

# **OFFICIAL RECORD OF PROCEEDINGS**

**Wednesday, 17 January 1996**

**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.

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., F.Eng., 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

THE HONOURABLE CHAN KAM-LAM

THE HONOURABLE CHAN WING-CHAN

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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

## **MEMBER ABSENT**

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

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

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

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

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

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

MR KWONG HON-SANG, J.P.  
SECRETARY FOR WORKS

MISS DENISE YUE CHUNG-YEE, J.P.  
SECRETARY FOR TRADE AND INDUSTRY

## **CLERKS IN ATTENDANCE**

MR RICKY FUNG CHOI-CHEUNG, SECRETARY GENERAL

MR LAW KAM-SANG, DEPUTY 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

*L.N. No.*

Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) Order 1996.....	26/96
Slaughterhouses (Regional Council) (Amendment) Bylaw 1996.....	27/96
Noise Control (General) (Amendment) Regulation 1996....	28/96
Noise Control (Construction Work) Regulation .....	29/96
Noise Control (Construction Work Designated Areas) Notice.....	30/96
Noise Control (Amendment) Ordinance 1994 (2 of 1994) (Commencement) Notice 1996 .....	31/96
Noise Control Ordinance (Cap. 400) (Commencement) Notice 1996 .....	32/96
Boilers and Pressure Vessels (Amendment) Regulation 1996 .....	33/96
Employment Agency (Amendment) Regulation 1996.....	34/96

Sessional Paper 1995-96

No. 52 — Report by the Controller, Government Flying Service on the Administration of the Government Flying Service Welfare Fund for the year ended 31 March 1995

## ORAL ANSWERS TO QUESTIONS

### Long Term Housing Strategy Review

1. **MR ALBERT CHAN** asked (in Cantonese): *Mr President, with regard to the Long Term Housing Strategy Review being undertaken by the Government, will the Government inform this Council:*

- (a) *of the methodology and assumptions to be used and the factors to be considered in the assessment of the long-term housing demand; and*
- (b) *how the composition of the Long Term Housing Strategy Steering Committee is determined, and what are the criteria adopted by the Government for appointing members to the Committee?*

**SECRETARY FOR HOUSING** (in Cantonese): Mr President, the first part of the question involves technical and complex information which does not lend itself to a short oral answer. For this reason, I have already agreed to provide a comprehensive briefing to the Housing Panel of this Council and other interested Honourable Members in a fortnight's time. Members are welcome to raise any technical questions, if any, for discussion at the briefing.

To answer the question raised today, the Government has commissioned the Planning Department to assess housing demand in both the public and private sectors up to March 2006. The housing demand model devised by the Department operates in four steps, and allows a variety of flat production targets to be projected based on differing policy scenarios. I shall briefly describe each of these steps.

First, the model calculates the total housing need over a given assessment period. "Housing need" refers to the number of existing or new households which will require adequate housing, and "adequate housing" is in turn defined as "self-contained living quarters made of permanent materials".

There are two major categories of housing need. The first comprises newly arising needs, which come about as a result of marriages, divorces, legal immigration from China and other factors. The second comprises existing needs. These come about chiefly as a result of the redevelopment of public rental estates and private sector flats, and the clearance of Temporary Housing Areas, Cottage Areas and squatter areas. I have tabled (Annex A) the major components of housing needs for Members' information.

But not all households which theoretically need housing actually want to have separate accommodation at a given point in time. The total housing need calculated by the model is therefore discounted by a factor (known technically as the "accommodation generation rate") to arrive at the number of existing or new households which may be expected to seek separate accommodation.

The second step is for the model to split total housing need between the public and private sectors, based on assumptions relating to household income and housing preferences.

Third, the model converts these figures for housing need into housing demand, that is, the number of existing and new households actually seeking accommodation. In the public sector, housing demand is assumed to be equal to housing need, subject to the availability of resources. However, in the private sector, demand is constrained by affordability. A factor is, therefore, applied to convert private housing need into demand, based on past trends.

Fourth, public and private housing demand is then translated into flat production requirements. Again for the public sector, flat production requirement is assumed to equal demand. However, for the private sector, the calculation takes into account the need to allow for an extra margin for flats used as second homes or for investment purposes.



These various steps are schematically illustrated in the chart (Annex B) which I have tabled.

Each stage of the operation of the model involves technical assumptions which are based upon:

- (a) Government policies and existing programmes;
- (b) statistical projections; and
- (c) professional judgement, taking into account past trends and the best available information about future patterns.

Working assumptions derived from Government policies include such policies as the number of legal immigrants from China and established public housing development programmes. Population projections by the Census and Statistics Department form the basis for forecasting newly arising housing needs, while the housing needs generated in the public sector are based on projections prepared by the Housing Department.

When statistical data are less comprehensive, professional judgement based on past trends is applied. This includes such factors as the splitting of existing households, housing demand arising from new marriages, affordability and investment. The various statistics and assumptions built into the model can all be varied. The housing demand model is therefore an effective tool in estimating the impact on demand and Government resources of possible housing policy changes.

Mr President, I would like to point out that the working assumptions are being refined. So far, the Government has not yet endorsed the preliminary housing demand projections produced by the housing demand model. Members should not be under the false impression that the results of the model will be used to drive the Long Term Housing Strategy Review, which is now in progress. The Review will formulate the long term direction for housing policy in Hong Kong. Only when the Review has been completed shall we proceed to determine the effect of any agreed policy changes on housing demand projections up to the year 2006. We intend to issue a public consultation document on our proposals and recommendations in the middle of this year.

Turning to the second part of Mr CHAN's question, I have set up a Steering Group to assist me in the task of reviewing the Long Term Housing Strategy and making proposals to address our housing problems. In addition to myself as Chairman, the Group comprises two government officials, the Chairman of the Housing Authority, the Executive Director of the Housing Society, three businessmen, a banker, an economist and an academic. A list of members has been published and is now tabled (Annex C) for Members' information. Apart from understanding the community work and the problems of the various strata of society, the Group also has a good knowledge of the housing development. The Group provides me with professional, independent and non-political advice on the issues to be considered in the Review in a way which will complement the existing channels of communication with key organizations or individuals with an interest in housing matters.

In order to gather views and suggestions for the Review, I have already held a series of meetings in the past two months with Honourable Members of this Council. I have sought the views of the Housing Authority. Through the media, the Housing Branch has also solicited suggestions from interested groups and the general public. All the views and suggestions received will be taken into consideration before we formulate proposals for incorporation into a public consultation paper. But I would like to point out that this is only a consultation paper. Anyone can submit views on the various preliminary proposals contained in the review and we will definitely examine the proposals carefully.

As regards criteria, members of the Steering Group have been chosen for their general experience, knowledge, or expertise in housing-related matters. All have been appointed in their personal capacities. The contributions made by individual members will be entirely advisory in nature and members will have no power to make decisions. Future decisions will be made by the Administration after people of various sectors have submitted their views on the consultation paper.

## Annex A

Housing Demand Model  
Components of Housing Needs

(1) Newly Arising Housing Need

- New marriages
- Re-marriages
- Legal immigrants from China
- Divorces
- Expatriates
- From splitting of complex family structure

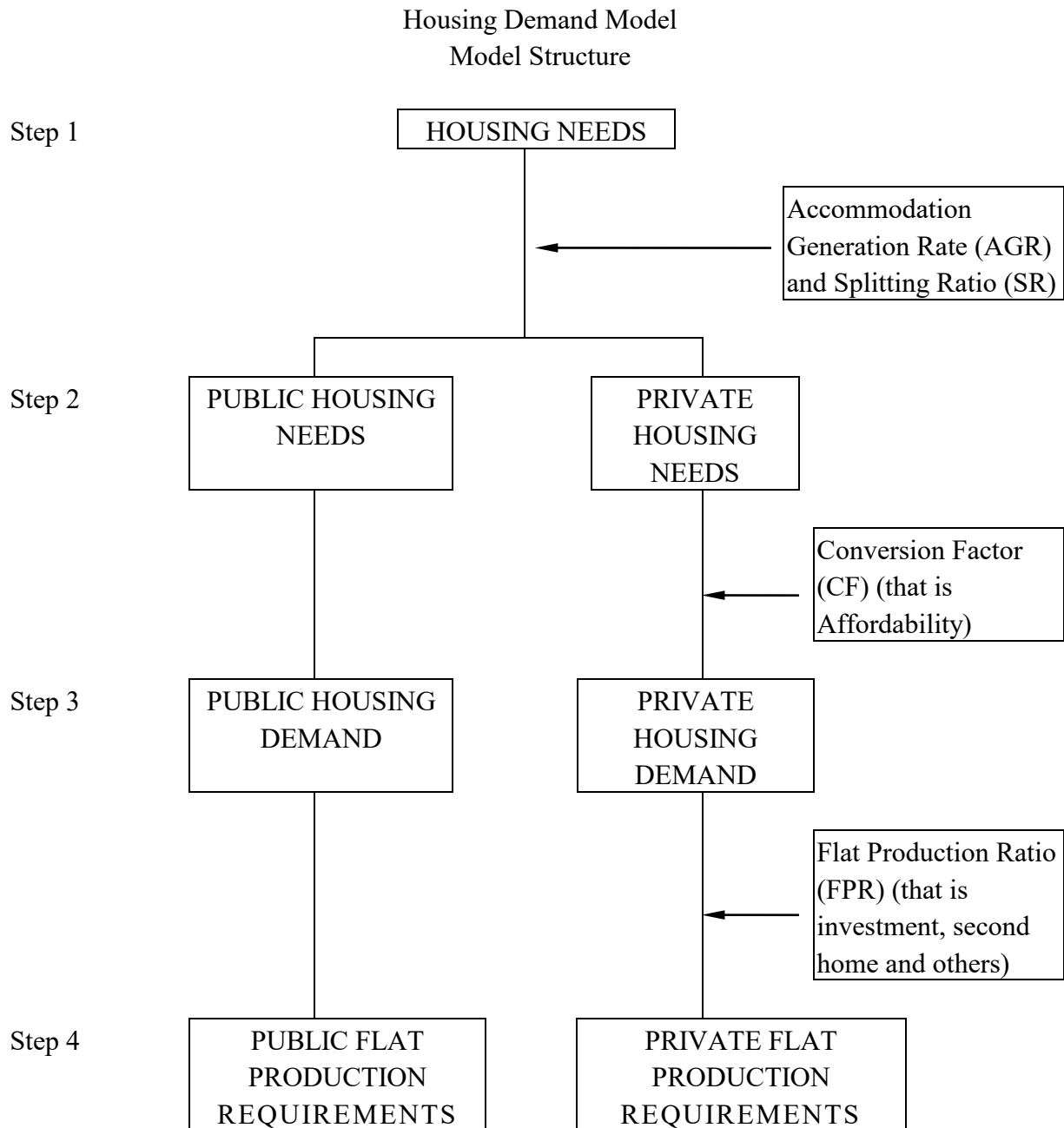
(2) Existing Housing Needs

- Redevelopment of public rental estates
- Clearance of Temporary Housing Areas/Cottage Areas/squatters
- Emergency/Natural disasters and compassionate cases
- Redevelopment of Land Development Corporation and private developers
- Other (that is inadequately housed households)

