considerably. We are therefore convinced that heavy duty diesel vehicles pollute the air no less, or even more, than light duty diesel vehicles do. The consultation paper makes it explicit that there will not be any control in this respect for the time being. It was also pointed out in the consultation paper that "This task will be made more practicable and cost-effective once all smaller vehicles have switched to petrol and the number of diesel vehicles has been reduced by almost half." I do not think that this hollow argument can convince us or the public that we should tolerate the smoke emitted by the heavy duty vehicles.

This consultation paper gives us an impression that exercise by the Government of further control over the smoke emitted by heavy duty vehicles has been put off to the indefinite future. I query why the Government cannot exercise smoke control over these heavy duty vehicles concurrent with its exercise of control over light duty trucks? At the time the Government makes it compulsory to phase out all small diesel vehicles, it allows heavy duty vehicles to emit smoke. It can hardly be justified and that cannot dispel the criticism that

the Government is biased.

Mr Deputy, I also think that this paper has not addressed some of the very important issues. Some of my colleagues have touched upon these problems and I hold that before the Government is poised to solve these problems, it cannot jump to the conclusion of phasing out all diesel vehicles of four tonnes or below. This would be too hasty. As is pointed out by many of my colleagues, it remains inconclusive whether the Government's assertion that diesel is more polluting and is, overall speaking, more harmful than petrol is true. It is of course beyond doubt that the number of suspended particulates emitted in the course of diesel burning is higher than that emitted in the course of petrol burning; however, petrol will at the same time emit more carcinogens such as benzene and the greenhouse gas carbon dioxide. In addition, the rate of fuel consumption for petrol is about 30% higher than the fuel consumption rate for diesel. The higher consumption rate results in more energy loss and more pollutants. In the Government's study report, we can see that the Government is evading the crucial points and dwelling on the trivial ones when it makes suggestions on some of the issues. Under this situation, I hold that the Government's philosophy can hardly convince the public, including my colleagues in this Council.

In fact, we can see that the researches conducted by academics in the community and by the PLB and taxi associations show that petrol is not necessarily cleaner than diesel. Mr Deputy, I am not an environmental expert and I believe that many of the Members here are not experts in this area either. Therefore, we cannot judge whose argument is right and whose is wrong just based on the available information. This is somewhat similar to the question of electro-magnetic field that came before us this morning. As a member of the public who is concerned about protecting the environment, I hope that the Government can co-operate with the academics to conduct researches together, with a view to reaching a consensus and coming up with a genuinely convincing option and measures for improving the environment of Hong Kong.

Going over the entire consultation paper, we can see that the spirit is really commendable; however, the proposal requires in-depth discussion. I propose that the Government should not rush into any decision at this stage because the launching of this policy will have a tremendous impact on the livelihood of the vehicle owners and the drivers of commercial vehicles. Before we are in a position to differentiate between the effects of diesel and petrol on our health, I

feel that we need to listen to the opinions of the trade, the experts and the academics. More comprehensive and detailed researches should also be conducted. Take for example, regarding the emissions from diesel and petrol, which is better and which is worse? Can petrol vehicles meet the requirement of long running hours which is the pre-requisite for commercial vehicles?

Mr Deputy, I believe that if the Government can really give sound reasons to support the assertion that petrol is superior to diesel and can, at the same time, formulate a set of effective and reasonable conversion measures, then the community and the trade will of course be more than glad to use the type of fuel that is more environmentally friendly and is more acceptable to the people of Hong Kong. As to the concessionary measures suggested by the Honourable Mrs Miriam LAU to attract diesel vehicle owners to switch to petrol, I do not think that we need to rush into discussing the details of these concessions before we have reached a conclusion on the paramount premise. It will not be too late for us to discuss these measures after we have come to a definite conclusion on the paramount premise.

Mr Deputy, I so submit in support of the original motion.

**DR JOHN TSE** (in Cantonese): Mr Deputy, the Government proposes that all vehicles of four tonnes or below switch to petrol in the hope that the concentration of suspended particulates in the air can be reduced. The Democratic Party welcomes and supports the determination of the Government in improving the air quality of Hong Kong. However, we have some reservations about some of the contents of the scheme. In fact, if the emissions from vehicles are to be reduced, the Democratic Party thinks that it can be achieved mainly through the following means:

1. using cleaner fuel;
2. engineering appropriate maintenance programmes;
3. improving vehicle emission control techniques;



4. controlling the traffic and transport systems so as to reduce the usage rate of vehicles.

It is really a pity that the Government focuses only on the first method while ignoring the other alternatives.

### *Using cleaner fuel*

It is beyond doubt that the Government's current proposal of switching to petrol is for the purpose of reducing the concentration of particulates in the air. However, at the same time, we cannot turn a blind eye to the air pollution caused by petrol powered vehicles. Reports from foreign countries show that the emissions from petrol powered vehicles include the carcinogenic "benzene", the greenhouse gas carbon dioxide and the poisonous carbon monoxide. The relationship between diesel powered vehicles and petrol powered vehicles is somewhat similar to that between a rotten orange and a rotten apple. Although the particulates emitted by diesel powered vehicles is 50% to 80% more than that emitted by petrol powered vehicles, the toxic pollutants emitted by petrol powered vehicles, such as the highly volatile organic compounds, are really very "severe". However, the Government is now forcing all light duty vehicles to switch to petrol and we are quite afraid that this scheme is actually "driving a tiger away from the front door only to let a wolf in at the back".

Mr Deputy, I have just distributed to Members a chart explaining the incidence of cancer caused by vehicle emissions in the United States. This Report was published in 1990 showing the relationship between vehicle emissions and cancer in the United States in 1990. After implementing the diesel-to-petrol scheme, heavy duty diesel vehicles will account for about 17% of all vehicles in Hong Kong, which is similar to the proportion of diesel vehicles in the United States which account for about 20% of all vehicles. Chart one therefore provides a reference point for Hong Kong. We can see from Chart one that the relationship between diesel and petrol is in fact the relationship between a "rotten orange" and a "rotten apple". The percentage shows that petrol vehicles emit even more poisonous substances than that emitted by diesel vehicles.

In fact, the current level of technology shows that diesel with 0.05% of

sulphur content is now available and reports show that using this type of clean diesel can significantly reduce the emission of particulates. Vehicles may also install particulate traps or catalytic converters to clean up the emissions from vehicles. I doubt why the Government has been so reluctant to introduce to the market this type of clean diesel but resorts to a "broad-brush" approach of switching to petrol. On the contrary, if vehicles use illegal fuel, for example, if diesel vehicles use illegal marked oil or if the vehicles that should use unleaded petrol switch to leaded petrol, then the amount of pollutants emitted by these vehicles will increase 10 times. Obviously, the top priority for the Government is to prevent the use of improper fuel instead of taking a "broad-brush" approach and forcing the vehicle owners to switch to petrol.

Secondly, the Democratic Party has numerous times urged the Government to step up its research work in looking for vehicle fuel that is more environmentally friendly. In fact, the "good apples", in my mind, are Liquefied Petroleum Gas (LPG), hydrogen gas, electrical cars and so on. There are about four million LPG powered vehicles running on the road. I hope that the Government can really take my proposal into consideration, particularly in terms of conducting researches in this area.

#### *Engineering appropriate maintenance programmes*

The cleanliness of the pollutants emitted by petrol vehicles depends entirely on the function of the catalytic converters. Moreover, researches point out that effective monitoring and maintenance programmes can reduce the amount of nitrogen oxides emitted by diesel vehicles by 10%, hydrocarbons and carbon monoxide by 25%. Therefore, the Government should regulate so that all vehicles must go through regular maintenance checks in order to ensure that the mechanical parts of all vehicles function properly and all vehicles conform to emission standards.

In addition, in view of the fact that the Government does not exercise adequate control over garages and vehicle mechanics, I propose that the Government should oversee the qualification of vehicle mechanics and should introduce a licensing system so that all vehicle mechanics will have to be examined and only those who are qualified will be licensed. In this way, the public will be aware of how to keep their vehicles in good repair in order to ensure that their vehicles will not be adversely affected from lack of maintenance or from illegal conversion. Air pollution can therefore be reduced.

*Improving vehicle emission control techniques*

Some years ago, the emissions from petrol vehicles constituted a major threat to the health of the public, but nowadays catalytic converters are capable of filtering out a majority of toxic pollutants. In fact, technologies aiming at improving the emissions from diesel vehicles have also emerged and, as I have already said, the installation of particulate traps on diesel vehicles can effectively reduce the amount of emissions from diesel vehicles. However, the Government is still reluctant to introduce these technologies. Therefore, what the Government has to do now should be to strengthen the enforcement and the monitoring of the emission control programmes, to increase penalty and to step up prosecution against smoky vehicles.

It is thus crystal clear that at present there is no adequate data to support the mandatory switch to petrol scheme because there are other more moderate and effective means to improve the emissions from vehicles. It is a pity that the Government focuses only on the switch to petrol scheme. The Democratic Party holds that the choice of fuel for vehicles should be open and flexible. Now that there is obviously no one single fuel in the market that is absolutely superior to others, the use of one or two types of fuel alone is evidently an obsolete practice. If the Government has objective data to support its claim that petrol is environmentally more friendly than diesel, the Democratic Party does not rule out the possibility that we will support the Government's suggestion in the future.

These are my remarks, Mr Deputy.

**MR LEE CHEUK-YAN** (in Cantonese): Mr Deputy, we can look at today's motion debate from two angles. First of all, we may look at the issue from the angle of protecting the environment. Most of my colleagues who have delivered their speeches are not experts. After listening to the arguments for so long, I find it still inconclusive whether diesel is really inferior to petrol. From the angle of protecting the environment, even the experts are not sure which one is better and which one is worse. With this uncertainty in mind, we may draw the conclusion that there is yet no consensus view from the angle of

environmental protection. I feel that with the rapid pace at which today's technology is advancing, another new technology may emerge after one or two years. Therefore, I really doubt whether our discussion is really meaningful. Of course, we have to be concerned with environmental protection because protecting the environment is of paramount importance and it is relevant to the health of this generation and our next generation. However, it seems that all that is said by the Government is not hundred-percent worth our support even from the angle of protecting the environment.

Looking at the issue from the second angle, I feel that the Government has not paid due regard to the maintenance of people's livelihood. Of course, the Government may say that fuel duty concessions for taxis and buses would be offered for five years and so the Government has taken people's livelihood into account. However, how will it go about the matter after the five-year period expires? This is quite unfair because the Government has not taken into account the situation of the drivers of tens of thousands of light duty vans and trucks. They told us that their total monthly income was in the region of \$17,000 and the monthly cost was about \$12,000. In other words, they could only earn a net income in the region of a few thousand dollars a month. If they have to shoulder even more expenditure, they will be subjected to even more tremendous economic pressures. Can they sustain such pressures? Has the Government ever looked at this issue from this angle? The drivers have also told me that the Government has never thought of inducing them to switch to petrol by offering a cut in fuel duty. The operating cost for them will inevitably rise in the future. Another big problem is that they may not be able to pass on the increased cost to the factories in view of the keen competition in the trade. If the cost is to be increased, the ultimate consequence would be that they cannot pass on the cost to the passengers or to the clients as other commercial vehicles do. They would have to absorb the cost by themselves. Therefore, it will deal an even more severe blow to their livelihood. The Government's proposed way of doing it is the result of its failure to consider the matter from yet another angle and its failure to take into account the livelihood of those who are engaged in the trade.

Therefore, I would like to appeal to the Government simply not to make the scheme mandatory. It would be much better if all green groups, drivers of commercial vehicles and professional drivers could sit together to identify a

"win-win option", so that we could on the one hand do a better job in protecting the environment while on the other hand the livelihood of all occupational drivers could be taken into account. After succeeding in identifying such a "win-win option", it can then be re-introduced into the Legislative Council for discussion. We hope that the next discussion on this issue will be even more constructive.

Thank you, Mr Deputy.

**MR CHAN KAM-LAM** (in Cantonese): Mr Deputy,

*The sincerity of the Government for consultation open to doubt*

The Hong Kong Government published a consultation paper on the diesel-to-petrol scheme in September and it was done in the good name of consulting the public. However, from the very beginning, the Government in fact already drew a conclusion. It is therefore in essence a policy statement rather than a policy consultation paper. With no presentation in the consultation paper of the pros and cons of the scheme, the paper only gives the impression to the public that there are only two choices — either support the diesel-to-petrol scheme or the public will have to pay a heavy price for polluting the air. It seems that the paper wants to convey to us a message, that is, only by switching to petrol can we be free from worries.

Whenever we propose to the authorities that they should assist the growth of local industries and should have long-term economic planning, the Government immediately takes out "the imperial sword", arguing that free economy cannot be interfered with, so on and so forth. However, contrary to the usual practice, when it comes to the diesel-to-petrol scheme, the Government stops short of inducing self-initiated improvement in the trade by offering economic incentives, but boldly seeks to implement a mandatory policy of intervention. This compulsory switching proposal can hardly be convincing at all.

THE PRESIDENT resumed the Chair.

*"What failed to catch the eyes is regarded as clean"?*

Mr President, the diesel-to-petrol proposal will only shift pollution from one source to another. From a superficial point of view, petrol is cleaner but it brings another type of fatal pollution. I wonder if the Government really subscribes to the principle of "what failed to catch the eyes is regarded as clean". The relatively high proportion of diesel powered vehicles in Hong Kong is a result of the Government's persistent failure to incorporate environmental protection factors into our macro transport policy. The "broad-brush" approach currently proposed by the authorities will, all of a sudden, turn those who make a living out of this trade into innocent victims of the Government's lack of comprehensive insight with regard to environmental protection.

*The level of "Respirable Suspended Particulates" cannot be used as a "safety yardstick" for air*

In addition, it is pointed out in the consultation paper published by the Hong Kong Government that the authorities have to devote their efforts to reducing the amount of "Respirable Suspended Particulates" (RSP). It is believed that the public can enjoy fresher air through this means. Some environmentalists have already pointed out that "RSP" is a concept that is still under study. The World Health Organization (WHO) originally used this as the yardstick but this yardstick is now subject to question. Therefore, RSP alone cannot be used as the only yardstick for determining air safety. In fact, benzene, organic substances and other hydrocarbons are also carcinogenic. Scientists are conducting researches in this area. Under the circumstance that there is no consistent air safety standards, it would be unwise to choose one particular method to improve local air quality.