(3) Reduction in Housing Needs

- Net outflow of Hong Kong residents (due to emigration)
- Transfers (due to transfer to other adequate size flats and so on)

TOTAL HOUSING NEEDS = (1) + (2) - (3)



(For the public sector, the flat production requirement is assumed to be equal to the housing demand and housing need)

(For the private sector, Conversion Factor and Flat Production Ratio need to be applied to convert private housing needs into private housing demand and production requirement)

Long Term Housing Strategy Review  
Steering Group Membership

The Secretary for Housing (Chairman)

The Honourable Rosanna WONG, CBE, JP, Chairman of Housing Authority

Mr Victor SO, JP, Executive Director of Housing Society

Mr FUNG Tung, OBE, JP, Director of Housing

Mr K Y TANG, JP, Government Economist

Mr K Y YEUNG, CBE (businessman)

Mr WAN Man-yee (businessman)

Mr Barry CHEUNG (businessman)

Mr Anthony WONG Kin-kwan (banker)

Mr KWOK Kwok-chuen (economist)

Mr LAU Kwok-yu (academic)

**MR ALBERT CHAN** (in Cantonese): *Mr President, apart from government representatives, the Steering Group for Long Term Housing Strategy Review is composed of members the majority of whom are directly connected with real estate and banking interests. This gives people the impression that with regard to this Long Term Housing Strategy (LTHS) review the Government is being led by the nose by financial consortiums while grass-roots interests are being sacrificed and exploited. May I ask how the Government is going to ensure that the development of the LTHS will be consistent with public interests and that it will not be manipulated and controlled by people with vested interests?*

**SECRETARY FOR HOUSING** (in Cantonese): Mr President, I am grateful to

the Honourable Albert CHAN for giving his views in this regard. The Steering Group actually is a small-scale internal advisory setup to assist us in studying the views put forward by people from all walks of life, including Legislative Councillors, members of the public and grass-roots people. Membership of this Steering Group, as I said in my main reply a moment ago, includes people who are knowledgeable in social work and who used to be involved in work of various sorts connected with the grass-roots or housing matters. We find that they are a group of independent people. As Secretary for Housing, I will not, in the course of this review, be biased and tending to favour the views of any one side but will consider the views of all sides, including the views already expressed by Legislative Councillors, the views expressed or to be expressed by the Housing Authority and the views expressed to us by members of the public. We will very carefully collate the views and consider them one by one before making our final proposals to be published in a consultation document for discussion by the public.

**MR LEE WING-TAT** (in Cantonese): *Mr President, Mr Dominic WONG is of the view that real estate developers and bankers will certainly give him independent advice in the course of the housing development review. I am most surprised to hear of it. Honourable Members must be aware that a conflict of interests will arise in relation to the work and profession of those people vis-a-vis the matters under review. I am most puzzled as to why Mr WONG should have so decided. However, since it has been decided, there is no way to change it now. This Steering Group can have access to and scrutinize all the relevant data in the course of the LTHS review. Since Mr WONG thinks that those who are liable to have a conflict of interests can have access to such data, may I ask if the data available to and scrutinized by this Steering Group can be simultaneously made available to the public and Legislative Councillors for scrutiny and discussion?*

**SECRETARY FOR HOUSING** (in Cantonese): Mr President, I do not think that members of the Steering Group are liable to have a conflict of interests. They are appointed in their personal capacity. As I said a while ago, they have no decision-making power. Of course, during this review, we will have to study carefully a huge amount of data which cannot, at the present stage, be made public. That being the case, we cannot release in advance these data. Nevertheless, I can assure Honourable Members once again that we will publish

a consultation document in the middle of this year to enable members of the public to express views on the recommendations we shall be making and the orientation thereof. At present, our work has not yet reached the stage where a decisive policy orientation has been worked out. It will not be until after the public consultation exercise when we shall have heard and carefully considered the views of Councillors and members of the public that a final conclusion will be arrived at by the Government.

**PRESIDENT:** In view of the very long answer and in view of the fact that the Secretary has promised to give this Council's Housing Panel a briefing, I propose to take one more supplementary and then proceed to the next question.

**MISS EMILY LAU** (in Cantonese): *Mr President, obviously, this Steering Group plays a very important role. But I believe that the general public will find it most unfair because of the dominant number of group members from the business sector. Will the Government tell this Council if the membership is already fixed and cannot be changed? After hearing views from diverse quarters, will the Government expand the membership of the group to include representatives from other sectors and social strata? If not, I believe the credibility of this Steering Group will be very much open to question.*

**SECRETARY FOR HOUSING** (in Cantonese): Mr President, as a matter of fact we have never said that the membership of the Steering Group cannot be changed. I would consider this if, in the course of our work, the need for other people to join the group should arise.

### **Co-operation with the Preparatory Committee**

2. **MR ALBERT HO** asked (in Cantonese): *Mr President, the Preparatory Committee (PC) will set up its secretariat or liaison office in the territory early this year and the Hong Kong Government has openly pledged to co-operate with the PC in accordance with the principle of openness and transparency. In this connection, will the Government inform this Council:*

- (a) *how the Government will implement the principle mentioned above in practice;*
- (b) *whether the Government will undertake to submit to this Council information on each and every meeting held between officials of the Hong Kong Government and the PC members including at the minimum the following:*
  - (i) *the date and place of the meeting;*
  - (ii) *the agenda for the meeting;*
  - (iii) *all information provided to the Hong Kong Government by the PC;*
  - (iv) *all information provided to the PC by the Hong Kong Government;*
  - (v) *decisions or agreements reached at the meeting and matters to be followed up; and*
- (c) *whether the Hong Kong Government will request the British Government to clarify if there is any change in the role of the Sino-British Joint Liaison Group and if the work of the Sino-British Joint Liaison Group will overlap with that of the PC?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS:** Mr President, I would assure this Council that the Government will follow the principle of openness and transparency in its dealings with the Preparatory Committee, and will account for its actions to this Council and the community. To this end, we will regularly brief this Council on how we are co-operating with the Preparatory Committee. We envisage that the Constitutional Affairs Panel will be the main forum for such briefings.

As to precisely what the briefings will cover, this question hinges largely on the details and forms of assistance to be provided by the Hong Kong Government to the Preparatory Committee. At their recent meeting in Beijing, the British and the Chinese Foreign Ministers have agreed that the detailed



arrangements for co-operation should be sorted out through the Joint Liaison Group (JLG) channels. Once the modalities for co-operation with the Preparatory Committee have been finalized, the appropriate arrangements for accounting to the public on our dealings with the Committee can then be determined, and in this connection, we will certainly give very careful consideration to the views of this Council and the public.

For now, I would like to emphasize two points. First, our assistance to the Preparatory Committee will be within the three parameters stated by the Governor in last year's policy address, which are:

- (a) that it must be fully consistent with the Joint Declaration and the Basic Law, and be in Hong Kong's interests;
- (b) that the authority and credibility of the Hong Kong Government must not be undermined; and
- (c) that the morale and confidence of the Civil Service must not be affected; civil servants must not be subjected to conflicting loyalties.

The second point I would like to make is, whilst the Hong Kong Government will be fully accountable for its own actions, it cannot be held accountable for the Preparatory Committee's actions. We cannot speak on behalf of the Committee, or explain the Committee's decision. These must be matters for the Preparatory Committee itself.

As regards the final part of Mr HO's question, the role of the JLG is prescribed in Annex II to the Joint Declaration. It is a diplomatic body set up by the British and the Chinese Governments to conduct consultations on the implementation of the Joint Declaration, to discuss matters relating to the smooth transfer of government in 1997, and to exchange information and conduct consultations on such subjects as may be agreed by the two sides.

The Preparatory Committee, on the other hand, is a body set up by the Chinese National People's Congress (NPC). According to the NPC's Decision adopted on 4 April 1990, the Committee's responsibilities are to prepare for the establishment of the Hong Kong Special Administrative Region (SAR) and to prescribe the specific method for forming the first SAR Government and the first SAR Legislature.

There are therefore very clear distinctions between the functions of these two bodies. The establishment of the Preparatory Committee does not in any way alter the role of the JLG I have just described.

**MR ALBERT HO** (in Cantonese): *Mr President, I very much agree with what the Secretary said in the fourth paragraph of his main answer, namely, that he cannot speak on behalf of the Preparatory Committee nor can he conduct affairs on behalf of the Committee; he is accountable only for the actions of the Hong Kong Government. It is precisely because of this that I now ask the Secretary the following: Why cannot the Secretary make a specific commitment as regards the second part of my main question, that is to say, to undertake to provide this Council with information relating to the date, place and agenda for each meeting attended by the Hong Kong Government, the information provided by the Government to the Preparatory Committee, and details of the agreements reached by the Government with the Preparatory Committee? These are actions of the Hong Kong Government for which the Government should be responsible and held accountable to this Council. Therefore, according to the fourth paragraph of the main reply, the Government should have made clear and unequivocal answer to the second part of my main question, that is to say, to undertake to provide all information requested by me with the exception, of course, of the information provided by the Preparatory Committee to the Government. I hope the Secretary can give us a clear and unequivocal undertaking.*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS:** Mr President, I have stated in my main answer that the Hong Kong Government will certainly subscribe to the principle of openness and transparency in our dealings with the Preparatory Committee, and there is no dispute about that. And we will account to the Legislative Council and the community for our dealings with the Preparatory Committee. But the question is how we can achieve this in a practical, effective manner and we must have regard to the actual modalities of our co-operation with the Preparatory Committee, which, as I explained, are still a subject of discussion with the Chinese side. So we would certainly consider further how we keep Hong Kong people and the Legislative Council informed of our dealings with the Preparatory Committee, once we are certain of the detailed arrangements for our assistance for the Preparatory Committee. And Members' views on this subject will certainly be carefully considered. I have said that.

And it is very difficult to imagine circumstances where the information provided by the Hong Kong Government to 150 members of the Preparatory Committee, of whom there are 14 Legislative Council Members, should not at the same time be put to the Legislative Council. But it would be irresponsible of me, at this stage, to make any categorical commitment without knowing the actual modalities of our co-operation with the Preparatory Committee.

**DR ANTHONY CHEUNG** (in Cantonese): *Mr President, it is learnt that the Preparatory Committee may probably adopt the system of collective responsibility whereby a certain degree of confidentiality will apply to their decisions. If the Hong Kong Government co-operates with the Committee, will the former also adopt the system of collective responsibility to a certain extent such that it will be very difficult for the Government to account itself to this Council for the arrangements or measures it worked out with the Committee?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS:** Mr President, how the Preparatory Committee will organize itself and will arrange its own meeting system is, of course, a matter for the Preparatory Committee. Insofar as the Hong Kong Government's dealing with the Preparatory Committee is concerned, I have already indicated that we subscribe to the principle of openness and transparency. So the question of how the Preparatory Committee organizes itself would not affect our principle of openness and transparency.

**MR LEE WING-TAT** (in Cantonese): *Mr President, the Secretary has all along been saying that the Government will follow the principle of openness and transparency in its dealings with the Preparatory Committee. However, to my way of thinking, if the principle is not specifically implemented it will be empty and meaningless. Therefore, I feel that the Honourable Albert HO has put a very specific question. Since the salaries of civil servants are paid by the Hong Kong taxpayers and even the salaries of those staff who assist the Preparatory Committee in its work are paid by the Hong Kong taxpayers, will it be fitting and proper for those of us who assist the Committee in its work to make public, at a certain stage, the information requested by Mr HO a moment ago? Can the Government do this? If no, the Hong Kong taxpayers who pay for the salaries of civil servants will be kept in the dark as to how the civil servants are helping the other organization.*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS:** Mr President, I do not think we are in dispute here. We have already said that we would certainly account for the Hong Kong Government's actions in our dealings with the Preparatory Committee and account to the community at large and also to this Council. The question is how we translate that into concrete measures, and I have already said that it would be premature and, indeed, irresponsible of me to come down on specifics without knowing how we are going to operate and co-operate with the Preparatory Committee. Once the modalities are settled, we can then consider translating the broad principles of accountability and transparency into concrete measures, and some of the views expressed by Members would certainly be taken into account.

**MRS ELIZABETH WONG:** *Mr President, I am grateful for the Secretary's reply that the Government is prepared to work and co-operate with the Preparatory Committee. My question is: Is the Secretary sure that the Preparatory Committee is prepared to work with the Government? If so, to what extent can the Government influence the Preparatory Committee in its decision on the selection of the top 400 for selecting our Chief Executive?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS:** Mr President, it is, of course, not for me to answer on behalf of the Preparatory Committee whether it would or would not welcome the offer of assistance made by the Hong Kong Government. But I would only reiterate that, when the two Foreign Ministers met — they met in October in London and then in Beijing last week — both of them expressed satisfaction that there would be co-operation between the Hong Kong Government and the Preparatory Committee in the very important task of ensuring a smooth transition for Hong Kong. So, the Hong Kong Government's offer of assistance was made in that spirit to ensure that we could have a successful and smooth transition and to help the Preparatory Committee in that very important job. We would certainly, in our contacts and dealings with the Preparatory Committee, be reflecting the aspirations and views of Hong Kong people on the relevant subjects that are tackled by the Preparatory Committee. But of course, ultimately, it is for the Preparatory Committee to decide whether the views offered by this community, by the Legislative Council, and indeed by the Hong Kong Government, would be something that they would accept and consider.

**Police Powers in Cordoning off Areas**

3. **MR LEUNG YIU-CHUNG** asked (in Cantonese): *On the night of 14 December 1995, a group of people and university students were proceeding to the Xinhua News Agency (Hong Kong Branch) to stage a protest rally, and when they reached the entrance to the pedestrian subway at the junction of Morrison Hill Road and Queen's Road East (opposite to Queen Elizabeth Stadium), they were stopped by a party of five to six police officers who did not permit the group to use the subway to go to the other side of the road. Members of the group queried the police officers at the scene and asked them to explain the legal justifications and reasons for the closure of the subway, but the police officers refused to reply. The group eventually had to cross the road to proceed to the Xinhua News Agency. In this connection, will the Government inform this Council:*

- (a) what are the legal justifications and reasons for preventing a group of only a dozen people from using the pedestrian subway to proceed to the Xinhua News Agency;*
- (b) whether, following their decision to close the subway to prevent the group from moving on, the police officers are required under any regulations to openly explain to the group and the people at the scene the legal justifications and reasons for the closure of the subway so as to avoid unnecessary clashes; and*
- (c) which ordinance empowers the police to cordon off the area outside the Xinhua News Agency, and what are the criteria adopted by the police for determining the boundaries of the area?*

**SECRETARY FOR SECURITY** (in Cantonese): Mr President, the answers to the three parts of the question raised by the Honourable LEUNG Yiu-chung are as follows:

- (a) The police have a duty under section 10 of the Police Force Ordinance to take lawful measures for preserving order and public peace, and for regulating processions and assemblies in public places. Under section 17 of the Public Order Ordinance, the police

may prevent the holding of, stop, disperse or vary the place or route of any public gathering if he reasonably believes that it is likely to cause or lead to a breach of the peace. In the incident referred to in the question, the group of university students, which consists of a small number of people, attempted to proceed to the Xinhua News Agency a few minutes before the arrival of a notified procession, which consists of a larger number of people involving about 200 people. The action taken by the police was to avoid possible conflict between the two groups to ensure the orderly and peaceful conduct of the two processions. Such action is considered to be necessary and appropriate in the interests of public order and safety.

- (b) Contrary to the allegation that the police refused to reply to the question raised by the students, I must point out that police officers at the scene did advise the students that a larger group of demonstrators would arrive shortly and asked them to allow that group to proceed first so that the demonstrations could be conducted in an orderly way. However, the advice was ignored. Although the legal provisions mentioned in (a) above do not require police officers to openly explain to the people at the scene the legal justifications and reasons, police officers do endeavour to explain to those affected the reasons for exercising these powers when it is practicable to do so to avoid misunderstandings.
- (c) The power of the police to use barriers to cordon off the area outside the Xinhua News Agency is incidental to the exercise of the legal powers set out in (a) above. The boundaries for such area will depend on the size and mood of the crowds, the geographical characteristics of the site, the traffic and pedestrian flow, and the special circumstances of each event. In carrying out their duties, the police always seek to strike a balance between the rights of the demonstrators, and on this occasion those of the two different groups, which staged the demonstrations at nearly the same time, to express their views, and the need to ensure that no danger or inconvenience is caused to others by the demonstrators.

**MR LEUNG YIU-CHUNG** (in Cantonese): *Mr President, first, I hope the Secretary will carry out a further and in-depth investigation into the course of*

*events on that day. It is because the main reply stated that another procession would arrive after a few minutes. However, to my knowledge, "a few minutes" actually meant a lapse of 30 minutes before another group of people would arrive. Therefore, I hope the Secretary will investigate clearly the factual basis of this matter.*

*Besides, according to the Secretary's main reply, the police may prevent the holding of any public gathering if they reasonably believe that it is likely to cause or lead to a breach of the peace. I would like to ask the Secretary this: From his past experience, in what way could a dozen or so demonstrators cause a breach of the peace which would make it necessary to prevent them from presenting a petition to the Xinhua News Agency? As a matter of fact, to my knowledge, large-scale processions could not head for the Xinhua News Agency unless prior approval had been obtained from the police who would make the necessary arrangements and clear the scene. May I ask the Secretary if he thinks that in the present instance the police response was over-sensitive and constituted an abuse of powers, which prevented the citizens of Hong Kong from exercising their human rights and freedom of expression?*

**PRESIDENT:** Is it meant to be rhetorical or is it meant to be a question seeking the Secretary's personal views?

**SECRETARY FOR SECURITY** (in Cantonese): Mr President, although I was not personally present at the scene, I have requested the police to give me a detailed report on the course of events at that time. The Honourable LEUNG Yiu-chung says that another larger group was not due to arrive shortly. As regards this point, I can tell the Honourable Member that one group arrived pretty soon after the other. The group of about 10 university students started to assemble near Morrison Hill Road at about 7.28 pm on that evening; and it was no more than 10 minutes later when the larger group of people on procession who had obtained approval from the police arrived at the same location. The larger group concluded their assembly and oratory opposite the Xinhua News Agency on that evening. It was no later than 7.46 to 7.50 pm when a handful of representatives from the group crossed the pedestrian subway to present a petition letter at the door of the Xinhua News Agency.