*Exercise of stricter control and Introduction of Quality Assurance Maintenance Programmes*

I believe that, at present, the Government should conduct more in-depth study and provide even more data regarding the problems caused by diesel powered vehicles and petrol powered vehicles. It should also provide more options for the public's reference and discussion. Prior to the provision of such information, the Government could only resort to exercising stricter monitoring measures and specifying higher standards for the import and maintenance of

various categories of vehicles. Concurrently, I urge the Government to take into practical consideration the "Quality Assurance Maintenance Programmes" proposed by trade organizations in collaboration with vehicle maintenance companies. This scheme should be able to secure the support and participation of the Government with a view to raising the maintenance quality of diesel vehicles as well as other vehicles.

*Increased burden on consumers*

Mr President, the Democratic Alliance for Betterment of Hong Kong (DAB) subscribes to the "polluter pays" principle but the Government's current proposal, if implemented, will only transfer the increased cost to the consumers and the consumers will ultimately have to bear additional expenditure that is substantially higher than the present level of expenditure. Yet the increased expenditure cannot guarantee that the expected results will be forthcoming.

As a matter of fact, petrol is more expensive than diesel. Although the Hong Kong Government suggests that those vehicle owners using petrol will be provided with tax concessions, yet the concessionary period will last for only five years, and the rate of concessions will be reduced year after year. The consumers will inevitably be affected.

In addition, the rate of fuel consumption for petrol vehicles is higher than that for diesel vehicles. The consultation paper also concedes that every litre of petrol runs 1.6 kilometers less than diesel does. Taking into account the yearly reduction of fuel duty concession, the cost of fuel for petrol vehicles will be 87.7% higher than that for diesel vehicles.

Furthermore, the maintenance cost for petrol vehicles is higher than that for diesel vehicles. Trade organizations have asked for quotations in respect of the annual fees required for maintaining and repairing petrol vehicles from the maintenance and repair departments of various vehicle companies. The quotations thus provided point out that the maintenance expenditure for petrol vehicles differs from what is suggested in the consultation paper and there is a great discrepancy between the two.

Therefore, I doubt the reliability of the estimation as contained in the

consultation paper with regard to the effects that the scheme will have on the travelling fares for passengers, in particular, the data concerning the annual fees for the maintenance of petrol vehicles.

*The hasty "broad-brush" option not feasible*

Mr President, today we are not discussing whether we should support environmental protection or whether we want fresh air. I just want to make it clear that it would not be feasible to adopt hastily an option in the absence of sufficient justification.

Before we reach a conclusion on whether diesel or petrol is superior, the Government should not adopt any inconvenience-causing measures to promote the diesel-to-petrol scheme. Mr President, I hope that the authorities can heed our opinions and shelve the diesel-to-petrol scheme in respect of diesel vehicles of four tonnes or below.

I so submit.

**DR LAW CHEUNG-KWOK** (in Cantonese): Mr President, today, I will speak very briefly on the issue of cost.

In the first few years of its implementation, the Government-designed plan may be giving preferential treatments to people in the trade and passengers, but five years later, the extra costs will mainly be borne by owners of diesel vehicles, drivers and passengers. This may be a manifestation of the Government's "polluter pays" principle.

In fact, fresh air is beneficial to the entire community. I think the long-term costs should be borne by public funds. I hereby propose a principle of "cost approximation", that is, a person, be he a member of the trade or a passenger, should only pay that amount of cost which approximates the amount he was required to pay previously. All extra expenses should be paid out of Government funds, and if necessary, out of the huge amount of surplus available.

I very much hope the Government will revise its policy in the light of the



above viewpoint. The Hong Kong Association for Democracy and People's Livelihood supports the original motion. Thank you.

**PRESIDENT:** Mrs Miriam LAU, do you wish to speak? You have five minutes to speak on the amendment.

The Secretary for Planning, Environment and Lands indicated he had not spoken yet.

**PRESIDENT:** Mrs LAU is not making the final reply. She is speaking on the amendment.

**MRS MIRIAM LAU** (in Cantonese): Mr President, in spite of the fact that the Government has heard numerous voices raised against the Government's proposal in this Council today, the Government should find comfort in the fact that at least one or two staunch supporters (Dr the Honourable LEONG Che-hung being one other) have stayed firm in believing that only by adopting the Government's proposal can our air quality be truly improved.

Having listened to the brilliant views of the Honourable Miss Christine LOH, I find that there is in fact a big difference between my motion and her amendment. The difference is that Miss LOH thinks it should be made compulsory for diesel vehicles under four tonnes to switch to petrol, and her proposal to the Government is merely a patchwork of ideas; whereas my motion essentially opposes such a compulsory measure, but allows for consideration of other ideas. It seems that what Miss LOH is thinking tallies with the Government's, having the respirable suspended particulates (RSP) as the prime target. I am also of the view that RSP should be tackled, but does it mean that we can just ignore other issues? Just now in my speech, I have also suggested other options for consideration, but Miss LOH has not listened (I have no idea whether or not she has listened) to them as she has made no response. She seems to be thinking that these options are completely useless, whilst only the Government's approach is the most effective one. However, Miss LOH has admitted that both diesel vehicles and petrol vehicles are emitting pollutants,

only that the compositions of pollutants from these two sources are different. And so she criticized me for having made a comparison of them. However, both kinds of pollutants have adverse effects on the environment, so why is it that Miss LOH is still in support of the Government's approach? Miss LOH has made no response whatsoever to the apprehension common among the public, people in the trade as well as myself, and that is: Are the pollutants from petrol really harmless to us? Apart from the Government, there is so far no one or no expert who can say for sure that RSP could be reduced after people have switched to petrol, and that benzene and carbon monoxide will not increase substantially to damage people's health. Do pollutants such as benzene and carbon monoxide, which damage people's health, cause Miss LOH no concern?

The Government has indicated that the proposal is based on the principle that there will not be any gain or loss in tax revenue. Well, if there is not going to be any effect on the tax revenue, how can there be any surplus? When I first looked at the wording of Miss LOH's amendment, I found it very confusing. But when I thought about it, I then came to understand that the favourable terms offered by the Government were in fact profiteering in disguise because as more and more vehicle owners switch to petrol, the consumption of petrol will go up. The Government will be able to gain more in fuel tax revenue by the first year at the latest, after the 10-year period for the favourable terms has ended. And if it is like what the trade has said, that the Government had underestimated the consumption of fuel after the switch, then the Government will probably be gaining extra fuel tax revenue even within the 10-year preferential treatment period. There is simply no such thing as the principle that there will be no gain or loss in tax revenue, as claimed by the Government.

Miss LOH is an environmentalist. However, there are as well a number of environmentalists who do not approve of the Government's proposal. Quite a few Members of this Council are also in support of environmental protection. It is exactly because we support environmental protection that we cannot hastily accept these ideas of the Government's. We also find it a pressing matter to reduce RSP. But on the question of switching from diesel to petrol, solving one environmental problem may bring about many other environmental problems, which include a change in the form of pollution, increased consumption of energy and so on. Can we just ignore them completely? In fact, there are other methods to reduce RSP which are yet to be adopted in Hong Kong, and these methods can also improve our air quality. They will only have positive

effects but no negative effects. So why do we not look into them and apply them? Why not give it a try?

Another environmental problem that is of much concern to people but has not been mentioned by Miss LOH is the question of carbon dioxide. Many years ago, Hong Kong prohibited the importation of aerosol products containing chlorofluorocarbon (CFC) and halon. Why was that? It is exactly the kind of feeling that although Hong Kong is a small place, it has also a part to play in reducing the damage done to the ozone layer. The Government used to say that the amount of carbon dioxide released was so insignificant that it could be ignored when we switched to petrol. Well, is it really true that it can be ignored in Hong Kong? In fact, the Government is saying that there are only two options — to switch or not to switch. Do we really have just two options? Other colleagues and I have put forth quite a number of proposals. Are these proposals all completely not workable? Is it not true that the multi-pronged approach we have proposed to reduce pollutants in every way better than the two-pronged approach to reduce only one kind of pollutant? I am willing to hear from the environmentalists, and I also hope that the environmentalists will be willing to consider my view.

With these remarks, I oppose the amendment proposed by Miss Christine LOH.

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Mr President, first of all, I would like to thank all Members for their time and effort in examining the various suggestions contained in the consultation paper published on 19 September. I want to point out that this paper has reflected the Legislative Council's concern for this problem in the past. Members have repeatedly pointed out in the past that the air quality in Hong Kong is getting worse and worse and they consider that we should put forward proposals to make diesel-powered vehicles switch to petrol-powered vehicles as soon as possible. We have now managed to do this. But the response we get has surprised us. We are now in the process of consulting the public and the Government has never said in the consultation paper or on open or private occasions that the public are faced with two alternatives only - take it or leave it. We have never said such things and I do not know why Members have such ideas and misunderstandings.

Actually, during the consultation period, many questions have been raised. I wish to answer them one by one today and clarify the misunderstandings caused by this paper or any other discussions. Nevertheless, I wish to stress one point which have been agreed to by all Members during the debate just now and that is, the air pollution in Hong Kong is so serious that it has reached an unacceptable level and is beginning to have an adverse effect on the public health. In fact, in this consultation paper our greatest concern is the public health because the main problem with our air quality is the extremely high level of respirable suspended particulates (RSP) and the urban areas are the very place where most people live and work. Therefore, perhaps at the beginning, I want to talk to Members about the damage caused by RSP. Although many Members have mentioned that before, what I want to discuss now is our present air quality.

The monitor of the air quality has indicated that the RSP content in the air in the urban areas is 25% higher than the highest RSP content specified by the annual air quality objectives. Owing to the continuous increase in the number and usage of vehicles, the air pollution level caused by RSP and even other exhausts is also on the rise. Surveys conducted in the United States, Britain and Europe all indicate that such RSP are directly related to respiratory diseases including asthma, and will also bring up the death rate. Moreover, it is beyond doubt that the particulate pollution is mainly caused by diesel vehicles. The particulates emitted by the diesel vehicles represent about 98% of the road traffic emission. Some Members question about the situation in other countries. One point I want to raise is that in November this year, the British Times reported that in Britain close to 10 000 deaths are caused by RSP annually. In the same month, the New Science Magazine also reported that a group of World Health Organization experts who having studied many different places in Europe came to the conclusion that thousands of people in Europe may have their death rate raised because of the RSP in the air. And recently, a group of British experts, having studied the air quality in 10 different communities in the country, assuredly point out that the air pollution caused and the particulates emitted by vehicles have direct relation with the death rates. When a Member mentioned these just now, it seemed that the standards of the World Health Organization were under question. I want to say that the group of World Health Organization experts has just proved that their conclusion is still valid. I also want to compare Hong Kong with other places. In many overseas countries, diesel vehicles only represent 10 to 20% of all vehicles in the whole country but in Hong Kong, about 32% of the vehicles are diesel-powered and 62% of the mileage is made by these vehicles. As we are extremely dependent on diesel

vehicles and the particulate content in the air continues to exceed the health-orientated air quality objectives, we are therefore anxious to lower the total particulate content in the air as soon as and as much as possible.

We propose a two-pronged strategy. First, we propose to cut down the number of diesel vehicles by half; second, we must enhance the prevention, repair, maintenance, and the law enforcement programme and the prosecution work in regard of the rest of the diesel vehicles. Our top priority is to protect the public health. This objective needs to be and must be achieved with every effort of ours and the public also expect the Government to take action.

Nevertheless, during the consultation period and even in the debate just now, some people have indicated that they are not too clear about the real situation of this proposed environment improvement scheme. I want Members to know that this scheme aims at replacing diesel vehicles of four tonnes or under with vehicles running on unleaded petrol fitted with catalytic converters because emissions of diesel vehicles pollute the environment but petrol vehicles produce less pollution to the environment. We expect that after the implementation of the scheme, the RSP content in the air will reach the standard specified by the air quality objectives of Hong Kong by 2001. The scheme is designed in such a way that the operation costs of light goods vehicles will only increase slightly while the operators of taxis and public lights buses do not have to bear the extra costs while their passengers will only have to pay slightly higher fares. We believe that this end can be achieved by only taking some fiscal measures as an encouragement. To encourage owners of diesel vehicles of four tonnes or below to have an early switch to petrol vehicles so that the air quality in Hong Kong will be improved shortly, we propose a series of fiscal measures which have been stated very clearly in the consultation paper. These fiscal measures have reflected the Government's determination to resolve this problem and that we have taken the air pollution problem caused by diesel vehicles very seriously. We have received many views expressed in the debate just now and during the consultation period from which we notice there are objections on various grounds. To sum up, we have found that the grounds of objection are in four major categories.

- (a) This scheme is not fair as it does not include large vehicles of over four tonnes and hence fails to tackle emission problem of this kind of vehicles;

- (b) This scheme will be harmful to the environment because switching to petrol will increase rather than reduce pollution;
- (c) This scheme is not necessary because we can tackle the vehicle emission problem through inspection, maintenance and repair programmes in order to reach the air quality objectives; and
- (d) This scheme is not feasible because our cost estimation is inaccurate.

Mr President, let me spend some time to respond to these comments one by one.

First, about fairness, as larger diesel vehicles have no need to switch to petrol and hence some accuse this scheme of being unfair but the fact is not so. In the consultation paper just published, we have explained very clearly that we intend to employ another part of the vehicle emission control strategy to solve the emission problem of those vehicles that only run on diesel. After the implementation of the strategy, the sulphur content in diesel will further reduce from the present 0.2% to 0.05% which conforms to the emission control level of the strictest international standard and these vehicles will be required to undergo an annual smoke test. We also propose to step up law enforcement and impose heavier penalties on vehicles which emit excessive smoke.

I will also refute the allegation that we are applying a double standard and that we are strict on the small diesel vehicles but lenient on the large ones. At present, small diesel vehicles represent 47% of all diesel vehicles in Hong Kong with their mileage representing about 62% of the total made by all diesel vehicles and these vehicles emit about 51% of the total particulates emitted by all vehicles in Hong Kong. Therefore, small diesel vehicles are contributing a significant portion to the pollution of the air.

The second concerns with the environment protection. Those criticizing us claim that this plan does not benefit our environment. We have already make it clear to the Legislative Council Panel that the particulates emitted by vehicles in the urban areas are the crux of the problem. The diesel-to-petrol scheme will actually cut down the particulates emitted by vehicles, which are the crux of the

problem, by 51% to meet the air quality objectives. Although after these diesel vehicles have switched to petrol, the carbon monoxide content in the air will increase by 34% but this content is far below the level specified by the air quality objectives and is harmless to health. Similarly, after vehicles switching to petrol, although the content of carbon dioxide in the air will increase by 25%, it is not harmful to health and neither will it breach our international duty to conform to the restriction of emission of greenhouse gases. We also expect that the benzene content will also continue to drop until it is half of the present content although our present content is already far below the international standard. Therefore, the diesel-to-petrol scheme will obviously allow us to pay the lowest price in return for some substantial and necessary improvement to the air which benefits the health of our lungs.

The third concerns whether there is the need. Some suggests that we can meet the air quality objectives by putting in place a stringent inspection, maintenance and repair programme and thus there is no need for implementing the diesel-to-petrol scheme. One thing has been overlooked in this suggestion which is the particulates emitted by even a new diesel car is still over four times higher than which emitted by a petrol car. Even with proper maintenance, the particulates emitted by a diesel car that has run for five years are 10 times that of a petrol car. Both this fact and my explanation given just now indicate that a stringent inspection, maintenance and repair plan is only a strategic measure aiming to control the emission of larger diesel vehicles, which unlike the diesel-to-petrol scheme for the smaller vehicles, can substantially and effectively cut down the emission of particulates.

I also hope that Members will not forget that under the smoky vehicle prosecution scheme, we have laid down a strict inspection, maintenance and repair scheme and the result is outstanding. Under this scheme, we select about 6 100 out of near 18 000 taxis, about 2 100 out of 4 300 mini-buses and about 7 000 out of 40 000 light goods vehicles for inspection. According to past records, one half of the vehicles selected will be prosecuted within eight weeks for emission of excessive smoke. I want to point out that Hong Kong does have an inspection, maintenance and repair scheme but this scheme cannot lessen the impact of particulates on the air pollution.

It is very simple — no matter how effectively we carry out the inspection,

maintenance and repair scheme, it is impossible to ensure we can achieve the air quality objectives but our proposed diesel-to-petrol scheme can almost eliminate all particulates emitted by small diesel vehicles and only by this stricter means that we can lower the RSP to an acceptable level. This point has already been clearly stated in the consultation paper. In the consultation paper, we have also explained clearly that the environment protection effect can be achieved by employing various schemes. The implementation of the inspection, maintenance and repair scheme can only stop the present not too satisfactory air pollution situation from further deteriorating. The installation of "particulate traps" or diesel catalytic device is in fact useless. Although those who criticize us claim that these devices will greatly improve the air, as far as we know, there is no where in the world that has succeeded in reducing the amount of particulates with these devices.

The fourth concerns with the costs. Some are doubtful about our estimation. The consultation paper has already listed out the estimated costs. Most of these estimated figures are beyond dispute because they are calculated basing on known costs. Otherwise, like in the case of the repair and maintenance costs of the operating diesel taxis and public light buses, we also base on the figures provided by the Transport Department and relevant vehicle manufacturers and make our calculation as correct as possible. We hold a fairly open attitude when we calculate the costs. On the other hand, I believe Members also remember that at the Legislative Council meeting on 8 November, I promised that we would certainly conduct a review if our figures were proved to be incorrect when I was replying a question. At present, we are yet to eliminate the discrepancies between the figures of ours and those of the operators in the transport industry, but the discussion is underway.

In today's debate, I have heard some Members question whether we need to consider avoiding increasing or decreasing the Government's revenue. When we put forward the proposal, the most important thing that we consider is to ensure the scheme of switching to unleaded petrol will not lead to a decrease in the revenue of the taxi, public light bus and school mini-bus operators and keep the extra fares to be borne by the public in future to the minimum. We have also taken care to keep to the principle of not leading to an increase or decrease in the Government's revenue to prevent the Government from reaping revenues that it does not deserve or, in the long run, providing unnecessary subsidies to the public transport operators. It is against the principle of our financial budget to



provide long-term subsidies for the transport operators because the revenue thus spent will have to be compensated with the taxpayers' taxes in general.

By the same token, those who suggest to apply any possible revenue from this scheme back to this very scheme have ignored the fact that in the first five years of its implementation, the Government has already planned to spend \$485 million to ensure that this diesel-to-petrol scheme will run smoothly. This is just like when the Honourable Miss Christine LOH suggested to allocate public funds to subsidize the health care development, she had also ignored the fact that the Government had already allocated a large amount for the provision of health care according to the general procedure of allocation of resources. For example in 1995-96, the public expenditure for health care service is totalled as high as \$22 billion, having a real growth of 7.7%. However, I have repeatedly stated before that our greatest concern is not money but the harmful particulates in the air and that is the problem that we are trying to resolve.

Lastly, I want to talk about the proposal whether we should provide more preferences to attract car owners to volunteer to switch to petrol. Actually we have studied the feasibility of implementing this scheme on a volunteer basis. However, I have to point out that there are tremendous difficulties in doing so. First of all, a volunteer scheme does not specify the exact time limit for completion and is therefore unable to set a fair and reasonable fuel price and pricing structure. Secondly, such a scheme of no time limit will have a significant impact on the supply of vehicles. On the other hand, the vehicle manufacturers have to invest and produce unleaded petrol run taxis and public light buses to meet the special requirement of Hong Kong. On the other hand, they will only invest when there is a great demand. As a volunteer scheme is not attractive enough to make them want to alter the design of their products, the result may be an inadequate supply of vehicles or the vehicles may not suit the needs or they may be ill-equipped.

Thirdly, if the scheme is on a volunteer basis, only part of the vehicles will switch to petrol and that is not sufficient to improve the air quality of Hong Kong. The high content of particulates in the air of Hong Kong is mainly caused by diesel-powered vehicles which have a high mileage. Unless there is a significant drop in the number of these vehicles, it is impossible for us to meet the air quality objective of RSP. Moreover, it will take a longer time to implement the volunteer scheme and hence an early improvement to public

health cannot be achieved. Fourth, a volunteer system is not cost-effective. There will not be a noticeable improvement to our air quality on the whole and neither will the result match the resources needed as the resources will be divided, part of which goes to managing the volunteer scheme and the other goes to putting in place the system to maintain, repair and inspect those diesel-powered vehicles not taking part in this scheme and the effect will be greatly reduced. Since these are too many shortcomings with the volunteer scheme, it is not feasible in Hong Kong.

Mr President, I also want to respond quickly to some very brief comments made by Members in the debate just now. First, a Member mentions that the study by Dr RUSCO and Dr WALLS claims that the diesel-to-petrol scheme will only bring about a limited improvement to the air. But I want to point out that this study has mistakenly overestimated the particulate emission factors in petrol vehicles; in other words, it has underestimated the significant improvement that vehicles switching to petrol can bring about in this respect. In addition, this study has wrongly assumed that the existing diesel vehicles are using low quality fuel but the fact is not so. Therefore, it is not enough to resolve the particulate problem that we are now faced with just by improving the quality of the fuels.

Furthermore, a Member also points out that the study conducted by Hong Kong Polytechnic University which claims that small diesel vehicles only have a limited impact on air pollution. This study has underestimated the mileage made by small diesel vehicles in the urban areas and therefore failed to reflect the pollution caused by these vehicles. Another Member has also said that we can bring in very high quality diesel to solve this problem. At present, the production of the high quality diesel which does not pollute the air is very low in the world. Only very small amount of it is produced in Sweden and it is barely sufficient for the country and I wonder how we can import it into Hong Kong. Besides, it is another kind of vehicles that run on this high quality and non-pollution-causing diesel and therefore after all, it is involved with the switching of vehicles. Moreover, no one can guarantee that the prices of these high quality diesels will not be higher than that of the unleaded petrol now available in Hong Kong. Many Members have also asked why we do not switch to other types of vehicles such as vehicles running on natural gas or light petroleum gas. Mr President, I want to point out that these cars are used in several cities including Melbourne, Australia. I think Members are also aware that five days ago I was in Melbourne myself observing the operation of these

vehicles. Members are not too familiar with one point, which is that these cars have to be converted to petrol-run cars first before natural gas equipment can be added to them. Therefore, there is no such thing of diesel vehicles converting to natural gas vehicles and not a single car can purely run on natural gas. Another Member also mentions some other thing which I wonder from where he has got his argument that the proposals in the consultation paper will lead to an economic recession and will even bar diesel vehicles from entering Hong Kong from China. I really wonder how these arguments can be sustained. Therefore, I cannot accept this view. Lastly, as for some Member says that Germany encourages the people to resume the use of diesel vehicles, I think this information is out-dated because I know that the German Government has recently announced that abolition of this idea. At present, many European Economic Community (EEC) countries are in fact looking for even stricter systems to regulate or forbid diesel vehicles to go into urban areas.

Mr President, the Government considers that the diesel-to-petrol scheme is an important measure to help protect the public health and prevent the air quality from further deteriorating. But that is not saying that the increasingly advanced technology will not provide another alternative in future. We will keep on watching the technological progress in this respect and will also keep on reviewing. But with today's technology, it is indeed unable to really resolve the existing air pollution problem. Therefore, although the consultation period of this scheme is not over yet, we know that the Hong Kong people are very concerned about the air pollution problem. For the benefit of the people's health, I sincerely wish that Members will support our plan and co-operate with us to formulate further measures to improve Hong Kong's air quality. We do not have much time to wait. Thank you, Mr President.

*Question on the amendment put.*

*Voice votes taken.*

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

Mrs Miriam LAU claimed a division.

**PRESIDENT:** Council shall proceed to a division.

**PRESIDENT:** Members, I am sorry I have to delay you for a while. When Dr LEONG Che-hung was deputizing for me, Mr Paul CHENG spoke and he disclosed that his firm was selling both petrol and diesel engines. Mr Paul CHENG, in the interest of Members who may wish, if you vote, to challenge your vote subsequently, would you like to disclose in greater detail the nature of that interest?

**MR PAUL CHENG:** I will probably abstain.

**PRESIDENT:** Mr CHENG, you said you will probably abstain or you will abstain?

**MR PAUL CHENG:** I will abstain.

**PRESIDENT:** I would just like to remind Members that they are called upon to vote on the question that Miss Christine LOH's amendment be made to Mrs Miriam LAU's motion.

Will Members please register their presence by pressing the top button in the voting units on their respective desks and then cast their votes by pressing one of the three buttons below?

**PRESIDENT:** Three short of the head count. Before I declare the results, Members may wish to check their votes. Are there any queries? The result will now be displayed.

Dr LEONG Che-hung, Miss Emily LAU, Miss Christine LOH and Mrs Elizabeth

WONG voted for the amendment.

Mr Allen LEE, Mrs Selina CHOW, Mr Martin LEE, Mr SZETO Wah, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr CHEUNG Man-kwong, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Mr LEE Wing-tat, Mr Eric LI, Mr Fred LI, Mr Henry TANG, Mr James TO, 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 CHENG Yiu-tong, Mr Anthony CHEUNG, Mr CHOY Kan-pui, Mr David CHU, Mr Albert HO, Mr IP Kwok-him, Mr LAU Chin-shek, Mr Ambrose LAU, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr LEE Kai-ming, Mr LEUNG Yiu-chung, Mr Bruce LIU, Mr LO Suk-ching, Mr MOK Ying-fan, Mr NGAN Kam-chuen, Mr TSANG Kin-shing and Dr John TSE voted against the amendment.

Mr Paul CHENG and Miss Margaret NG abstained.

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

**PRESIDENT:** Mrs Miriam LAU, you are now entitled to reply and you have 39 seconds out of your original 15 minutes.

**MRS MIRIAM LAU** (in Cantonese): Mr President, an environment with fresh air is what the general public desire. Bu the point is that we must comply with the needs of the environment and should not become short-sighted by adopting the stop-gap measures only to deal with the present situation. We have to take into account the effectiveness of the scheme as a whole and its overall impact on environmental protection. I agree that the problem concerning particulates is very serious and have to be resolved. But it is also necessary to take an appropriate measure to tackle the problem. However, the Government fails to put forward a concrete argument to prove that the replacement of diesel by petrol is a proper measure. Under the circumstances, the Government should

definitely not implement this scheme. There are six seconds left. I would like to thank my colleagues for their enthusiasm to speak today in opposition to the Government's proposal.

*Question on the original motion put.*

*Voice votes taken.*

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

Mrs Miriam LAU claimed a division.

**PRESIDENT:** Council shall proceed to a division.

**MR PAUL CHENG:** Mr President, when you raised the question earlier, I was planning to abstain on Miss Christine LOH's amendment anyway, but I do not think I agree with your presumption just now and I want to vote on the original motion.

All I said is that I want to declare my interest because our company sells quite a few taxis and light vehicles and I think you should rule on that, because other people are driving diesel cars. How about all of us driving diesel cars and petrol cars? What is the difference?

**PRESIDENT:** Mr CHENG, I was only asking you to state in clearer terms the nature of the interest as I was not present in the Chamber just now, just in the event if some Member challenges your vote after you have voted. You may vote but there might be a Member who may wish to challenge your vote under Standing Orders.

**PRESIDENT:** Now, will Members first register their presence by pressing the top button and then proceed to vote by pressing one of the three buttons below?

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

Mr Allen LEE, Mrs Selina CHOW, Mr Martin LEE, Mr SZETO Wah, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr CHEUNG Man-kwong, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Mr LEE Wing-tat, Mr Fred LI, Mr Henry TANG, Mr James TO, 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, Mr Anthony CHEUNG, Mr CHOY Kan-pui, Mr David CHU, Mr Albert HO, Mr IP Kwok-him, Mr LAU Chin-shek, Mr Ambrose LAU, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr LEE Kai-ming, Mr LEUNG Yiu-chung, Mr Bruce LIU, Mr LO Suk-ching, Mr MOK Ying-fan, Mr NGAN Kam-chuen, Mr TSANG Kin-shing, Dr John TSE, Mrs Elizabeth WONG and Mr YUM Sin-ling voted for the motion.

Dr LEONG Che-hung, Miss Emily LAU and Miss Christine LOH voted against the motion.

Miss Margaret NG abstained.

THE PRESIDENT announced that there were 46 votes in favour of the motion and three votes against it. He therefore declared that the motion was carried.