I would like to add one remark. The police response in this instance was

to request the dozen or so students not to proceed to the door of the Xinhua News Agency at that particular point in time because the police would not wish to see two different groups each holding an assembly or a procession at the same location which might possibly result in a clash or jostling from lack of co-ordination. Honourable Members ought not to forget that there were reporters present at the scene at that time. Therefore, after the larger group of petitioners had concluded their assembly and left the Xinhua News Agency, we let the group of students cross the pedestrian subway to proceed to the Xinhua News Agency to present a petition. It was then only 8.02 pm.

**MR LEE CHEUK-YAN** (in Cantonese): *Mr President, the Secretary's reply just now would seem to imply that the two groups of people had different objectives. But as a matter of fact these two groups had one and the same objective, that is to say, they were demanding that the Chinese government release WEI Jingsheng. That being the case, how could it be possible that these two groups would clash? My question is: If certain petitioners had views of their own with regard to the way the police at the scene were dealing with the situation, what avenues would be open to these petitioners to attempt to change the way the police were conducting themselves? For example, if the petitioners disagreed with the conduct of the police, could they telephone the Secretary for Security so that the Secretary would assume command? What avenues would be open to the petitioners to express their disagreement? The officer commanding the police party at the scene might not be capable of making the most appropriate judgment. In that case, how could the petitioners challenge this judgment? I hope the Secretary will advise those who may be making petitions.*

**SECRETARY FOR SECURITY** (in Cantonese): Mr President, when I referred to the need to avoid clashes, I did not necessarily mean that there would be clashes if the groups holding assemblies or processions had different objectives. What I meant was that, because of the less than ample space outside the Xinhua News Agency, if two groups of people arrived outside the Agency there might be jostling which would possibly lead to clashes none would wish to see.

If the petitioners at that time were of the view that the officer commanding the police party at the scene was not dealing with the situation in an appropriate manner or if they did not agree with the way he was conducting himself, they might point this out to the commanding officer at the scene. Would Honourable



Members please imagine this: How could any one not present at the scene, whether he be the Secretary for Security or the Commissioner of Police, just act on a telephone call and vary the way the commanding officer was dealing with the situation? Would the Secretary for Security, who might be miles away, be capable of knowing what should be the most appropriate way for the commanding officer at the scene to deal with the situation in order to maintain public order? Therefore, our way to do it is that we must vest the commanding officer at the scene with the power to decide how to maintain order at the material time. If, after the event, anyone should level criticism against the way the situation was dealt with, he would of course be free to reflect it to the Commissioner of Police or myself.

**MR JAMES TO** (in Cantonese): *It appears that part (c) of the Secretary's main reply has caused me to visualize a crisis: When it interprets the relevant Ordinance the Government seems to hold that the police have the general power to cordon off areas. However, I would like to point out the basis for the two legal concepts mentioned in paragraph (a) of the Secretary's main reply, that is to say, under section 10 of the Police Force Ordinance (PFO) and section 17 of the Public Order Ordinance (POO). Section 10 of the PFO is in fact not a power-vesting section; it only elaborates the functions and responsibilities of a police officer; it is a legal provision vesting functions and responsibilities but not powers in a police officer. The power-vesting legal provisions are to be found in other sections of the PFO. Section 17 of the POO provides that the police may exercise the power to stop an assembly only when they reasonably believe that it is likely to lead to a breach of the peace. This patently refers to a public assembly. But paragraph (c) of the Secretary's main reply states that the boundaries for such areas will depend on the size of the crowds. However, the POO has not provided for the cordoning-off of areas. May I ask if the Secretary has consulted the Legal Department on this? If yes, can the Secretary give a detailed explanation as to how a general power to cordon off areas can be conferred on the police under section 10 of the PFO and section 17 of the POO?*

**SECRETARY FOR SECURITY:** Mr President, may I seek your advice on whether this question is intending to seek legal advice or a legal opinion from me?

**PRESIDENT:** I think Mr TO is asking whether or not you are prepared to seek legal advice to explain the legal basis of the police power to cordon off public places?

**SECRETARY FOR SECURITY** (in Cantonese): Mr President, the contents of paragraph (c) of my main answer were cleared with and agreed to by the relevant departments, including the Legal Department.

**MR JAMES TO** (in Cantonese): *Mr President, my question was in fact simple enough. Part (c) of the Honourable LEUNG Yiu-chung's main question had been approved by you, Mr President, and that part asked what Ordinance empowers the police to cordon off areas. I was only considering that part (c) of the main reply failed to explain that the Ordinance referred to in paragraph (a) of the reply provided the legal justification. I was not asking the Secretary for his personal legal opinion. I was only asking the Government to state clearly the justification, that is to say, what Ordinance was invoked to cordon off the area concerned.*

**PRESIDENT:** Mr TO, I think you have made your point abundantly clear and the answer given was that the answer to part (a) is based on legal advice within the Government.

**MR JAMES TO** (in Cantonese): *Mr President, I hope the Secretary will present to this Council a written analysis of the law on the matter in question.*

**PRESIDENT:** I shall take it as an additional supplementary but I will allow it. What normally would be the practice within the Government? Perhaps the Attorney General might wish to answer that?

**ATTORNEY GENERAL:** No, Mr President.

**SECRETARY FOR SECURITY:** Mr President, it is not the normal practice of the Government to disclose its legal advice.

**Impact of Sino-US Relations on Hong Kong Trade**

4. **MR PAUL CHENG** asked: *Mr President, bearing in mind the potential for serious damage to Hong Kong that may arise from any economic or other dispute between the territory's two largest trading partners, any instability in the Sino-United States relations will be of grave concern to the business community in the territory. With the question of China's Most Favoured Nation (MFN) trade status in the United States still subject to annual review, and with the United States Administration under renewed pressure at home to link economic issues to human rights and other non-trade issues through MFN or other platforms, will the Government inform this Council what specific measures are being planned by the Government this year to minimize the territory's exposure to this risk?*

**SECRETARY FOR TRADE AND INDUSTRY:** Mr President, the Hong Kong Government continues to support the unconditional renewal of China's Most Favoured Nation (MFN) status. We believe that MFN is the normal basis for international trade and that trade should be separated from non-trade issues. Unconditional MFN is important to Hong Kong, China and the United States.

Lobbying for the unconditional renewal of China's MFN status has by now become a regular part of the work of our Economic and Trade Office in Washington. In this connection, the main task of my colleagues in Washington is to ensure that the damaging impact of conditional renewal or non-renewal of China's MFN status on Hong Kong's economy is conveyed to senior members of the United States Administration and as many legislators in the United States Congress as possible, particularly the more influential ones. In carrying out this task, my colleagues in Washington also work closely with United States businesses which have an interest in trading with or investing in China. Such efforts are supplemented each year by visits to Washington by Hong Kong Government officials. Where appropriate, the Government also co-ordinates the visits to Washington of prominent Hong Kong personalities as well as lobbying missions comprising representatives of Hong Kong's trade and industrial organizations; and assistance is provided to them on the spot by my colleagues in

Washington.

The MFN status of China was renewed unconditionally in the past two years and this in no small measures has reflected the value of the efforts which have been put in by all. The main thrust and modality of the lobbying programme in connection with MFN renewal in 1996 shall follow those of previous years.

**MR PAUL CHENG:** *Mr President, is the Government aware of the fact that there is now specific legislation being prepared in the United States Congress that will be triggered when China's monthly trading surplus with the United States exceeds that of Japan? This could very well happen in the next few months, thus making this situation even more urgent. Would the Government please advise this Council of the latest position of their understanding?*

**SECRETARY FOR TRADE AND INDUSTRY:** Mr President, the moving of draft bills by legislators in the United States Congress on the subject of China's MFN trading status in the United States is nothing new. My colleagues in Washington are keeping a close watch on the moving of such draft bills. I would like to say at the same time that many of these bills never see the light of the day. Nonetheless, that does not mean the Hong Kong Government, including our Washington office, does not give the necessary importance and the required monitoring to ensure that such draft bills do not escape the attention of the Hong Kong Government. I would like to add, insofar as China's MFN status in the United States is concerned, at the end of the day it is very much a bilateral issue between the United States and China. In Hong Kong, we very much appreciate that there is attention being given to the increasing trade gap between China and the United States, and that this increasing deficit of trade to the disfavour of the United States is receiving attention from the United States Congress. As I said in my main reply, the Hong Kong Government will continue to impress upon the movers and shakers in the United States on the serious adverse impact on Hong Kong's economy should China's MFN status in the United States be conditioned or should China lose its MFN status in the United States altogether.

**DR HUANG CHEN-YA** (in Cantonese): *Mr President, the Government only*

*said that it would lobby the United States Congress. But the United States Congress may not listen to our Government. As a matter of fact, we know that if China respects her citizens' human rights the linking of the human rights issue to MFN by the United States would have little lethal effect. Therefore, will the Government lobby and urge China to respect Chinese people's human rights so that MFN will be assured? Or will the Government encourage trade associations to lobby the Chinese government; if yes, how will the Government go about it; if not, why not?*

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Mr President, in the main reply I gave a moment ago I already stated clearly the Hong Kong Government's stand. The Government's stand on the question of China's MFN status is clear and unequivocal. The Government is of the view that China's MFN status should be delinked from any non-trade issues. In other words, we do not think that MFN should be linked to the issue of human rights.

Dr HUANG asked if the United States Congress would listen to and accept the views of the Hong Kong Government. I believe the congress or parliament of any nation will attach foremost importance to the nation's own interests. Therefore, with regard to the Sino-US question of MFN, we believe the United States Congress will eventually address this question subject to the overriding premise that United States interests be the prime consideration. We hope that, subject to this premise, the United States Congress will understand that if China should lose her MFN status or enjoy only conditional MFN it would have a negative impact on Hong Kong's economy. We have reason to believe that, although this is not a prime factor for consideration by the United States Congress, it is nevertheless a useful and related factor in the overall consideration undertaken by the United States Congress.

**MR PAUL CHENG:** *Mr President, in order to keep the pulse of this situation, will the Government please tell us how regularly Commissioner Barry WIGHAM meets with either the House International Relations Committee Chairman, Ben GILAM, or the United States Senate Foreign Relations Committee Chairman, Jessie HELMS? How regularly do they meet and whether they have met recently?*

**SECRETARY FOR TRADE AND INDUSTRY:** Mr President, requests by the Commissioner (USA) to meet with the Chairman of the Senate Finance Committee, the Chairman of the Senate Foreign Relations Committee, and indeed the chairmen or leaders of relevant congressional committees, cannot be predicted in advance. At the end of the day, requests can be made by the Commissioner (USA). Whether these requests will be entertained or not will be very much up to the interlocutors concerned. But I would like to assure the Honourable Member that based on the 1995 experience, our colleagues in Washington, including the Commissioner (USA), together approached a total of 220 congressmen in 1995, in the context of ensuring that the United States Congress gave adequate attention to the potential adverse impact on Hong Kong's economy should China fail to secure unconditional MFN status in the United States.

**MR PAUL CHENG:** *Mr President, my question was not answered. My question is when was the last time Commissioner WIGHAM actually met with the two chairmen?*

**SECRETARY FOR TRADE AND INDUSTRY:** Mr President, if the Honourable Member would agree, I will provide the answer in writing. (Annex)

### **Disciplinary Committees of Statutory Professional Bodies**

5. **DR LEONG CHE-HUNG** asked: *Mr President, in regard to the disciplinary committees of statutory professional bodies in the territory, will the Administration inform this Council:*

- (a) which committees include laymen members;*
- (b) which committees' disciplinary proceedings are open to the public; and*
- (c) whether the Administration will urge those statutory professional bodies which conduct disciplinary proceedings in camera to make such proceedings open to the public so as to enhance transparency and public accountability?*

**SECRETARY FOR WORKS:** Mr President,

- (a) There are at present 14 statutory professional bodies, of these the disciplinary committees of the following statutory professional bodies include laymen members:

- (1) The Law Society of Hong Kong
- (2) The Hong Kong Bar Association
- (3) Medical Council of Hong Kong
- (4) Midwives Board of Hong Kong
- (5) Nursing Board of Hong Kong
- (6) Dental Council of Hong Kong
- (7) Chiropractors Council

In addition to the above seven statutory professional bodies, the Hong Kong Society of Accountants may direct that one of the members of a disciplinary committee shall be a person who is not a professional accountant.

- (b) The disciplinary proceedings of the disciplinary committees of the following statutory professional bodies are usually open to the public:

- (1) Medical Council of Hong Kong
- (2) Midwives Board of Hong Kong
- (3) Nursing Board of Hong Kong
- (4) Dental Council of Hong Kong
- (5) Supplementary Medical Professions Council

(6) Pharmacy and Poisons Board

- (c) Most of the statutory professional bodies are statutorily empowered to admit or exclude the public or any member of the public from their disciplinary proceedings. As they mainly aim to regulate their professions, the Administration considers it not appropriate to intervene in their internal affairs and therefore does not have plan to urge those statutory professional bodies which conduct disciplinary proceedings in camera to make their proceedings open to the public. It is understood that sometimes the person whose conduct is being inquired into may not wish to have the proceedings open to the public.

**DR LEONG CHE-HUNG** (in Cantonese): *Mr President, from the Secretary's reply, we clearly learn that the disciplinary committees of many professional bodies have no lay members and that the proceedings of all disciplinary committees, except those of the medical and health sector, are not open to the public. Mr President, may I ask if this implies that the Administration feels that some professions should be more accountable to the public than other professions and that some other professions need not be accountable to the public at all? If yes, what are the criteria involved? If no, when will the Administration introduce a lay element into those statutory professional bodies which have no lay members?*

**SECRETARY FOR WORKS** (in Cantonese): *Mr President, I believe that matters which come before the disciplinary committees vary in nature in terms of technicality, public interest and personal details. I think the question of whether the disciplinary proceedings concerned should be open to the public or whether the committees need to have lay members should best be left to the professional bodies themselves to decide having regard to the circumstances of the individual case.*

**MR MICHAEL HO** (in Cantonese): *Mr President, I would like to ask a similar follow-up question. Paragraph (b) of the main reply states that there are six disciplinary committees related to the medical and health sector whose*



*disciplinary proceedings are open to the public. In regard to the open proceedings or composition of these committees, does the Administration have a policy which seeks to introduce a lay element into the committees and is the Administration's policy oriented towards increasing the number of lay members? If the Administration has no such policy, is it true to say that there are two different sets of standard applicable to these committees?*

**SECRETARY FOR WORKS** (in Cantonese): Mr President, although I stated in paragraph (b) of my main reply that the disciplinary proceedings of six statutory professional bodies are usually open to the public, I also mentioned that most of the professional bodies are statutorily empowered to admit or exclude the public or any member of the public from their disciplinary proceedings. Therefore, this does not indicate that they cannot do so; it only indicates that they are entitled to decide whether the proceedings should be open to the public having regard to the circumstances of the individual case.

**MR LAW CHI-KWONG** (in Cantonese): *Mr President, my question also relates to open proceedings. The Secretary stated in his answer that disciplinary proceedings are the professional bodies' internal affairs and it would not be appropriate for the Administration to intervene. I have serious doubts about this way of thinking. It is because it would appear that most of these professional bodies were established through legislation enacted by the Government. May I ask if the Administration holds the view that the public interest is not involved in these so-called disciplinary proceedings? If no, why was it necessary to establish these professional bodies through legislation enacted by the Government?*

**SECRETARY FOR WORKS** (in Cantonese): Mr President, the answer I gave a while ago did not mean that, in the case of the professional bodies, the public interest is never involved. I think we had better respect the professional bodies' decisions in relation to individual cases, that is to say, whether proceedings should be open to the public.

**DR HUANG CHEN-YA** (in Cantonese): *Mr President, since the Administration has stated that these bodies, for example, the Medical Council, conduct their proceedings in public, why is it that the record of proceedings of the Medical*

*Council is not made public such that the aggrieved parties are denied access to the record and thus unable to consult other professionals as to how to lodge an appeal?*

**PRESIDENT:** I am afraid this is beyond the scope of the original question and answer.

**MRS ELIZABETH WONG:** *Mr President, may I ask why this question is answered by the Secretary for Works, who has nothing to do with The Law Society of Hong Kong, The Hong Kong Bar Association, Medical Council of Hong Kong, Midwives Board, Nursing Board, Dental Council or Chiropractors Council? Does he think that he is doing justice to the question when he is not himself connected with the question in detail?*

**PRESIDENT:** Mrs WONG, are you asking the Secretary for Works for his personal opinion as to whether or not he is the appropriate officer to answer the question?

**MRS ELIZABETH WONG:** *Mr President, I find his answers rather perplexing. In fact, to be honest, I did not understand his answers. So my question is, why he, as Secretary for Works, is undertaking to answer all these questions which have nothing to do with his normal duties?*

**PRESIDENT:** I do not think the Secretary can answer your question. He is appointed by the Governor to represent the Government to answer this question.

**MR MOK YING-FAN** (in Cantonese): *Mr President, Mrs Elizabeth WONG already asked the follow-up question I intended to ask the Secretary for Works because I too was puzzled as to why the Secretary undertook to reply to this question concerning medical care. However, since the Secretary is entitled not to answer, I shall put to him another question. Since some of the proceedings*

*of these statutory professional bodies are open to the public, through what channel can members of the public learn of impending proceedings or through what channel will these committees give notice of impending proceedings so as to enable the public to attend?*

**SECRETARY FOR WORKS** (in Cantonese): Mr President, if the proceedings are open to the public, I believe member of the public can attend and listen in the public gallery of the venue where the proceedings are held.

### **Resumption of Government Land in Tai Tong Valley**

6. **MR LAU WONG-FAT** asked (in Cantonese): *Mr President, in December last year, over 700 fruit trees growing for years were cut down by the government departments concerned in the course of an operation to resume government land in Tai Tong Valley in Yuen Long which has been illegally occupied. In this regard, will the Government inform this Council:*

- (a) *whether, apart from destroying the fruit trees concerned, the Government has considered other alternatives, such as putting up fences around the government land in question to prevent illegal occupation of the land and to achieve the aim of preserving the trees;*
- (b) *whether, in deciding to launch the above-mentioned tree-felling operation, it has taken into account the historical factor that some villagers nowadays still make their living through such traditional means as collecting natural resources like firewood, straw, fruits, plants and herbs in the mountains;*
- (c) *whether the existing policy of restricting the felling of trees on non-private land in the rural areas of the New Territories also applies to government departments; and*
- (d) *whether it has reviewed the manner in which the whole operation has been handled, if so, where there is maladministration on the part of the government departments concerned?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Mr President,

- (a) The illegal development in Tai Tong Valley includes the construction of illegal structures such as a large canteen, a swimming pool, a fishing ground, a car park, a horse-riding establishment and the planting of fruit trees for commercial and private profit-making purposes. The land in question involved some 8.2 ha of government land, most of which fall within a country park. The operator charged admission fees from visitors and fees for picking lychees, thereby making the public unable to gain access to and use the country park. The operator failed to cease the occupation despite the Government's repeated advice and warnings. As such, the Government took enforcement action on 12 December 1995 by resuming the illegally occupied government land according to law, clearing the illegal structures erected on the land, and felling the fruit trees along the 2400 m-long rim. The main reason for the Government's action is to make it clear the illegal occupation of government land for private profit-making purposes would not be tolerated. Besides, the Government plans to erect fences along the rim of the government land in question and plant the area with other non-commercial trees in order to prevent the land in question from being illegally occupied for commercial purpose in future. During the enforcement action, a number of fruit trees have to be felled, which only represent about 10% of the fruit trees planted on the land.