## **OLD AGE PENSION SCHEME**

***MR LEE CHEUK-YAN to move the following motion:***

"That, as the Mandatory Provident Fund Scheme to be implemented by the Government is not expected to meet the basic needs of the elderly immediately or within the next few decades, this Council urges the Government to expeditiously introduce the Old Age Pension Scheme, so as to safeguard the livelihood of 600 000 elderly persons after their retirement."

**MR LEE CHEUK-YAN** (in Cantonese): Mr President, I move the motion standing in my name on the Order Paper. Today, I move a motion debate on the Old Age Pension Scheme (OPS). Some people may think that this issue is no longer of any interest, because early this month it was passed that more than \$20 million be allocated as the consultant fees for the Mandatory Provident Fund Scheme (MPS). Since the MPS is just like an arrow on the bowstring ready to be released, the revisit of the OPS will become impractical and fruitless. But I would like to ask the Governor and the high-ranking officials how the Government will be accountable to the existing 600 000 elderly people. How is it going to solve the retirement problem for the elderly? Is it going to treat the elderly as if they do not exist and turn a blind eye to their problems? How can it let the elderly run their own course? How can it refuse to give any reasonable reward for their contributions to society for decades? These are the reasons why I am bringing up the issue of OPS again. It is because we have to be responsible for the well-being and the retirement life of the elderly in Hong Kong, and there is no other alternative. After extensive discussion, we find that the OPS is the only practicable solution in the Hong Kong society. Therefore, I have to uphold the quixotic spirit of perseverance today in the hope that I can break through every obstacle in order to attain the goal of providing retirement protection to the elderly.

Looking back at the entire discussion on the OPS, it can be regarded as a tragedy and the victims are the elderly in Hong Kong. While the Government is the playwright-director as well as the actor of this tragedy, the Legislative Council plays a role of being called back and forth by the Government and becomes the flight of steps for the Government to walk up and down the stage. As Members can recall, it was not until 27 January this year that the Government announced to abandon the OPS. Before that, the Government conducted a consultation survey and stated that the OPS had long been supported by the general public. Later, the Government, against its conscience, made an about-turn and suddenly announced that since the OPS did not have adequate support from the public, the business sector and the Legislative Council, the MPS would be reconsidered. Therefore, the Legislative Council became the flight of steps for the Government to walk down the stage.

On 8 March this year, Dr the Honourable YEUNG Sum moved a motion debate on the OPS and it won the support of the majority of Members. The debate shattered the lie of the Government and the Governor that there was only one Member in support of the OPS. Mr Michael LEUNG, the then Secretary for



Education and Manpower, was unable to put forward any counter-arguments and was totally out of his wits.

The result was that the Government still stuck to its own way. It tried every means to lobby Members and sent out threatening messages about the so-called "last opportunity". Before the end of the last session of this Council, the principal ordinance on the MPS was carried and thus the Legislative Council became the flight of stairs leading up the stage.

Whether the Legislative Council is the flight of steps for walking up or down the stage, the Government has all along been adhering to its executive-led authority. The intention of the Government in burying the OPS is very obvious. From the middle of last year to October this year, the various surveys conducted by the concern groups and the mass media indicated that more than 70% of the general public were in support of the OPS. But the Government just turned a blind eye to it. Do we also have to avoid this issue when the Government has refused to implement this scheme? What is more, in view of the support of the OPS given by the Legislative Members of the last session as well as the strong demand from the public, Members of this session who are all elected should not act like ostriches. One purpose of my moving this motion debate today is to give a severe warning to the Government: the elected Legislative Council of this session is in support of the OPS, and we acknowledge that the OPS is superior than the MPS. We hope that the Government will not distort the views of the majority of Members. We request that the Government can rally respect this Council and make its third about-turn towards the OPS again in accordance with the views of the majority of Members. If the Government is willing to do that, I undertake here that we will forgive the Government of what it has done in the past.

As a matter of fact, the MPS has a lot of shortcomings. I hope that the Government will answer the following questions:

1. Under the MPS, even if the workers with monthly median wage under \$8,000 have contributed for 40 years, the amount of pension they can get will be less than 30% of the median wage, which was a level originally suggested in the OPS. If after contributing for 10 years, the worker can only obtain a pension equal to 8% of the median wage, and he will hardly have any means to support his basic living. At present, there are 1.4 million workers over 35

years of age. They will be unable to enjoy 30% of retirement protection after contributing for 30 years. They will enter into a stage of poverty after retirement. How is the Government going to solve this problem for the aging poor?

2. To the more than 800 000 retired elderly who are over 60 years old, the MPS is a joke. To the 600 000 women who have devoted their whole life to domestic work, the MPS is a thorn in the heart. To the 400 000 chronically ill and disabled people, the MPS is a sour grape. The Government has violently deprived nearly 2 million people outside the labour market of their retirement protection. How is the Government going to solve their problem concerning protection of livelihood?
3. The MPS introduced by the Government can only protect the interests of the insurance and financial industries. After 10 years of accumulation, the amount of contributions will exceed \$300 billion. But still, the Government refuses to bear any responsibility in regard to the financial risk of the contributors. I hope that the Government will enlighten me how it will deal with the social crisis in case any problems occur in the private management of the fund?

I think the Government is also aware of the numerous defects and shortcomings of the MPS. I would like to point out that the Liberal Party may talk about their Two-Pronged Proposal in which they suggest the increase of the Comprehensive Social Security Assistance (CSSA) payment in order to solve the elderly problem. But I reckon this is not a proper measure.

In fact, the increase of the CSSA payment may not benefit all the old people, because the current proportion of old people receiving the CSSA is rather small. This is due to the complicated and stringent means test which deter quite a number of old people from applying for the CSSA. On the other hand, the elderly generally have a mentality of rather put up with poverty than begging for assistance from the Social Welfare Department (SWD). This is the difference between receiving the alms and enjoying the rights. If the OPS is to be implemented, the retirement protection for the elderly will become a kind of right, which will be very different from applying for CSSA to the SWD where the sense of inferiority prevails.

Therefore, improving the CSSA only means that the majority of the elderly will continue to be kept outside the door of protection. This will not solve the problem in any way. Besides, it is very obvious that the population of Hong Kong is aging. At present, there are more than 800 000 people over 60 years old. In 2004, the figure will be increased to 1 million. This figure will grow with time. The sole dependence on the expenditure of the CSSA cannot solve the problem in the long run. However, the OPS can immediately solve the financing problem and alleviate the financial burden of the Government while the elderly can also be immediately benefited.

Finally, Members may worry that even the Government and Members have reached a consensus, the Chinese Government will again oppose on the grounds of "destruction of the cart and the people". As a result, the scheme will still be aborted while the tragedy of absence of retirement protection for the elderly will go on and on. Here, I would like to call upon the Chinese Government not to take social welfare as a political weapon to attack the Hong Kong Government, because it is only a move to set itself against the people. Perhaps Mr CHEN Zuoer only uses his right ear to listen to the voices of the wealthy people in Hong Kong while turning his left but "deaf" ear to the voices of the Hong Kong people. I hope that during the discussion on the OPS, the Chinese Government can shown more concern for the needs of the elderly, leaving behind its arguments with the Hong Kong Government and setting the first priority on the well-being of the 600 000 elderly.

Coming back to the current motion debate, the most important issue is to deal with the Hong Kong Government first. I repeatedly talk about the OPS in this Council not only because I have to unmask the Government and expose the defective MPS, but more importantly, I also hope that Members can open their conscience to fight for reasonable protection of livelihood for the elderly of today and tomorrow.

I so submit. Thank you, Mr President.

*Question on the motion proposed.*

**MRS ELIZABETH WONG:** Mr President, let us not forget that the Old Age Pension Scheme (OPS) was the Government's own brilliant, if somewhat bizarre, innovation. It was designed at the time, I recall, when I was in the Civil Service

as Secretary for Health and Welfare.

When it was first introduced, there were disparate voices of discontent from some doubting Thomases, who were incredulous as to its merits and sceptical of its intention. But, it was generally perceived as a good scheme and warmly welcomed by senior citizens who stood to benefit from it.

Alas, early this year, out of the blue, the Government announced that the OPS was withdrawn. This announcement was made just at the time when even die-hard cynics were coming round and warming up to it, and I had already left the service. I now hang down my head in sorrow.

To many elderly people who pinned much hope on the OPS, Government's volte-face was seen as betraying their trust. They felt teased and let down by yet another broken promise. I am told "很多老人家話俾政府玩死".

Fundamental to any open and accountable Government is people's trust in it. This trust is hard-earned. If this trust is lost, the way down to hell is easy.

The debate today, I hope, is for the revival of a mutated OPS and this demonstrates once more, I think, a relentless urge to breathe a breath of life to the now defunct scheme. That we may have a Mandatory Provident Fund Scheme (MPS) is no solace to the elderly people who could not contribute to the scheme even if they wanted to.

Besides, OPS and MPS are two inherently different schemes both in purpose and in process. They are neither mutually dependent nor mutually exclusive.

For one thing, MPS is a compulsory and decentralized contributory scheme. Each contributor gets out what he has put in. It is, if you like, a self-serving savings scheme.

On the other hand, OPS is a centralized scheme funded either from a hypothecated levy or it is possible that it could be funded directly from General Revenue. Given the fact that Hong Kong's economic ability at present is not in doubt, OPS can be quickly put into action, centrally managed by an existing government department or a specially established organization for this purpose.

In brief, these two schemes can co-exist in parallel.

There is another perceived objection to OPS, I understand, that is, the deadly and irrational fear that once it is introduced, it will take Hong Kong down the slippery path of a welfare state, typified by all the horrors of a "dependency culture" which saps strength from an otherwise energetic workforce.

That is very odd because these old people are already out of work.

Ironically, you may see some elderly people eking out a meagre living, picking bean-sprouts, collecting old bundles of newspapers. But that is because they had no savings when they were young. There was no social welfare when they were young.

These elderly people, who once contributed to Hong Kong's success, even today are very independent-minded. They are fiercely independent in spirit. Those who work with them will know deep in their consciousness, they believe that to rely on means-tested handouts is detrimental to their dignity and to the next generation.

Indeed, had it not been for this belief, inextricably tied to self-respect, they would have fallen straight into the public assistance safety net which is out there to catch them in the first place and the cost would be more. I tell you, the cost will be more.

Whatever the state of our economy, it is my belief that we can put into OPS what we can reasonably afford today. The scheme can be circumscribed both in scope and in eligibility criteria. To qualify for public assistance, you need to be in Hong Kong for one year, but for OPS, you can subscribe any type of criteria. In all probability, the existence of OPS in time could be subsumed and overtaken by MPS in the fullness of time.

With these words, I support the motion moved by the Honourable LEE Cheuk-yan and I also support MPS. Thank you.

**MR HENRY TANG** (in Cantonese): Mr President, the subject of today's motion debate has, in fact, been discussed for many times before. I believe that there will not be any new arguments in today's discussion of the same subject again. Originally, I did not intend to speak. However, I happened to read an article two days ago, and I have some thoughts and feelings which I would like to share with Members.

The whole article is about frogs. I suddenly find that the Government's attitude in dealing with the Old Age Pension Scheme (OPS) is similar to a frog's modes of life. The article tells that the frog is a kind of cold-blooded animal. Its body temperature will change according to the environment and the air temperature. During winter, the frog's body temperature will decrease to about eight degree Celsius. Then the frog will hibernate when it will not eat or drink, hear or make any noise, while its blood circulation stops and the operation of the respiratory system slows down. When comes the following spring, the frog will change its ecological conditions again.

Does not it sound similar to the Government's attitude in dealing with the question of retirement protection? In 1968, the Hong Kong Government declined the proposal of comprehensive social insurance. In 1987, Sir Murray MacLEHOSE negated the establishment of the Central Provident Fund (CPF). The *Consultation Paper on a Community-wide Retirement Protection System* issued in October 1992 was clearly against the social insurance scheme in the form of the OPS, because under such a system, the money would be released to those who did not need it or who had not made any contribution. One year later, at the end of 1993, the Hong Kong Government said that it was the OPS instead of the Mandatory Provident Fund Scheme (MPS) that would be implemented. Who knows if everything would again be reversed in 1995 when the MPS would finally and formally be chosen!

It is now winter and the Legislative Council brings out the old issue once again today. I am worried that the frog of the retirement protection scheme might have to hibernate again. If it is to be frozen once every year, when can the Hong Kong people obtain the real retirement protection?

The passage that I read has also mentioned a frog test which calls for deep thought. The test is as follows:

There are two pots, one carrying hot water at 65 degree Celsius and the

other one carrying cold water.

A frog was first thrown into the pot full of hot water at 65 degree Celsius. It immediately jumped out from the pot. Then another frog was put into the cold water while the pot was gradually being heated up. The frog was seen swimming inside the pot with ease at first. When the water temperature reached 60 degree Celsius, the frog felt that there was something wrong and wanted to escape. But it was already too late and the frog was cooked alive.

When the Government knew that the employers and the employees could work together to press for the establishment of the CPF, its reaction is almost the same as that of the frog thrown into the pot of hot water. It is because the Government knew that "in the deep water and scorching fire, it is inadvisable to stay in the wicked pot any longer". Thus, it would rather stay aloof of the matter and hibernate.

Today, I am afraid that those Members who still insist on implementing the OPS may confirm the latter part of the frog test. Those who support the OPS always say that more than 85% of the countries in the world have adopted social protection schemes similar to this one, and that there is no reason it should not be introduced in Hong Kong. However, it seems that they have forgotten the fact that the pension schemes were implemented progressively in these countries. After a few generations, it would become more and more difficult to implement the schemes as expenditure exceeds income. At present, a lot of developed countries are trying to change the pension systems in the hope of relieving themselves from the plight. There are examples like the United Kingdom and the United States where it is easier for the rate of contribution to rise but difficult for it to fall. I believe that those who have read the Wyatt Report will be very clear about this argument.

It will never occur to the frog who is bathing in lukewarm water today that it will be cooked alive one day!

The MPS is by no means the most ideal retirement protection scheme in the views of the business sector, but I do not want to see a group of workers, who have contributed their greatest efforts to the economy of Hong Kong, have no support whatsoever when they retire. I will therefore accept a scheme which is the second best. In regard to the OPS, it is against my wish to lead a group of

Hong Kong people to become the frog in the pot. Thus, I will oppose the original motion today. Thank you, Mr President.

**MR LAW CHI-KWONG** (in Cantonese): Mr President, I hope that Members would allow me to illustrate the Democratic Party's stand regarding old age protection by comparing various retirement schemes in my discussion on the Old Age Pension Scheme (OPS).

In order to compare different retirement schemes for their merits and demerits, we may do so with reference to four criteria:

1. whether or not the protection so provided is enough;
2. the coverage of the protection, namely what groups of people are to be included;
3. the affordability of the society at large in the future; and
4. the degree of risks.

The first scheme to be analyzed is of course the provident fund scheme. The deficiency of the provident fund scheme is that it does not provide enough protection for the low-income people. Let me illustrate this with a simple example. For an employee earning \$5,000 a month to contribute for 30 years, supposing that the contributions made by both the employee and the employer add up to 10% in total, and that the return on investment in real terms is 2% a year, what he will get after retirement will only be about \$1,500 a month which is even less than the current rate of the Comprehensive Social Security Assistance (CSSA).

The protection provided by the Mandatory Provident Fund Scheme (MPS) is even less for people from small enterprises, occupations of high mobility and low-income people. This is because the unit number of people involved is small, and so the average management charges for the provident funds will be relatively high. Also, because of the high mobility, the administrative costs for transfer of accounts will increase. As the employees' incomes are low, the fixed costs will constitute a higher proportion in the management charges, and will therefore take away a relatively higher percentage from the gross return. As the



report of the Government's consultants has pointed out, under the circumstances of low incomes and high administrative costs, the administrative costs in total for an employee who has contributed for 40 years will constitute 36% to 38% of the gross return. In a word, not only is the MPS unable to provide protection for people's livelihood after retirement, under the law, the so-called "overall welfare" they are now enjoying will also diminish. This is something we find unacceptable.

Although the Central Provident Fund Scheme (CPS) cannot provide sufficient protection for the low-income people, it can at least spread out the management charges over the whole society and reduce the administrative costs for transfer of accounts, so that low-income people may enjoy to a small extent the so-called "socialized benefits".

Provident fund is a system the nature of which is to provide for a rainy day. Therefore, in theory it will not bring about any economic pressure upon the society in general. On the contrary, it may relieve the pressure resulting from the aging of our population. However, the Mandatory Provident Fund Authority as proposed in the report of the Government's consultants will at least require a staff of about 1 000 people in the first seven years after its establishment, which is a tremendous waste of the public money.

Moreover, we all know very well that no commitment is made regarding the investment risks of the scheme. What is more, this is one of the fatal wounds of MPS. For CPS, because of its economic effectiveness, it can on the one hand reduce the administrative costs for its management, while on the other hand actually minimize the risks in investment. Given the steady growth of the Foreign Exchange Fund of Hong Kong, the rate of return on CPS investments should be quite promising.

In a nutshell, the system of provident funds, especially the privately run provident funds, is unable to provide sufficient protection for the low-income people, and there is utterly no protection for those who have already retired or going to retire, or those who have no income. This is exactly what the OPS aims to address.

It was not the Government but the Hong Kong Social Security Society (HKSSS) which first proposed the concept of OPS. OPS has the advantage of being able to provide the low-income people as well as people who have no

income with basic income protection, and this involves the so-called "tripartite contribution scheme" proposed by the HKSSS. The advantage is that it can come into effect right away and there is no need for people to wait for decades; also, as it is not an investment plan, issues like investment risks and so on are out of the question.

However, it has all along been our concern whether or not the OPS burden the community has to shoulder is too heavy in the long run. Therefore, when the Government put forth the OPS, I was very much concerned about the long-term estimation stated in the consultants' report. But having read the entire report, we felt quite relieved. Although nobody can guarantee that economic development over the next few decades will be maintained at a certain level, on the basis of known circumstances and having made reasonable assumptions, by the time Hong Kong's aging population reaches its peak (which is in about 30 to 40 years' time), and if the old age pension rate can be adjusted with the index of income, the proportion of the total contribution will only be 7.2% of the total income. Having removed the misgiving, and given that we still have a number of reservations about details of the scheme, since the OPS can immediately provide old people with the basic economic protection with dignity in at least the coming 20 years, for repaying them for the efforts they have made in the past for Hong Kong's stability and prosperity, the Democratic Party therefore supports the establishment of the OPS.

The OPS can take effect immediately, whereas the CPS needs more than 20 years before it can provide sufficient protection for some of the retired. However, the CPS is able to make up for the deficiency OPS does have. According to the Government's original proposal, it can keep abreast with inflation but cannot keep up with the quality of living and improve people's living standard. However, the CPS will be able to take effect and make up for such kind of deficiency. One can say that the OPS and the CPS are complementary. Of course, we still need a sound and reasonable CSSA Scheme to protect those elderly people who are not covered by these two safety nets for retirement.

Mr President, these are remarks.

**MR FREDERICK FUNG** (in Cantonese): Mr President, it is an indisputable fact that the population of Hong Kong is continuously aging. The elderly

people have contributed the whole of their lives to the construction of the Hong Kong society, so it is only right that their livelihood in their old age should be protected. I believe nobody will think that this claim is unreasonable. In the past, retirement protection was not popular. Even today, people who have taken part in some privately run provident fund schemes, account for only one-fourth of the working population. Under these circumstances, it is a pressing matter for us to set up a sound retirement scheme to take care of the retirement life of our elderly people. However, when we saw that the Government hastily put forth the Mandatory Provident Fund Scheme (MPS) early this year, we found that the Government was indeed lacking the sincerity to introduce an effective and sound retirement protection scheme. It is my view that the Government does not have the sincerity to commit itself to taking care of the livelihood of 600 000 retired old people.

The MPS as proposed by the Government is in fact a scheme riddled with flaws and shortcomings, a "rotten orange" scheme well-known to everyone. One of the flaws is that this proposal is unable to provide immediate assistance to the 600 000 retired old people. Under this proposal, a person must contribute for about 30 to 40 years before he gets approximately one-third of his wage so as to obtain some protection for his retirement life. In other words, workers who are over 35 years of age will not get any protection upon retirement.

The argument about retirement protection has been going on for 20 to 30 years, yet the Government has been turning a deaf ear to it and paying no attention to the demand of the people. In the past, the Government stalled the setting up of retirement protection by way of consultation. It surprises us that the Government plays the old trick again by proposing the MPS, which does not have any immediate effect, so as to further delay its commitment to the livelihood of elderly people. By procrastinating again and again, the Government makes us feel that it has no regard to the need of the 600 000 elderly people.

Moreover, apart from the fact that the scheme is unable to benefit the 600 000 elderly people, other people such as housewives, low-income workers and the disabled are all excluded. They are the neediest bunch of people, yet, ironically, they do not have the protection. The Government in doing so has literally denied the contribution to the society and their families these people have made over the past. Perhaps the Government would rebut this by saying

that the 600 000 elderly people are having their own families to look after them, or they can apply for the Comprehensive Social Security Assistance (CSSA). But we must realize that more and more families in Hong Kong are becoming nuclear families, and it is becoming rare that people live with their parents, and people in families are less and less able to provide for their parents. Therefore, it is less and less likely for elderly people to depend entirely on their families to take care of them. As for the CSSA, at present, the CSSA rate after deduction of the old age allowance is merely \$1,200 or so, and that is a long way from the reasonable living standard, namely, one-third of the median wage (or some \$2,700) as proposed by the Hong Kong Association for Democracy and People's Livelihood (ADPL). It remains doubtful whether or not the elderly people are able to maintain a living with dignity by counting on such a meagre amount of CSSA payment.

Another shortcoming of the MPS is the Government's lack of commitment to risks. The Government is only willing to establish a compensation fund for the scheme to safeguard any losses arising from fraud or misconduct. But for situations like poor management of insurance companies, low return on investment or even bankruptcy of companies to occur, such losses would have to be borne by the people who have made the contributions. The Government will just watch the hard-earned money of the people going down the drain.

In 1993, the Government commissioned a consultant company to do a research on privately run provident fund schemes. The report produced by the consultant company pointed out that for a privately run provident fund scheme to achieve a reasonable retirement protection level, say about 40% of the average income of employees, the fund would have to be invested in the high-risk stock market. Well, if people voluntarily invest their money in high-risk items, I think it is reasonable that people should be left to undertake any failure in investment. But now the situation is that the Government is forcing people to take part in a high-risk investment plan and has itself excused from the responsibility. What kind of reasoning is this? There is a Chinese proverb which goes like this: Do not treat others the way you yourself do not want. I believe we all know the moral of it very well. Even the Government which has a fiscal reserve to the tune of hundreds of billions of dollars does not want to take part in such schemes and take on the ultimate responsibility. So why should it force the masses to take part in this dangerous game?

In setting up a retirement protection scheme, the Government's stand had been wavering and self-contradictory. In putting forth the Old Age Pension Scheme (OPS), the Government claimed that it had the support of the general public and made wide and vigorous publicity campaigns, leading 600 000 elderly people to believe that it would be possible to improve their living. But after one year, the Government changed its tone and withdrew the OPS on the pretext that there was not enough popular support, and so the hope of the old people was dashed. What perplexed us most was that the Government had decided which retirement protection proposal to be introduced by the degree of popular support. Nevertheless, when the MPS was approved (in July last year), there were only 31 votes in favour, which simply was not a true majority. That being the case, would the Government consider what these 31 votes represent as times change, and whether or not it is necessary to withdraw this scheme, too? It is beyond our understanding that the Government when dealing with one and the same matter has relied on the number of votes or some other criteria for its decisions. Could it be the case that the OPS is just a political game and that the Government has never had the sincerity to have it implemented?

The most outrageous thing in the course of adopting the MPS is that the Government declared that there would not be anything else if the scheme was dumped. Such an attitude seems to have made it clear that should the Legislative Council not approve the proposal, the Government would do nothing and leave the matter to the future Special Administrative Region Government. In fact, the Government itself has taken no heed of the people's livelihood in having drafted, in a short period of just three months, a policy which would profoundly affect the people's livelihood. I think this is an irresponsible act.

We also know that the proposal put forth by the Government is a proposal "that has a skeleton but no flesh", and it is flaw-riddled. The Government was well aware of the fact that the proposal was questionable, yet it insisted on taking it to the Legislative Council, and in a threatening tone it told Members to approve it. This is another irresponsible act.

The ADPL strongly opposes the MPS, and the ADPL is of the view that for a retirement scheme to be sound, there are two conditions to be fulfilled. The first one is that it has to be a population-wide scheme to cover all groups of people including the elderly people; the second one is that it should be a tripartite scheme in which the Government is also making a contribution and it should share the risks. Only in this way can the elderly people truly enjoy a retirement life. I think the OPS and the central provident fund scheme are solutions to this

problem.

With these remarks, I support the Honourable LEE Cheuk-yan's motion.

**MR PAUL CHENG:** Mr President, I strongly support the improvement of social welfare and care of the needy elderly in Hong Kong, but believe that retirement protection and social security benefits are separate issues. The Old Age Pension Scheme as originally proposed by the Government mixes these issues and emotionalizes the debate, but, unfortunately, it does not provide an effective solution to the problem in either shorter or long term. Quite simply, this system could quickly become a financial burden to Hong Kong, stripping us of the means to fund further programmes for the disadvantaged — with the result that those most drastically affected will be those we intend to help.

A better strategy in dealing with the problem of how to care for the needy elderly would be to enhance the social welfare "safety net" to better provide for those aged 65 years and over. I would like to see that the old age benefits be enhanced immediately through reasonable and adequate improvement of the existing social welfare system, paid out of General Revenue at a rate to be determined by the Government according to the budgetary circumstances. The welfare safety net for the elderly should be means-tested, although some relaxation of some current criteria could be allowed to provide for some of the hundreds of thousands of needy elderly already in the net.

Taking present and recurring budget surpluses into account, the social safety net should be able to be funded from existing General Revenue. The total funding allocation to the safety net should be capped to include the cost of the present Normal Old Age Allowances (NOAA), the Higher Old Age Allowances (HOAA), and the standard rate of payment under the Comprehensive Social Security Assistance Scheme (CSSAS). Taking 1994 as an example, an additional \$6 billion could have been provided by the Government out of General Revenue to add to the \$3.6 billion paid out for the existing schemes, making a total of \$9.6 billion available to the needy elderly. The advantages of this approach are that it builds on the present system without the need for radical change; it provides for immediate relief and at a lower cost than an Old Age Pension System; it encourages the development of private sector savings schemes to provide for the financial security of the elderly and retired community in the future; and it is simple in operation. This is a better way of addressing the

short-term deficiencies of the Mandatory Provident Fund Scheme.

It is not an overstatement to say that this issue encompasses not only the financial security of Hong Kong's needy elderly, but also the future structure and prosperity of Hong Kong economy. I am not against providing support for the needy elderly. I am merely opposing this motion which calls for the revisit of the Old Age Pension Scheme as originally proposed by the Government, which, as we all know, was resoundingly rejected by the majority of the community during the consultation period.

Instead, I urge the Government to urgently take concrete actions to help the needy elderly, but certainly not in the form of the Old Age Pension Scheme as originally proposed and which has already been debated extensively in the last Session in this Council.

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

**MISS CHAN YUEN-HAN** (in Cantonese): Mr President, today the Legislative Council is again debating the Old Age Pension Scheme (OPS). I think this Council has held no fewer than 10 debates on retirement protection. I still remember when Mr TAM Yiu-chung (a Legislative Council Member in the last session) joined this Council in 1987, he proposed the Central Provident Fund Scheme (CPF). Following that, the Legislative Council discussed the retirement protection question from time to time over a drawn-out period. Regrettably, since the Government all along has resisted the idea of a retirement protection system, Hong Kong therefore has nothing by way of retirement protection up to now. Apart from a few private firms offering retirement protection, Hong Kong does not have a comprehensive system on retirement protection. Many members of the public have devoted their prime years to work for the community. But when they become old, they have no one to rely on and can only lead a miserable life. As Members representing the grassroots people, we should fight for retirement protection for all the people in Hong Kong, so that they can live in a dignified manner and be adequately provided for in their twilight years. However, we should note that all along we are striving for a comprehensive retirement protection system which can look after people in all sectors of society. The Hong Kong Federation of Trade Unions (FTU) and the Democratic Alliance for Betterment of Hong Kong (DAB) are pursuing their goal in this direction in recent years.