The Government originally intended to erect fences and plant non-commercial trees within the fenced-off area on the day of operation which took place in December, to avoid the remaining fruit trees being used illegally again for commercial purpose. The operation was, however, met with strong opposition from the villagers, some of whom even armed themselves with weapons. To prevent further deterioration of the situation, the Government did not erect fences or plant trees on that day. In fact, on the day of operation, the Government only managed to put up Government land signboards on the resumed land, but these were all removed by

someone on the following day. To protect the country parks and preserve the natural environment of the area, the Government will continue to erect fences and plant trees on the government land in question.

- (b) Regarding the second part of the question, I must first clarify that the Government's action this time was targeted at illegal activities relating to premeditated illegal occupation of large areas of government land, including Country Park land, for commercial use. Furthermore, the incident also involved other illegal activities such as illegal construction work and contraventions of town planning laws. The lychee farm at Tai Tong Valley has been widely publicized for its fruit trees. The leaflets distributed also list out the admission fees charged, the charge of \$120 per person for eating lychees there, and so on. The Government cannot tolerate such type of premeditated, illegal use of government land for making profits. This is certainly not the sort of activities of collecting natural resources like firewood, straw, fruits, medicinal herbs on the hills as a means of livelihood by villagers. It is premeditated commercial activities.
- (c) The Government's policy in regard to the felling of trees is that no indiscriminate tree-felling operation would be allowed unless there are very good reasons for doing this, and this policy is applicable to government departments as well. The trees cut down on this occasion had been planted illegally on government land. Apart from being used for commercial purpose, those trees also caused adverse impact on the natural environment of the area. The Government intends to plant other trees on the land.
- (d) The Government has consulted the Country and Marine Parks Board about this incident of government land inside country park being illegally occupied by a lychee garden in Tai Tong Valley. The whole enforcement action was handled by an inter-departmental working group. The Yuen Long District Board members had been briefed of the background of such an operation before it was carried out. The operator of the lychee garden, who is concurrently the village representative of Tai Tong and a District Board member, was kept in touch through the Yuen Long District Office and was

informed of the intention and scope of the enforcement action. After the operation, the Government also conducted a review and were satisfied that the whole operation had been carried out in accordance with the relevant legislation and that there was no maladministration on the part of the Government.

**MR LAU WONG-FAT** (in Cantonese): *Mr President, in recent years, the Government has been sparing no effort in mounting publicity campaigns on forest conservation. Why did the Government permit this tree-felling operation which runs counter to the policy of protecting trees? Apart from being used for commercial purposes, what nuisance do these fruit trees cause to local residents and what detriment to government policy? How much public money has been spent and how much manpower has been deployed in this tree-felling operation? From a value-for-money point of view, is this operation cost-effective?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): This follow-up question comprises four parts but I will try my best to take them one by one. Regarding the issue of greening the environment, the Government of course advocates that our environment should be greened and protected; however, as I have made clear in my main reply, the issue at Tai Tong Valley is not a matter of whether we want to green the environment or not. The fact is that some people abused the land in the Country Park by planting some fruit trees there for private commercial purposes and they charged admission fees and other fees.

On protecting the environment, we do not believe that planting lychee trees will in any way be conducive to beautifying the environment because the planting of large numbers of lychee trees on the hillside will only be detrimental to the natural habitat. When the persons involved planted the lychee trees, the undergrowth in the vicinity of the trees was removed. That resulted in erosion of the top soil and impeded the conservation of water and soil. At the same time, in planting lychee trees, large quantities of fertilizers and pesticides were used. This had an adverse impact on the ecological environment at Tai Tong Valley, especially on water courses and other insects. Therefore, after removing those trees which were planted illegally for private profit-making purposes, the Government plans to replant other tree species with a view to preserving the green environment and protecting the ecology from being damaged.

Regarding the entire operation, Mr President, I would like to point out that the Government had all along been aiming to conduct the operation in a peaceful and tolerant manner. On the first day of the operation, the police had been informed that many people who were not the operators of the lychee garden would be present. I have just said in my main reply that many residents gathered at the site on that day, the number of which was over 90. Many of them even armed themselves with weapons. Therefore, on the ground of ensuring security and protecting the safety of the public, the police deployed more police manpower during the operation. As to the expenditure involved in this operation, I do not have the exact figure in hand.

**MR WONG WAI-YIN** (in Cantonese): *Mr President, the Secretary mentioned in paragraph (a) of his main reply that some people occupied over eight hectares of Crown land illegally and most of the land originally lay within the area of green belt in the Country Park. I believe it would only be possible for them to plant lychee trees on such a big scale if the trees originally planted in the Country Park had been felled so as to vacate the space necessary to plant so many lychee trees. According to the estimation of the Government, how many trees originally planted in the Country Park did the villagers fell for the purpose of vacating space to plant fruit trees illegally? Also, has anybody ever been prosecuted for illegally felling trees in the Country Park for the purpose of planting fruit trees?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Mr President, the location of Tai Tong Valley in fact is very remote. The Government discovered as early as 1993 that someone had proceeded with large-scale illegal development in this area. The illegal development can be divided into two parts. The first part is the vacating of land for planting lychee trees inside the Country Park. Right now, it is difficult for us to say how many trees had been felled at that time because, in the Country Park, we do not grow only trees, some of the areas are covered by grass or shrubs. However, we discovered that some people began to erect many illegal structures on other pieces of Crown land situated outside the area of the Country Park or on those places adjoining the Crown land. The illegal structures include a horse-riding establishment, a swimming pool, a private club and other structures of this kind. Since 1993, the Government has been giving warnings and advice to the people concerned. We have issued a total of six to seven warning letters in respect of the activities inside the Country Park. In addition, the Lands Department has

also taken action in respect of the activities that are in breach of the conditions of Crown lease. The Planning Department has also issued summonses under the Town Planning Ordinance against those persons who occupy land for illegal development.

**MR BRUCE LIU** (in Cantonese): *Mr President, it has just been mentioned that in 1993 large scale commercial facilities began to be erected in Tai Tong Valley, including the occupation of Crown land. That was clearly in breach of the Crown Land Ordinance. Why did the Government not apply for injunctions from courts or prosecute those who acted in breach of the Crown Land Ordinance at the early stage of the incident so as to stop them from continuing to occupy Crown land illegally for private profit? Why should the Government wait until the end of 1995 when it resorted to the most undesirable course of felling the trees? What are the unspoken difficulties that the Government finds it hard to disclose?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Mr President, we do not have any unspoken difficulties. In fact, a lot of effort has been made. As I just said, we have given numerous warnings to the operators. The relevant departments took actions in May, July, September and December 1994 and April and October 1995 to warn the persons-in-charge that they had to stop proceeding with excavation and filling works. The Planning Department also took action last year to institute formal prosecution against the operators concerned. That being the case, the Government is not doing nothing while knowing what is going on. We took immediate action once the relevant illegal behaviour was discovered. In fact, we found that our warnings had fallen on deaf ears in 1993. The Government then began to erect warning boards, signboards and fences at Tai Tong Valley in 1994. On many occasions, the erections were removed on the following day. Therefore, with no alternative, we were compelled to institute formal prosecutions to show that we could tolerate the situation no more. Right now, several cases relating to illegal development are awaiting hearing by the courts.

**MR CHOY KAN-PUI** (in Cantonese): *Mr President, right now, upon how many pieces of Crown land are fruit trees being planted by the public? If there is such land, what course of action will the Government take to avoid unnecessary conflicts between the Government and the public?*



**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Mr President, I believe Tai Tong Valley is the only example where Country Park land is being occupied on a large scale for use as a private fruit garden or as a club or for other development use. In some other more remote country parks, some villagers may plant one or two fruit trees in the vicinity of their residences and, in some cases, the rural land that lies within the area of the country parks is owned by the villagers. We may not have the exact figure in hand. For example, in remote areas such as Lai Chi Wo, if the villagers plant one or two fruit trees in front of their homes, we would tolerate the situation. But for such a sizeable development which occupies an area of eight or nine hectares, Tai Tong Valley is the only example.

**DR JOHN TSE** (in Cantonese): *According to your deduction, it would take quite a long time for 8.2 hectares of land to be developed. Common sense also tells us that it takes time to reap fruits after planting lychee trees. How can we be assured that the Crown land at Tai Tong Valley will not be occupied in the future?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Mr President, we wish to pursue our work in three areas. First of all, regarding the fruit trees planted inside the Country Park, we hope that we can clear the rim by erecting fences and Government land signboards so as to demarcate Country Park land from other leased land. Of course, after this operation, we would step up patrols in the hope that similar developments will not re-appear.

On the other hand, there are two types of land in the vicinity of the rim. Some of which are Crown land which has been leased. The leased land is granted for agricultural or related purposes. Some people have dug a big hole in the leased land that has been granted to them for agricultural use so as to facilitate their building of a swimming pool or they may use the land for building club houses. The Lands Department has issued notices to cancel the land grant under the Crown Lands Resumption Ordinance.

The third area is to take action in respect of the Crown land which is

situated outside the Country Park. These pieces of Crown land are zoned as the green belt. On the Crown land are other illegal developments such as an establishment for remote control model airplanes, horse-riding establishments and so on. The Planning Department has taken prosecution action against these illegal behaviour and the offenders will be tried by the courts.

We hope that we can control these types of large scale illegal developments through these three areas of work so as to prevent Tai Tong Valley from reverting to its original state when it was being developed illegally. However, the Country and Marine Parks Board has offered a piece of advice for consideration by the Government, that is, whether it is feasible to fell all lychee trees so that no commercial value will exist. At present, the Government is reviewing and considering this suggestion. On preliminary consideration, we may not have to do so because if we can fence off the area of the Country Park, maybe we can preserve a majority of trees that are already present. However, as I have said, these trees in fact do a disservice to the environment because when planting the trees, fertilizers were applied and the undergrowth was cut. Therefore, we have to think carefully, management-wise, what should be the direction of our next step.