What is a comprehensive "retirement protection system"? A comprehensive "retirement protection system" does not consist solely of an implemented OPS or "Mandatory Provident Fund Scheme" (MPS). It is because both Schemes have their merits and shortcomings, and they have to be implemented together in order to complement one another, so that the problem of old age retirement protection can be solved completely. Our colleague, the Honourable LAW Chi-kwong, has just mentioned this point. Therefore I would like to talk about this problem from another angle.

With regard to the advantages of the MPS, the Scheme is widely supported by the community and familiar to both the employers and employees. Also, it is a highly stable system. The contributions or benefits will not change because of a change in the proportion of elderly people who need to be provided for. Every employee has his own account, and this is in line with the principle of "more savings, more gains". This is being recognized by academics of various disciplines in society and by a number of organizations which are fighting for this Scheme. With relevant legislation and proper supervision, the advantages of the MPS (I am talking about mandatory but not privately-run protection scheme) can be realized effectively. For example, to stipulate that the provident fund should be managed by way of a trust fund; therefore, if the trustee goes bankrupt, it will not affect the provident fund under his management. Also, the Government should legislate to the effect that the fund shall invest a certain amount of money in Hong Kong to prevent the outflow of capital. The Government also has to consider offering the ultimate protection. During the debate on the MPS in 1992, some of the Members here in the democratic camp also mentioned they would give support if the Government could provide the final protection.

However, as Members are all aware, the MPS has to operate for a period of time before it can offer protection, and this period is at least 20 or 30 years. In other words, the retired and the retiring will not be able to benefit immediately from implementing the MPS. Also, for those who are not in the workforce, for example, housewives, they will not have to contribute and so they will not be eligible to enjoy the protection under the provident fund. These two shortcomings can be addressed by implementing the OPS.

I would like to talk about the advantages of the OPS. Apart from providing benefits to most of the retired yet still active elderly people, the OPS



can also offer retirement protection to the low-income groups and people not in the workforce. Concerning the rate of payment under the OPS, the FTU and the DAB propose it should be linked to the median wage of the workforce in Hong Kong to enable the retired persons to have an acceptable standard of living, and what we are suggesting is just an acceptable standard only. These persons include housewives, and they can receive an amount equivalent to 30% of the median wage monthly for their basic economic protection, and it will be just basic protection.

However, we also notice that, under the present social circumstances, the rate of payment under the OPS can only offer basic living protection, and it cannot replace methods like "more work, more gains" or "more savings, more gains". The MPS is designed for the retired persons in the years to come but it will fail to enable the elderly to live without worries in their remaining years. Only when the two Schemes are implemented together, can the elderly live with dignity and be adequately provided for in their twilight years. Our neighbour, Singapore, established the CPF in the late 1960s. Recently, they have to look for another scheme to make up for its shortcomings because the low-income groups cannot get enough to lead a decent life in their twilight years.

We can see from the above that the MPS and the OPS are not mutually exclusive, but on the contrary, they can complement each other. We have successfully strived for the MPS in our first step, and we are going to fight for the immediate implementation of the OPS, so that the elderly who have none to depend on and who have contributed a lot to society and the housewives can have an acceptable standard of living.

Mr President, both the DAB and the FTU support today's motion on the OPS. Thank you.

**MR AMBROSE LAU** (in Cantonese): Mr President, the Old Age Pension Scheme (OPS) was announced in July last year and its consultation period expired towards the end of October. During the three-month consultation period, a total of 6 650 submissions concerning the scheme were received by the Government, most of which opposed the scheme with sound and valid grounds. As a result, the Government announced that the scheme was withdrawn in January this year.

Mr President, full analysis of the shortcomings and impracticability of the

scheme has already been made by all quarters of the community as well as by the media during the three-month consultation period.

The OPS is impractical because, firstly, once it is introduced, it will take Hong Kong down the slippery path of a welfare state. Both the employers and the employees are required to make a total contribution of 3% of the employees' income in order to enable each eligible person to get \$2,300 a month as pension. This contribution rate, which is expected to exceed 10% by the year 2026, is in fact a kind of tax. The increasing rate of contribution will not only affect the employees' livelihood but also increase the operating costs of the employers, thereby hampering the competitive edge of Hong Kong in the international community.

Mr President, the OPS is not only impractical but also unfair and unreasonable because retirement protection is confused with social welfare under this scheme. In essence, this scheme is a community-wide old age retirement scheme relying entirely on contributions by both the employers and the employees. The retired people will get a pension, which is pegged to the inflation rate, whether they have made contributions or not. Even those who have not made any contribution but have passed the means test can also receive the pension. This is particularly unfair to those who have made contributions. Another feature of the scheme is that those who are aged 65 or above, no matter how much and how long they have contributed, will get the same amount of pension. This is also out of line with the Hong Kong's long-adopted policy of "more pay for more work" and tends to contravene the hard-working spirit of the Hong Kong people.

Mr President, with an ageing population in Hong Kong, the number of people eligible for the pension will increase rapidly. Should the OPS be implemented, a total of \$13 billion will be given out in the first year of implementation based on the estimation that there are 500 000 eligible people in the year 1995-96. However, based on an inflation rate of 8% a year, the total amount of pension to be paid by the Hong Kong Special Administrative Region (SAR) Government will reach \$40 billion a year in 30 years' time when the retired population will rocket to 1.2 million. By that time the SAR Government will have to meet the pension by means of raising tax or debts through fiscal deficits. Is it not true to say that Hong Kong is going down the route of a western welfare state?

Mr President, the issue of retirement protection has been debated for more than 20 years. Unfortunately, the Legislative Council still gets entangled in the OPS today although the scheme has been proved to be infeasible by experiences in foreign countries and public opinion of all sectors of our community. In my opinion, we should not waste any more time in arguing as it will further delay the setting up of a practical and feasible retirement protection system. In the past, the Hong Kong Progressive Alliance has suggested that the Government should set up a mandatory retirement protection scheme under which the Government, the employers and the employees each make a contribution amounting to 3% of the employee's monthly salary, as this is a more sensible practice in line with the world trend. This will impel the employers to shoulder part of the commitment, the employees to make savings and the Government to shoulder its due responsibility. Moreover, as the amount of contribution by the employees will determine the amount of their pension, it is in line with the principle of "more work, more pay". We should not confuse welfare for the elderly with retirement protection. The Hong Kong Progressive Alliance suggests that the Comprehensive Social Security Assistance (CSSA) payment should be raised to \$2,300 now and that it should be given to the needy elderly only. In so doing, government expenditure in welfare will not be boosted up tremendously. Currently there are 80 000-odd aged people receiving CSSA payment and more than 100 000 aged people who are ineligible for CSSA payment because of being engaged in lowly paid jobs. It is estimated that once the CSSA is raised to \$2,300, 200 000-plus people will become eligible and be benefited while the government expenditure will be increased by more than \$2 billion only. Yet the elderly people living in destitution will be provided with basic livelihood protection, while the aged who are reduced to be cheap labour can enjoy some reasonable welfare.

In view of the above, the setting up of a mandatory retirement protection scheme and raising the CSSA payment to \$2,300 immediately will be a long-term as well as a short-term measure, which can also satisfy two different needs of the community. At the same time, the Legislative Council should not entangle itself in the OPS any more, which is fundamentally impracticable.

Mr President, I so submit.

**MR CHENG YIU-TONG** (in Cantonese): Mr President, the "Mandatory Provident Fund Scheme" (MPS) and the "Old Age Pension Scheme" (OPS) are

now being widely discussed by some people in our society and their views varied. Some people think the MPS is better while others think the OPS is better. The supporters of the MPS are against the OPS and vice versa. However, I think these two Schemes are not mutually exclusive. Why can we not have both Schemes at the same time and why must we choose between the two?

After the Government had decided to negative the proposal of "Central Provident Fund" (CPF) on the grounds that it would accumulate too large an amount of cash, the Hong Kong Federation of Trade Unions (FTU) introduced a "Comprehensive Retirement Protection Scheme" (CRPS) in April 1992 to implement the MPS and the "Social Insurance Scheme" (SIS) simultaneously, since both Schemes have their pros and cons. The MPS is established for the retired people in future, whereas the SIS is for those who have retired or are retiring soon. They take care of the needs of different targets and complement one another. We still insist that a comprehensive and proper retirement protection system should include these two Schemes.

The MPS makes the young people start saving now, so that they can get a lump sum as provident fund when they retire. For the high-income group, they can have a significant lump sum of provident fund if they contribute monthly according to the ratio. The MPS is therefore more beneficial to the young people and the high-income group. For the low-income group, even if they now contribute at the same ratio, they can only obtain a meagre amount when they retire. If they are required to contribute now, their present standard of living may be affected. Therefore, we have to set up the SIS at the same time to provide the basic living protection to the low-income group. A more important point is that as the MPS has to operate a period of time before it can offer protection, it cannot solve the immediate problem of the elderly in their daily lives. The SIS does not have to wait for the accumulation of fund before it can provide protection. If we can have two Schemes at the same time, they will play complementary roles without conflicts.

The Government finally introduced the OPS last July. Since this Scheme is very close to the SIS under our CRPS, we supported the Government's OPS. Yet, the Government has to accept our amendment and implement the OPS in parallel with the MPS as soon as possible. Regrettably, the Government

shelved the OPS on the grounds that it had failed to get popular support. To the elderly, the old age pension was something they were about to get, yet they are now in great despair because of a change in the Government's decision.

However, the FTU still supports the OPS and the MPS, and we therefore voted for the allocation of fund to the MPS in the Finance Committee on 24 November 1995. We will also support the motion of the Honourable LEE Cheuk-yan on the OPS. These two Schemes can be implemented simultaneously without conflicts.

Some people say that if we approve fund for the MPS, the OPS will be buried. I have to stress that it is the Hong Kong Government who wants to bury the OPS. We want both the OPS and the MPS. The FTU never holds back or acts cowardly in fighting for the old age retirement protection. We are the first organization in Hong Kong to conduct a large survey and propose the old age retirement protection problem. We have urged the Government to establish the Central Provident Fund, and we have also spent a lot of resources to introduce the CRPS. For two decades, we have held on to our belief and we want to help the helpless elderly who are in adverse conditions.

Some people say the OPS is a "good orange" and the MPS is a "rotten orange". That is really unreasonable. In fact, if only one Scheme is implemented, we only get half of a "good orange"; if we put the two Schemes together, we will have a whole, sweet, juicy orange. Therefore, while we agree with the implementation of the MPS, we will continue to strive for the OPS. It is hoped that the different sectors of our society will act in unison to fight for the OPS from the Government.

Mr President, when we discuss the OPS, we should not fall into the trap set up by the Government to opt between the two. This is not our only choice. If we look at the Hong Kong economy today, it is strong enough to support the CRPS which includes both of the MPS and the OPS.

What we have to do is not to criticize who support the MPS or the OPS; we should work together to exert pressure on the Government, so that we can have a comprehensive retirement protection system.

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

**MR LEE KAI-MING** (in Cantonese): Mr President, the fact that Hong Kong has been enjoying an enviable economic success over a long time naturally has everything to do with the hard work and contributions made by all the people of Hong Kong. At present, the *per capita* gross domestic product of Hong Kong has already hit the US\$21,800 mark. However, retirement protection in Hong Kong is lagging far behind those of her neighbouring regions and developed economies. For example, countries such as Singapore, Taiwan, South Korea and Japan have established sound retirement protection systems for their employees, whereas Hong Kong does not have that to date.

Retirement protection is an internationally recognized basic human right. As the problem of Hong Kong's aging population is getting more serious, it has become an unavoidable reality in our society. By the year 2001 (that is to say, a few years later), the number of elderly people aged 65 or above will have reached 700 000. At present, the Government's annual expenditure on the elderly peoples's welfare is over \$3 billion. Even if the Government implements the Mandatory Provident Fund Scheme (MPS) now, it will take another 20 or 30 years for it to take effect. Before the provident fund takes any effect, the Government can only use public funds for its commitment to the expenditure on the elderly people's welfare for the next decade or so.

At present, there are about 600 000 elderly people aged over 60. But among those who are receiving the Comprehensive Social Security Assistance (CSSA), 70% of them are elderly people. So, it is evident that for many elderly people who have retired, they do not have any retirement protection and have to rely on public assistance for a living. Among the 130 000 or more cases of CSSA recipients, more than 70 000 are elderly singletons aged over 60; for the remaining some 500 000 elderly people, they have to count on the old age allowance and higher old age allowance.

Generally, the elderly people have called the CSSA a relief payment, and this for a Chinese society is the reason why many people are reluctant to apply for it. Moreover, the conditions for application are harsh. For those who have children, their sons and daughters have to take an oath that they are unable to support their parents before their application can be approved. Many elderly people are deterred by this because it is hard to tell their children, and they do not

want to be humiliated and be stripped of their dignity. Therefore, quite a number of elderly people are living a life poorer than what it would have been if they had applied for the CSSA. Moreover, the level of CSSA is so low that it has drawn a lot of criticisms from many people in our society.

The Government proposed the Old Age Pension Scheme (OPS) last year. And just when the general workforce were thinking that they had seen the dawn, the Government shelved the proposal on the pretext that the views of the community were diverse and confused. Just now a Member said that most of the views did not approve of the scheme, but that was not true. Even the Government had merely admitted that the views were diverse and confused. One can say that under those circumstances, it was the Government which unilaterally withdrew the scheme. Such kind of withdrawal is really regrettable. Then subsequently, the Government put forth the MPS. The rate of return of the provident fund contributions has a direct bearing on whether or not the livelihood of elderly people will be secure after their retirement, but the MPS cannot guarantee that the rate of return will be sufficient to cover the loss through inflation. It is clear that the whole scheme was not well thought through. However, the Government was so anxious that it made a rash move to have it introduced.

In view of the fact that the number of elderly people aged 65 or above who are receiving public assistance is increasing with time, and that the MPS cannot give protection to the livelihood after retirement of those who have retired or are about to retire, and still less can it deal with the livelihood after retirement of those who are low-income earners, self-employed, housewives and so on, I therefore urge the Government to introduce the OPS as soon as possible. I support the motion moved by the Honourable LEE Cheuk-yan. Thank you, Mr President.

**MR LO SUK-CHING** (in Cantonese): Mr President, the problem of Hong Kong's aging population is getting more serious. In 1995, people aged 60 or above constituted 13.5% of the population, and it is also expected that their life expectancy will rise. As Hong Kong is a Chinese society, it is still a virtue to take care of the elderly people. However, there are still a large number of elderly people who need the community to take care of them, and the number is on the rise. At present, the assistance provided to them by the Social Welfare Department is rather confined, and the rates of the Comprehensive Social Security Assistance (CSSA) and old age allowance are really too low to

effectively meet the needs of their livelihood. In spite of the fact that the Government has decided to introduce the Mandatory Provident Fund Scheme (MPS), it does not help the elderly people in any way. I think the Government should take positive measures and work out a more comprehensive plan to take care of these people who had contributed to Hong Kong's development and prosperity, especially those who need the society to take care of them.

Since the MPS is going to be implemented in Hong Kong, and it requires that both employers and employees contribute 5% of the monthly wages, should we implement the Old Age Pension Scheme (OPS) and at the same time require contributions from employers and employees on top of that, it would increase their burdens substantially. Moreover, the Scheme does not cover those elderly people who are not working or are unable to join the Scheme. Looking after the needy old people is a social welfare responsibility which should be shouldered by the Government, with committed expenditure paid out of the general revenue. For this reason, the most effective and quickest way to address the problem of livelihood of the needy old people is to raise the CSSA rates for old people substantially to one-third of the median income of Hong Kong, which is about \$2,500, and to relax the restrictions on the means test.

According to the OPS, when elderly people reach a certain age, for example 65, they will be entitled to a pension without having to be means-tested for their assets and income, and no distinction is to be drawn between the rich and the poor. But the spirit of social welfare is to give assistance to those who are in need instead of misusing the taxpayer's money. Only by doing so can we reasonably and effectively utilize our limited resources to give financial assistance to those who are genuinely in need.

As a matter of fact, our care for the elderly people should not be confined to just financial help. There should be a more comprehensive plan, for example, housing, medical care, health care, psychological counselling, elderly services and so on, so that they will be able to live a more meaningful life.

In order that resources can be utilized more effectively and that we can take care of the needy elderly people more effectively, I would like to take this opportunity to put forth two recommendations:

First, in view of the fact that Hong Kong is a small but populous place, where the rents are expensive and living costs are high, I propose that the



Government should consider encouraging those elderly people who do not have any children or relatives in Hong Kong to look after them to return to their places of birth while the Government continues to pay them the CSSA. Quite a number of elderly people have a sense of attachment to their places of birth. And when they go back to their places of birth, their pace of life will be more leisurely there and they will be able to meet their kith and kin. That will be a more fruitful kind of life than what is in Hong Kong, where they live alone. Moreover, as the living costs in mainland China is lower, they can be better off financially. Of course, in order that the plan can be carried out effectively, the Government should discuss with China for a sound payment mechanism to be set up so as to ensure that all the CSSA money will go to the hands of the recipients.

Secondly, although the Government has endeavoured to provide financial assistance to private homes for the elderly and provide more nursing homes or convalescent homes, as both rents and staff salaries in Hong Kong are higher than those in China, they are not very cost effective. The Government can discuss with China about investments in building homes for the aged and nursing homes in some neighbouring areas of Hong Kong, such as Zhuhai, Shenzhen and so on, and encourage as well as subsidize some private or voluntary organizations to build and manage such elderly people's homes. On the other hand, it can encourage elderly people who do not have children or relatives in Hong Kong to look after them and who do not wish to retain to and settle in their birth places to move into these elderly people's quarters so that they can live there peacefully. In so doing, we can utilize our resources more effectively and achieve better cost effectiveness.

Mr President, these are my remarks.

**DR JOHN TSE** (in Cantonese): Mr President, I would like to address the question of retirement protection from the angle of protection of basic human rights.

A sound retirement protection system is one which pools society's resources to ensure that every member of society can enjoy reasonable economic protection during his or her twilight years. This is not a form of social relief but a universal right of the citizen. This is also a right every member of society should enjoy irrespective of sex or nature of work or occupation. However, the mandatory privately-run provident fund scheme (MPF) which the Government is

now vigorously promoting will fall pretty far short of the aforesaid target.

The most significant difference between the MPF and the old age pension scheme (OPS) is that the former scheme would exclude those who are not in the workforce. That being the case, about 0.6 million housewives and 0.2 million disabled people will not be eligible for the benefits under the scheme. They may labour and toil in their own home or they may, because of some physical disability, be incapacitated from work. Yet they will grow old and need economic protection just the same as other people. Exclusion of them from the scheme would, I am afraid, amount to discrimination to a certain extent!

Those who are retired or those who are about to retire would similarly be deprived of retirement protection because they would have no chance or too little time to join the scheme. Therefore, the MPF is analogous to "distant water that cannot be used to put out a fire near at hand". It can be anticipated that old people of the present generation or old people in the next 20 years will not get retirement protection. Hong Kong's population is aging. It is estimated that in 20 years close to 20% of our population will have no economic protection during their life of retirement. As a matter of fact, an aging population will mean a drastic surge in applications by old people for comprehensive social security assistance. Having regard to the position of its fiscal expenditure, the Hong Kong Government should consider setting up some form of old age pension in any event.

Most unfortunately, low-income employees will not have retirement protection. The launching of an MPF will make people believe that Hong Kong already has a retirement protection system. But the question remains: How much will a low-paid labourer get by way of pension out of the provident fund he has contributed to? Based on his meagre wage and having regard to the fact that administrative costs will have to be deducted from an employee's overall entitlement, continuous contribution for a period of 30 to 40 years will probably translate into a pension amount less than the present level of comprehensive social security assistance. Whether such an amount will enable him to maintain his basic living standards will be open to doubt. In the absence of a commitment by the Government to underwrite risks, employees contributing to the private provident funds will have to bear financial and investment risks on their own. The employees' savings over tens of years might go down the drain because of an investment failure by the fund managers. It would be like walking on a tightrope for tens of years on end; a cold sweat would break even if

one was lucky enough not to plunge to one's death. One would do better without such kind of retirement protection!

As a matter of fact, the MPF is no more than a scheme to compel employees to save. What they will recover in their old age is just the savings they made during their young days. This will have nothing to do with overall economic protection for every member of society during his or her old age. On the one hand, those who are in need will get no protection; on the other hand, high-income employees protected under the scheme really have no need of such scheme. As the MPF will inject vast amounts of money into the fund management sector, I am afraid this sector will benefit most from the MPF.

In marked contrast, not only will an OPS have immediate effect so that every member of society will have basic retirement protection, it will also have a wealth redistribution effect in that contributions will be proportionate to the contributors' means and low-paid employees' pension entitlement will not be pegged to the present level of wages. Under the "protection net" afforded by this scheme, none will be under the poverty line.

Mr President, a responsible government should ensure that every member of society will have reasonable economic protection during his or her old age. I am of the view that the Government should go about the matter and resolve the problem with greater dynamism. The OPS is a scheme which will pool society's resources to accord overall protection to every member of society during his or her old age. It will also lessen the Government's expenditure on comprehensive social security assistance. I urge the Government, having gone astray, to backtrack, take the correct path and reconsider introducing the OPS.

Mr President, I so submit.

**MR LEUNG YIU-CHUNG** (in Cantonese): Mr President, old age retirement protection has been a subject of discussion for over two decades during which time Hong Kong's economy has developed rapidly. People in their prime of life then, that is to say, in their forties, are now old people in their sixties. These people who have worked to create the prosperity in Hong Kong are now in their old age but they have no pension and live in poverty, not being able to enjoy the fruit of their past contributions to society. As a member of society, I can only

feel ashamed!

In the past few years, the Government has been going round in circles on old age retirement protection. What is most saddening is that the Government had first given the old people a hope but as soon as it was under the pressure from the Chinese side, it poured cold water over the old people. Having succumbed to pressure, neglected the demands and requests of the civic bodies and Legislative Councillors, and disregarded the everyday needs of the old people, the Hong Kong Government produced the Mandatory Provident Fund (MPF) Scheme which is neither fish nor fowl. This situation is regrettable. But I am not desperate because I know if we give up too, the old people who are now living in poverty will sink even deeper into desperation and helplessness. Hence, I will support the Honourable LEE Cheuk-yan's motion and I hope that the Government will "rein in at the brink of the cliff" and reconsider the Old Age Pension Scheme.

There are many shortcomings with the MPF Scheme which we have pointed out clearly in the past and I believe all have heard the opposition voices from society and Members clearly. When the Government applied for funding last time, some Members, being too soft-hearted, bent their backbones and bowed their heads on hearing the Government's threat to rather scrap the Scheme than let Members have their way. And so they accepted the "indecent" deal. The MPF Scheme will obviously be unable to support the lives of the over 600 000 old retirees over 65, how can we support it? And obviously it is a plan which discriminates against the housewives and the handicapped, how can we agree to it?

When lobbying the Members last time, the Government claimed that the MPF Scheme was only one of the plans provided for the old retirees and the Government did not rule out the possibility that it would consider some other plans. If it is really so, I ask the Government to please bring out its sincerity to fulfil its promise and put forward a new plan shortly so that the old people can get a little comfort in their old age. Therefore, I hope, and indeed I suggest, that the Government consider two aspects.

First, while implementing the MPF Scheme, the Government should also launch an Old Age Pension Scheme and allocate 1.5% of the moneys deposited in the provident fund for the purpose of giving to old people over 65 of age immediately an amount equal to 30% of the median wage to meet their pressing

need. I believe that, in so doing, the Government would not be going against its present principle nor would there be any conflict.

The second method is also the most thorough one. I hope that the Government will sincerely mend its ways, abolish the MPF Scheme and immediately put in place an old age retirement protection scheme instead that can benefit the recipients immediately with a wider coverage.

In fact, we know full well that when lobbying for the allocation of funds to the MPF Scheme last time, the Government only made an empty promise in order to answer to the Members to indicate that it would not give up other plans to help the old. But in fact, the Government's plan is to have the MPF Scheme completely replace other ways or means and bury the Old Age Pension Scheme. Should Members support Mr LEE Cheuk-yan's motion today, I hope that you will not vote for it just out of moral consideration or vote for it just to answer to your voters but I hope that Members will vote for it in all sincerity. In the days to come, please do not succumb to any pressures but continue to fight for the Old Age Pension Scheme.

Someone says: Whoever do not support the Old Age Pension Scheme will carry the guilt of betraying the old and betraying their own conscience for the rest of their lives. These words are, I believe, food for thought to every Member.

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

**MR FRED LI** (in Cantonese): Mr President, I believe Members have debated numerous times in this Council the shortcomings of a mandatory privately-run provident fund (MPF) and the merits of an old age pension scheme (OPS). I shall not repeat the arguments here. At the present moment, I am overwhelmed with disappointment. The primary legislation in respect of mandatory retirement protection was enacted towards the end of the last Legislative Council Session. At the end of last month, funding allocation for the MPF was approved. And now we are holding once again a debate on the OPS. I absolutely believe that we are attempting the impossible though we are fully aware of the futility of it. I have to ask: Who axed the OPS? Who supported

the MPF and buried the OPS?

The Government once made an all-out effort to sell the OPS. At that time, Mr LAM Woon-kwong picked up the gauntlet thrown into the ring by the detractors of the OPS and went on a campaign trail to defend vigorously the OPS. But eventually the proposed scheme was dropped. The Government said that there was no popular support for the scheme. As a matter of fact, to tell the plain truth, it was the business faction in this Council, the Liberal Party and the Chinese side who were opposed to the scheme. I absolutely believe it was because of this that the Government has ceased to follow-up on the OPS.

The way the Chinese side made known its stance was disappointing. In August 1994, the Economic Sub-group of the Preliminary Working Committee (PWC) indicated that the ideal way would be to launch an MPF and warned the Hong Kong Government never to implement the OPS without first presenting it for discussion by the Sino-British Joint Liaison Group and securing agreement from the Chinese side. I believe it was for these reasons that the Government gave up the OPS. I have to ask: How many members of the PWC Economic Sub-group were qualified to speak on behalf of Hong Kong's low-income people? The Chinese side only listened to the Economic Sub-group's capitalists and gave the thumbs-down to the OPS. This amounted to disregard of Hong Kong people's interests.

The Government had been uttering threats to the effect that if this Council overturned the MPF no retirement protection scheme of whatever nature or form would ever be implemented. This is like saying: I am giving you a rotten orange and you must eat it; if you do not, you will starve to death and you are to blame. Unfortunately, many Members succumbed to the threat and eventually supported the Government's application for funding last month. Such statement by the Government was misleading and irresponsible. Hong Kong's population is aging. Applications by elderly people for Comprehensive Social Security Assistance (CSSA) are bound to increase. Having regard to the position of its fiscal expenditure, the Government will have to set up some form of retirement protection in any event. Therefore, the threat uttered by the Government was a hollow threat.

We have to understand that to support the MPF will not simply mean supporting a "rotten orange" proposal. It will mean ruling out the possibility of introducing yet better retirement protection schemes in the days to come. For

instance, the OPS is a scheme which, we think, should merit support.

Obviously, the Government will continue to implement the MPF if it is launched and will never consider the OPS again. The only thing we can do is to continue to oppose the funding allocation for the MPF and to force the Government to launch the OPS. We hope that those of our colleagues who say they support the OPS will act the way they say they will act. We cannot give up our principles when pressure is brought to bear on us. Yesterday, I visited a centre for the elderly in Nam Tin and consulted the elderly people's views with regard to today's debate. There was enthusiastic attendance at the forum that I held, with 180 elderly people showing up. They unanimously expressed disappointment with the Government. They queried why the OPS had no sooner been proposed than it was put into the freezer and then disappeared. They requested me to cast my vote in support of the Honourable LEE Cheuk-yan's motion in today's debate. Hence, I am also representing these 180 elderly people when I cast my vote, along with the Democratic Party, in support of the present motion.

These are my remarks.

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Mr President, much of what has been said in this debate, the Government and the public all heard before. I must confess that it seems that some Members neither fully understand the benefits that will be derived from the Mandatory Provident Fund (MPF) system, nor are they cognisant of the many benefits, in kind as well as in cash, that are already available to our elderly people.

*Retirement protection and welfare benefits*

In the course of my speech I shall spend some time on both subjects. Before doing so, however, I should like to stress the difference between retirement protection and welfare benefits. The former aims to provide financial security for members of the workforce when they retire. Whether contributory or non-contributory, a retirement protection system is designed to ensure that persons in the workforce (and thus by extension those who are dependant upon them) can provide for themselves once they retire from active

employment or self-employment.