**MR NGAN KAM-CHUEN** (in Cantonese): *Mr President, although the Secretary has given us a number of reasons and we do not really object to the Government taking lawful action to resume Crown land, the Secretary has not explained why this tree-felling action is necessary. Since trees cannot move, why did the Government not break the branches or go round the trees when the fencing-off action was hampered because of trees standing in the way? The residents complain that large-scale tree-felling operation was conducted on that day. Was it necessary?*

**PRESIDENT:** Secretary for Planning, Environment and Lands, briefly please as you have already answered a similar question.

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): First of all, we must look at the area of the land involved. Eight to nine hectares of land is a very vast piece of land. The Government's operation

only aimed at clearing the rim in order to demarcate clearly the boundary. The width of the rim cleared was about 10 feet so as to facilitate the erection of fences and hedges. With no alternatives available, the Government resorted to this action. This did not mean that we had to clear all trees. In my reply, I have also explained that the length of just the rim is as long as 2400 metres. It is therefore evident that the area of the land involved is really spacious. The Agriculture and Fisheries Department holds that after clearing the rim and erecting fences, trees of no commercial value or trees that cannot be used for commercial purposes will be planted in order to green the environment. I am also aware that some of the Members will participate in a site visit this week and I am sure that, by that time, Members will know clearly the extent of the operation that the Government has to carry out.

**MISS EMILY LAU** (in Cantonese): *Mr President, country parks are the valuable resources treasured by the people of Hong Kong. It is intolerable that anyone should illegally occupy or abuse the land in Country Parks. In view of this, does the Government have adequate manpower and resources to ensure that country parks will be monitored so that no one can abuse the country parks and to ensure that, in case of abuse, these activities will be eradicated by vigorously and strictly enforcing the relevant policies?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Mr President, according to the existing establishment, our manpower level is adequate. If this is not the case, the development at Tai Tong Valley would not have been discovered. We have plans in hand to expand the area of Country Parks in the future. By that time, we will apply for funds from the Finance Committee of the Legislative Council in order to increase manpower for the management of the additional area. We can still cope with our work as far as the existing situation is concerned.

**MR LAU WONG-FAT** (in Cantonese): *Mr President, it is a tradition in a Chinese agricultural community that we make use of mountain resources if we live near the mountain and make use of water resources if we live near rivers or seas. It is a kind of economic activity for the villagers to make use of the resources on the hillside. Both in the past and at present, the Government of Hong Kong has been issuing "pine hill licence" and "straw hill licence" so that*

*the villagers can utilize the resources there to maintain a living. Now the authorities have felled the fruit trees and cut the resources on which the villagers rely to earn a living. Has the Government ever thought of the means of livelihood of the villagers? Apart from felling trees, is the Government incapable of exploring better alternatives? Or does the Government have other reasons to hastily conduct the tree-felling operation? Is it true that the authorities will not have ease of mind until the trees are felled?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): In the first place, the Government does not intend to clear all the trees. I have just explained clearly that we are only clearing the rim of the area which has been illegally occupied in order that we can erect fences. Secondly, in the second part of my main reply, I have explained very clearly that illegal development on this scale is poles apart from the tradition that residents use nearby resources to earn a living. Thirdly, I would like to make it clear that the so-called "pine hill licence" issued in 1947 was for the purpose of permitting villagers to plant pine trees for use as firewood. Regarding the situation at Tai Tong Valley, only in respect of about 20% of the occupied Crown land was such licence issued a long time ago. However, this type of licence had already been replaced by Crown Land Licence in 1962. Crown Land Licence is confined only to the undeveloped pasture so as to allow the herdsmen to cut the pasture grass. The planting of fruit trees thereon is not permitted, not to mention the planting of trees for commercial profit-making purpose. In addition, in the special case of Tai Tong Valley, even the relevant Crown Land Licence had been cancelled in February 1994.

## **WRITTEN ANSWERS TO QUESTIONS**

### **Tampering with Taximeters**

7. **MR IP KWOK-HIM** asked (in Chinese): *In view of the fact that the police has recently discovered two cases of taxi drivers tampering with taximeters by various means in order to cheat passengers into paying excessive fares, will the Government inform this Council:*

- (a) *of the total number of complaints involving taximeters received by the police in the past year;*

- (b) *whether the Government will adopt any measures to speed up the installation of anti-tampering device in taximeters of the 12 000 taxis in the territory which have not yet been installed with such a device; if not, why not; and*
- (c) *whether the Government will increase the frequency of inspection of taximeters, which at present is conducted once every six months; and whether consideration will be given to imposing heavier penalties on taxi drivers tampering with taximeters as a deterrent, so as to protect the interests of consumers?*

**SECRETARY FOR TRANSPORT:** Mr President, in 1995, the police received a total of 2 956 complaints against taxi malpractices. Of this number, 739 complaints related to taximeter offences.

The law requires the owner of a taxi to submit his taxi to the Transport Department every six months so that the taximeter can be tested, stamped and sealed. This is to ensure that the meter is set properly and will make an accurate recording of the fare. More frequent inspections would not eradicate meter tampering where it does not involve breaking the seal, because the evidence of tampering can be removed before the taximeter is presented for inspection.

The latest type of taximeters have in-built devices that make tampering much more difficult. The Transport Department has advised and encouraged taxi operators to install such meters as and when they replace their vehicles. So far, about 6 000 taxi owners have complied. We will continue to hold discussions with the taxi trade and urge taxi operators to speed up the pace of conversion.

Meanwhile, to combat meter tampering, the police have mounted special operations and undertaken spot checks. During the period from January to November 1995, the total number of prosecutions brought by the police against taximeter offences was 915.

The law provides for maximum penalties of a fine of \$10,000 and imprisonment for six months for offences relating to the improper use of taximeters. The actual imposition of penalties is a matter for the courts. We will continue to monitor the situation to see if there is a need to raise the maximum penalties for this type of offence.

### **Elderly Population on Outlying Islands**

8. **MR ERIC LI** asked (in Chinese): *Will the Government inform this Council of the following:*

- (a) *the number of people aged 65 or above living on Lantau Island, Cheung Chau, Peng Chau and Lamma Island respectively, as well as the proportion of these elderly people to the overall population on each of the islands concerned and the number of elderly singletons among the elderly people;*
- (b) *the respective numbers of institutions providing social and medical services for the elderly, such as homes for the elderly, day-time care centres, social centres for the elderly, infirmaries, convalescent homes, care and attention homes and health centres for the elderly, as well as the number of home helpers stationed on each of the islands concerned to provide such services; and*
- (c) *whether, according to the demographic structure of the population on the islands concerned, the number of elderly people aged 65 or above will increase in the next five and 10 years; if so, whether the services mentioned in (b) above can meet the present and future demands for such services on those islands?*

**SECRETARY FOR HEALTH AND WELFARE:** Mr President,

- (a) Based on the latest statistics obtained from the General Household Survey, the number of elderly persons aged 65 and above living in the Islands District Board District in 1994 was estimated to be 5 700,

representing some 13% of the 44 800 persons of all ages in the District. Due to the relatively small sample size of the survey, a further breakdown by island and to show whether the elderly persons were living alone would be subject to a high margin of error due to small sample size. Reliable estimates cannot, therefore, be provided in this regard.

It may be useful to note that, according to the 1991 Population Census, the distribution of the elderly population by individual island is as follows:

	<i>No. of elderly persons aged 65 and above</i>	<i>Total no. of persons</i>	<i>Elderly as a percentage of the total</i>
Lantau and associated islands	1 957	18 864	10.4%
Cheung Chau	2 374	21 517	11.0%
Peng Chau	446	3 280	13.6%
Lamma and Po Toi	393	2 971	13.2%
Total	5 170	46 632	11.1%

Statistics on elderly persons living alone by district are not available from the Census information. These population figures will be updated in the By-Census to be conducted in March this year.

- (b) Welfare services for the elderly may be broadly categorized into community support services and residential care services.

As a form of community support service for the elderly, one social centre and one club for the elderly are run on Lantau Island to serve elderly people in the same neighbourhood. There is also one social centre for the elderly on Cheung Chau. Voluntary groups organize social and recreational activities for elderly people on Peng Chau and Lamma Island where there are currently no social centre services. A home help service is provided by 15 home helpers based on Lantau Island who serve the whole of the Islands District. The number serving each island varies according to demand.

Residential care services for the elderly are not provided on a district basis. As far as the Islands District is concerned, there are at present two subvented homes for the elderly in the District. One home on Cheung Chau provides 55 care-and-attention places and 75 home for the aged places. The other, on Lantau Island, provides 40 home for the aged places. Four private homes for the elderly on Cheung Chau provide 114 care-and-attention places and 29 aged home places.

Other social service units serving the whole of the Islands District include: one social security field unit, three family services centres and one medical social services unit.

Primary health care services for the elderly are provided by the Department of Health through General Out-patient Clinics — Mui Wo Clinic and Tai O Jockey Club Clinic on Lantau Island; Peng Chau Clinic on Peng Chau Island; North Lamma Clinic and Sok Kwu Wan Clinic on Lamma Island; and a Clinic in St John's Hospital on Cheung Chau. Remote parts of Lantau Island are served by Travelling Dispensaries and a Floating Clinic.

Seven Elderly Health Centres will be set up by 1997. This new pilot service is being reviewed and, subject to the demand for it, it is anticipated that future disease prevention and health promotion programmes for the elderly will be integrated into the General Out-patient Service which is already available in the Islands District.

There is one hospital in the Islands District, St John's Hospital, on Cheung Chau. It provides a wide range of in-patient, out-patient



and community services to elderly people, for example, accident and emergency, general and geriatrics out-patient, rehabilitation, infirmary, community nursing and community geriatric assessment services.

- (c) Based on the latest set of population projections prepared by the Working Group on Population Distribution in 1992, the number of elderly persons aged 65 and above in the Islands District is expected to be about 10 000 by 2001. Projections for the years beyond 2001 and for individual islands are not available.