Welfare benefits, on the other hand, are designed to help the disadvantaged maintain an acceptable standard of living. The benefits include financial and material assistance, as well as access to necessary facilities and the provision of relevant services.

*Key points of the MPF*

Let me return to the MPF, which we believe meets community aspirations for the establishment of a retirement protection system. I do not want to remind Members of the key elements of the scheme. But I wish to say that I disagree.

*MPF - likely benefits*

I am indeed surprised to hear some Members say that the MPF will not meet the basic needs of the elderly within the next few decades. According to the projections in the consultancy report on the MPF, assuming a net investment return of only 3% a year (that is a return in excess of salary increases):

- (a) an employee who has an initial salary of \$8,000 and who retires after contributing to an MPF scheme for 30 years will be able to receive a lump sum equivalent to 50 times his final monthly salary. If he uses this to buy an annuity, then his monthly income after retirement would be equivalent to 35% of his final monthly salary; and
- (b) if he retires after 20 years of contributory service, then his retirement income would be about 21% of his final monthly salary.

Two-thirds of our 3 million strong workforce are below the age of 40. With the implementation of the MPF system, they will have a comfortable period of time in which to contribute, and to receive the benefit levels which I have just described. It is thus an exaggeration at best, and completely fallacious at worst, to imply that the MPF will not be able to meet the retirement needs of our population within the next few decades. I must also stress that the Government is very much concerned about the livelihood of the elderly people in their twilight years.



*Concern about the livelihood of the elderly*

For elderly persons who are now in financial need, there is the Comprehensive Social Security Assistance (CSSA) Scheme which provides welfare benefits on a non-contributory basis. The average CSSA payment to a single elderly person is currently about \$2,700 a month. Medical treatment for CSSA recipients at public clinics and hospitals is free. As Members are aware, a comprehensive Review of the CSSA Scheme is well underway to assess how well it is meeting the need of recipients. Based on preliminary findings of the Review, we have proposed significant increases in certain CSSA standard rates, including those for elderly persons living in a family unit, with effect from next April. These proposals are only one part of the Review which also covers other aspects of the Scheme. The Review will be completed early next year when recommendations will be made on whether further improvements may be justified to benefit CSSA recipients including the elderly.

But CSSA payments are not the solution in many cases. For groups like the elderly, cash-in-hand does not always address the main difficulties they may face. They need the care and support that can be provided only by a comprehensive network of services.

This is why we are spending nearly \$3.2 billion this year alone on services for the elderly. We have in hand a well co-ordinated expansion of interrelated services - home help teams, social centres, multi-service centres, day care centres, outreaching services, expansion of volunteer services, care-and-attention homes, infirmaries, and the new nursing homes and so on. We are also encouraging the promotion of standard of residential care homes through statutory controls and to provide more self-financing projects of a higher quality. Through close liaison with the medical sector, we have introduced special visiting geriatric and psychogeriatric teams and clinics for the elderly. The Housing Authority has rehoused 23 000 elderly people from unsuitable accommodation since 1992 and, since 1994, has provided 5 000 special flats for them. This is a massive inter-departmental programme combined with incentives for the private sector, all designed to provide the level of care and services which our elderly citizens deserve. The Honourable LAW Suk-ching made two proposals relating to elderly welfare just now. I recall that such proposals were also put forward by the community, but I will refer such proposals to the Secretary for Health and Welfare for consideration.

*The Old Age Pension Scheme (OPS)*

I shall move on to the issue of an OPS. If some Members here today are under the impression that the concept of an OPS has not been adequately debated in this Council, let me refresh their memories. On 8 March 1995 this Council debated two motions. The first of these urged Government to introduce as expeditiously as possible a mandatory, privately managed occupational retirement scheme with provision for the preservation and portability of benefits.

The aim of this debate was to seek Members' support for the introduction of a mandatory provident fund system. As Members will be aware, this eventually resulted, some four and a half months later, in the MPF Ordinance.

The second motion debate that day dealt with the OPS. In both debates there was full and intensive discussion about the perceived merits of an OPS, as well as the deep public concern that had been expressed by many within the community about the OPS that had been outlined in the public consultation paper which we issued in July 1994.

Before I remind Members of some of the views expressed on the OPS, let me make it very clear that the Government have no intention whatsoever of introducing an old age pension in any shape or form. It would be both futile and inappropriate, and certainly not in keeping with current community sentiment, for such a concept to be brought out of the cupboard and dusted off when it has been so recently and resoundingly buried by the weight of adverse public opinion.

#### *Views expressed on the OPS*

I shall turn now to the views expressed on the OPS. When the OPS consultation period ended on 31 October 1994, we had received a total of 6 655 written submissions. Although this was an encouraging response in numerical terms, as we assessed the views expressed in the submissions it became clear that public opinion on the OPS was, at best, divided. While many supported the principle of an OPS, in most cases such support was qualified by calls for immediate improvement to CSSA benefits for the elderly, or for a wide range of amendments to some of the basic principles of the scheme. Under no circumstances could such diverse views be seen as clear, unequivocal support for the OPS as proposed in the public consultation document.

Members of this Council may also recall that there were many submissions

which opposed the OPS in principle. A variety of arguments was put forward as to why the scheme was unsuitable and should not proceed. Some claimed that an OPS would mix up the concepts of social welfare and retirement protection. Others believed that it would shift the burden of old age protection from the individual and the family to society, and that in the long run it could have an adverse effect on attitudes towards work and saving, and would lead to a breakdown in traditional Chinese values.

Still other submissions argued that an OPS would not be fair, as the amount of pension received did not relate directly to the amount that had been contributed. A flat rate of benefit would be inadequate for those in need, and superfluous for the better off.

Last but no least, many submissions expressed grave concern that the OPS would end up facing problems similar to those experienced by OPSs in western welfare states.

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

Mr Deputy, it was only too clear from the tone of such comments, that there was no real desire in the community for an OPS along the lines proposed in Governemnt's consultation paper on that subject. On the contrary, there was a very clear call for the introduction of a mandatory provident fund system, which was viewed as being more in keeping with Hong Kong's way of life.

Both this Council and Governemnt responded to this call. The MPF Schemes Ordinance was passed at the end of the last legislative session. On 24 November 1995 Members of the Finance Committee of this Council approved funds to enable us to engage consultants to assist in the preparation of the MPF Schemes Ordinance subsidiary legislation. I hope that Members participating in the present debate will clearly bear in mind the fact that the Legislative Council twice supported Governemnt's proposal.

### *Conclusion*

Mr Deputy, let me say once again what the Administration said in this Council on several occasions in the past. The community made it abundantly clear that we had no mandate to proceed with an OPS. These views are still comparatively recent, and there is no reason at all to imagine that feelings have

changed in such a short time. The community sought a mandatory provident fund system, and that is what the Administration, with the support of this Council, has provided.

Mr Deputy, our existing welfare system will look after the needs of the disadvantaged, while the MPF will take care of members of the workforce, and their dependants, in future. The door to an OPS has been closed by public demand and it must remain firmly locked, not to be reopened either now or in the future. The Administration will absolutely not introduce the OPS in addition to the MPS. The suggestion of having both the schemes implemented is totally impractical as it will constitute an unbearable economic burden on the whole Hong Kong community. Mr Deputy, the Administration does not support today's motion. I urge Members to vote against the motion.

THE PRESIDENT resumed the Chair.

**PRESIDENT:** Mr LEE Cheuk-yan, you are now entitled to reply and you have six minutes 40 seconds out of your original 15 minutes.

**MR LEE CHEUK-YAN** (in Cantonese): Mr President, a while ago I raised a question: How will the Administration and Members of this Council make themselves accountable to the elderly people? Having heard the numerous speeches just delivered, I find that opposing Members and the Administration have indicated that the way to account themselves would be to increase the comprehensive social security assistance (CSSA) rates of payment. At present, of the 0.6 million elderly people in Hong Kong, only 70 000 are eligible for CSSA. How will these Members and the Administration account themselves to the 0.5 million-plus elderly people? However hard they may try to argue out of this, there is only one way to account themselves. And that is to set up the old age pension scheme (OPS), failing which they can never account themselves to the elderly people.

Secondly, the Honourable Ambrose LAU as well as the Administration made reference to the public consultation exercise. Over 6 000 questionnaires were issued and, according to Mr LAU, most of the respondents were opposed to the scheme. The Administration, however, commented rather more aptly that

views were divided. As a matter of fact, if signature campaigns were taken into account, there were more people in favour of rather than against the scheme. I have to remind Members that old people did not know how to play the consultation game. Of the 180 old people mentioned by the Honourable Fred LI moments ago, I believe none wrote to the Administration because they did not know how to play this consultation game. Old people who did not know how to write were taken to be not opposed to the scheme. But those economists who were opposed to the scheme all knew how to write. Thus, the proposed scheme was overwhelmingly overturned. This was indeed unfair. Therefore, I feel that the public consultation exercise was a sham.

Thirdly, Mr Ambrose LAU as well as the Administration argued a while ago that we should not take the road that western welfare states have taken. Whenever we discuss any social welfare proposals of a progress-making nature, some people would invariably say we should take a look at western countries and be careful not to make a mess of the economy the way western countries do. Such comment is over-simplification which is groundless and not supported by analysis. Who says that western countries have good welfare but a lousy economy? How about Germany? How about Japan? How about Sweden? Are they still in existence and faring well? A country's poor economy has diverse causes. Please do not pillory welfare as the sole cause and attribute all economic woes to welfare whenever we discuss this subject. Why cannot we say citizens of western countries enjoy a superior quality of life because of good welfare? Why cannot we say so?

Anyway, what we are discussing now is not some big welfare item but just welfare of a trifling nature. It is like a bowl of plain porridge, not a "shark's fin package". I feel that basically it will have no effect on Hong Kong's economy. What we are discussing is just the proposal to give the elderly people \$2 000-plus each and to require employer and employee to contribute 1.5% each. This in fact would be cheaper than what a mandatory provident fund (MPF) would cost. I do not understand why the Honourable Paul CHENG should argue just now that the old age pension scheme (OPS) would impose a heavy burden on Hong Kong's economy.

The Honourable Henry TANG mentioned the analogy of "the frog". Allow me to follow up the "frog" analogy with him. As a matter of fact, the MPF proposal is precisely the agent that has put retirement protection into

hibernation for 20 years. I listened intently when the Secretary for Education and Manpower said that we were exaggerating. He described as gross exaggeration our criticism that the MPF would not be capable of giving protection to old people in 80 years. However, the argument he advanced and made great play of only served to draw a line at the 20-year mark. What indeed was the point of his argument? He cited an example to the effect that after contributing to the scheme for 20 years an old person would receive 21% of the median wage. He only said 20 years; he dared not go on to elaborate how the money would be calculated for the 10 years following the first 20. It is because he knew that the calculation, if spelt out, would be harrowing to the ear. Therefore, what the Secretary said has served to bear out my argument to the effect that 20 years is not a proper criterion to take. We have to be wary that, even after contributing to the scheme for 20 to 30 years, low-income employees would receive even less because of their low wage base. Mr Henry TANG made reference to the "frog". I now call on Members to give the "kiss of life" to the "frog" so that it will turn into a prince; so that retirement protection will be restored to life and provide adequately for local people in their old age. Mr TANG also gave a barbed remark that Hong Kong people would be led towards a pot of scalding water. Talking of hot water, I think of something called "jacuzzi". I do not know if Members have enjoyed this so-called "hot water massage". If we set up the OPS, it would indeed be an opportunity to let old people enjoy this hot water massage. Yet the temperature of hot water would not be such as would scald them to death. The temperature would be suitably adjusted so that it would be just right. This would be the benefit an OPS would give to old people. Therefore, it would not turn out the way as alleged by Mr TANG, namely, that the "frog" would be scalded to death. On the contrary, it would really enable old people to live peacefully during their twilight years and have a dignified retired life.

Lastly, I would like to respond to a rather heavy-handed remark made by the Secretary for Education and Manpower towards the end of his speech. He said the door to the OPS was already locked. I hope Members will lend a hand in prying open this lock. Of course, many would ask what other way would be open to us. The Secretary said that there was no clear opinion among the community with regard to the OPS. I would like to ask this : If the motion is passed by a majority vote this evening, will this constitute a public opinion base and will the Administration still ignore the Legislative Council in this respect? Therefore, I would like to see how the Administration will respond to this public opinion base. On the other hand, of course, I know it might not be possible to

introduce the OPS by means of a Member' Bill. However, eventually, I have figured out some other way. It is the Honourable SZETO Wah who gave me the cue. If all the Members were willing to act in concert to vote down the Budget we would have the chips with which to bargain with the Administration. I can now see that the Financial Secretary is immediately biting the end of his pencil.

I so submit.

*Question on the motion put.*

*Voice votes taken.*

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

**MR JAMES TIEN:** I call for a division.

**PRESIDENT:** Council shall proceed to a division.

**PRESIDENT:** 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:** 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 CHEUNG Man-kwong, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Mr LEE Wing-tat, Mr Fred LI, 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 CHENG Yiu-tong, Mr Anthony CHEUNG, Mr CHEUNG Hon-chung, Mr Albert HO, Mr IP Kwok-him, Mr LAU Chin-shek, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr LEE Kai-ming, Mr LEUNG Yiu-chung, Mr Bruce LIU, Mr MOK Ying-fan, Miss Margaret NG, Mr SIN Chung-kai, Dr John TSE and Mr YUM Sin-ling voted for the motion.

Mr Allen LEE, Mrs Selina CHOW, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Dr LEONG Che-hung, Miss Emily LAU, Mr Howard YOUNG, Mr James TIEN, Mr Paul CHENG, Mr David CHU, Mr Ambrose LAU and Mr LO Suk-ching voted against the motion.

Miss Christine LOH abstained.

THE PRESIDENT announced that there were 31 votes in favour of the motion and 13 votes against it. He therefore declared that the motion was carried.

#### **ADJOURNMENT AND NEXT SITTING**

**PRESIDENT:** In accordance with Standing Orders, I now adjourn the Council until 2.30 pm on Thursday 14 December 1995, that is, tomorrow afternoon.

*Adjourned accordingly at fifteen minutes to Ten o'clock.*

*Note:* The short titles of the Pneumoconiosis (Compensation) Ordinance and the Legislative Council (Powers and Privileges) Ordinance listed in the Hansard have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.