Except for a shortfall in subvented care-and-attention places, health and welfare services for the elderly can generally meet the existing demand. In anticipation of an increase in the elderly population, there are plans to provide:

- an additional three social centres for the elderly, two on Lantau Island in 1997-98 and 1998-99 and one on Peng Chau in 1996-97;
- one day care centre for the elderly on Cheung Chau in 1998-99;
- 140 care-and-attention places and 85 home for the aged places by 1997-98 which will fully meet the demand for residential services then;
- an additional 10 home helpers in 1995-96; and
- one general out-patient clinic in 1998.

Utilization of services will be kept under constant review and further expansion of services in the Islands District will be considered as and when appropriate.

## Parking Spaces

9. **MR CHAN KAM-LAM** asked (in Chinese): *In view of the serious shortage of parking spaces in most parts of the territory and the high parking*

*fees charged by car parks, will the Government inform this Council whether:*

- (a) it will consider providing spaces for overnight parking (say from 10 pm to 7 am) on relatively less busy side streets in various districts and installing special parking meters along the pavements of those streets so as to facilitate drivers, in particular professional drivers, to park their cars; and*
- (b) it will consider building more car parks near the Kowloon-Canton Railway and Mass Transit Railway stations to provide park-and-ride facilities with a view to encouraging people living in remote areas to use the mass transit systems, so as to alleviate traffic congestion?*

**SECRETARY FOR TRANSPORT:** Mr President,

- (a) There are about 26 000 on-street parking spaces in the territory, which can be used for overnight parking by motorists, including taxi and minibus drivers. In addition, there are about 600 on-street spaces which have been designated specifically for overnight parking of goods vehicles. They are located in Kwai Chung, Tsuen Wan, Tsing Yi, Tuen Mun and Yuen Long districts. In consultation with district boards and other government departments, we will continue to extend the scheme for overnight parking to other areas where traffic conditions permit and where it is environmentally acceptable.

On-street parking meters are installed to regulate short-term parking demand during the day and in the evening. There are no special parking meters for overnight parking as they may cause confusion to motorists in the daytime when parking is not permitted.

We recognize the general shortage of parking spaces. A study objective of the Parking Demand Study, which will be published very soon and on which the Legislative Council Transport Panel will be consulted, is to identify practical remedial measures to alleviate

the problem. Indeed, one of the recommendations is to designate spaces for on-street overnight parking along roads suitable for this purpose.

- (b) The Government will continue to consider building more car parks near railway stations to provide park-and-ride facilities. For example, we will contribute \$60 million to the Mass Transit Railway Corporation (MTRC) project to develop a transport interchange at the Choi Hung MTR Station which will incorporate park-and-ride facilities for around 450 cars. Another possibility being considered is the use of the open site at the University Kowloon-Canton Railway (KCR) Station in Ma Liu Shui for temporary parking.

It must be recognized that along or near existing railway lines there are constraints in obtaining suitable sites. However, with the new KCR and MTR projects proposed in the Railway Development Strategy, we will explore all opportunities for the provision of park-and-ride facilities.

### **Prank Emergency Calls**

10. **DR DAVID LI** asked: *It was reported recently that an eight-year old boy was arrested by the police for dialling "999" to report a bogus robbery. As prank callers could stand in the way of people getting through the "999" line to report real life-or-death emergencies, will the Government inform this Council:*

- (a) *how the police will step up measures to monitor and trace the source of prank calls; and*
- (b) *what penalties, if any, apply to callers dialling "999" to make prank or nuisance calls?*

### **SECRETARY FOR SECURITY: Mr President,**

- (a) Operators at the 999 Consoles in the Police Regional Command and Control Centres (RCCCs) can hold any incoming telephone call so that the caller can be traced through the exchange line. The Government is discussing with the telephone company with a view to introducing a new facility in the RCCCs that displays the

telephone number from which an incoming call is made. If introduced, the facility will greatly speed up the process of locating the sources of emergency calls irrespective of prank or genuine ones.

- (b) A person who dials "999" to make prank or nuisance calls may commit the following offences:
- the offence of making a false report to a police officer or misleading a police officer by giving false information, contrary to section 64 of the Police Force Ordinance, for which the offender may be liable to a fine of \$1,000 and to imprisonment for six months;
  - the offence of causing wasteful employment of police by making a false report, contrary to section 91(2) of the Criminal Procedure Ordinance, for which the offender may be liable to a fine of \$2,000 and to imprisonment for six months; and/or
  - the offence of persistently making telephone calls without reasonable cause for the purpose of causing annoyance, inconvenience or needless anxiety to any other person, contrary to section 20(c) of the Summary Offences Ordinance, for which the offender may be liable to a fine of \$1,000 and to imprisonment for two months.

### **Labour Productivity in Transforming Economy**

11. **DR LAW CHEUNG-KWOK** asked (in Chinese): *As the structure of the economy of the territory has been undergoing the process of transformation, will the Government inform this Council whether it has conducted detailed studies to assess the changes in labour productivity in various industries, as well as the reasons for such changes, in the past ten year; if so, what the findings are?*

**SECRETARY FOR FINANCIAL SERVICES:** Mr President, the Census and Statistics Department has conducted detailed studies on changes in labour productivity in the manufacturing industries. Growth in labour productivity in the

manufacturing sector averaged around 10% per annum in recent years. Analyzed by individual industries, labour productivity in the electrical and electronic products industry recorded very impressive improvement, at an average annual rate of around 15% in real terms during the period from 1982 to 1992. Productivity in the plastic products, fabricated metal products, textile and wearing apparel industries recorded relatively less rapid increases of 9% to 11% per annum.

These improvements are closely tied to the relocation of labour-intensive production processes across the border. On the other hand, manufacturing activities remaining in Hong Kong have been upgraded, through investment in machinery, equipment and new technology, to become more sophisticated and skill-intensive. Those outputs have higher value-added content.

For service industries, measurement of labour productivity is much more complex and difficult. First, with the rapid structural transformation of our economy over the past decade, our service industries have become increasingly more sophisticated. There is a very large variety of services, and the nature of their output varies considerably. Second, whilst goods are tangible and can be more easily measured, service outputs are much less so, and are therefore more difficult to define and quantify. Third, producer price indices are required for measuring changes in output in real terms by removing the effect of price changes over time. In compiling such indices, particularly when going into more detailed breakdowns by sub-sector, price data is needed. This will require considerable support from respondents. The resources involved also will be very substantial. The Census and Statistics Department is nevertheless prepared to pursue productivity studies for the various service industries. Among other things, this will necessitate the seeking of additional resources or examining ways to redeploy existing resources which are already very tight.

### **Cement Factory adjacent to Greenfield Garden**

12. **MR LEE WING-TAT** asked (in Chinese): *With regard to the cement factory adjacent to Greenfield Garden on Tsing Yi Island, will the Government inform this Council:*

- (a) *whether the cement factory will be decommissioned by the end of June this year in accordance with the terms of the Conditions of*

*Exchange executed in November 1993; if not, why not;*

- (b) what stage the relocation exercise has reached now and whether difficulties have been encountered; if so, what the difficulties are; and*
- (c) whether the Environmental Protection Department's plan to issue a two-year operating licence to the operator of the cement factory is in contravention of the terms of the Conditions of Exchange mentioned above?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS:** Mr President,

- (a) It remains our aim to have the cement plant adjacent to Greenfield Garden relocated and decommissioned in June 1996.
- (b) Construction of the new cement plant at the relocation site is progressing on schedule. No difficulty has been encountered so far which would delay the scheduled relocation.
- (c) Section 15(4) of the Air Pollution Control Ordinance provides that a licence for operating a cement plant should not be for less than two years. The Environmental Protection Department is currently reviewing the plant's application for a licence. The issue of such a licence would not prejudice the Government's authority to enforce the Conditions of Exchange in requiring the cement plant to cease operation in June 1996.

### **Development of Northwest New Territories**

13. **MR AMBROSE LAU** asked (in Chinese): *Will the Government inform this Council whether it will, in its review of the Territorial Development Strategy, consider recommending that priority be accorded to developing the New Territories, especially Northwest New Territories, so as to reduce the need for reclamation in Victoria Harbour?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS:** Mr President, the long-term development needs of Hong Kong, including how and where such needs should be accommodated, are being comprehensively studied in the current Territorial Development Strategy Review. The Review has been evaluating, among other things, the development potential of various areas throughout the territory.

It is too early to say which specific part of the territory should be developed as a priority. We will consult the public when the Review is completed.

### **Future of Ching Man Village**

14. **MISS CHRISTINE LOH** asked: *In his 1994 policy address, the Governor stated that all urban squatters on government land would be rehoused by March this year. In this connection, will the Government inform this Council:*

- (a) of the status of Ching Man Village at So Kon Po in Tai Hang; and*
- (b) whether Ching Man Village is among the villages to be cleared under the policy mentioned above; if so, what terms will be offered to the residents in this village?*

**SECRETARY FOR HOUSING:** Mr President, Ching Man Village is a Cottage Area under the supervision of the Housing Department and is situated on government land. Residents have no land title, but hold occupation permits which may be terminated by either party giving three months' notice.

Ching Man Village, not being a squatter area, does not fall within the Governor's pledge. Part of the village is now being cleared because of slope safety reasons. Affected residents who are eligible will be given public rental housing units or priority to buy Home Ownership Scheme flats, and will also receive domestic removal allowances. Unauthorized residents in need of accommodation will be rehoused in Temporary Housing Areas in the urban area.

No one will be rendered homeless as a result of this partial clearance.

### **Royalties on Music Copyrights**

15. **MRS SELINA CHOW** asked (in Chinese): *At present, a number of independent bodies representing different sectors of the music industry, such as the Composers and Authors Society of Hong Kong (CASH) and the International Federation of Phonographic Industry (IFPI), may collect royalties from users of copyright music. This has given rise to confusion to music users, such as karaoke bars and other entertainment establishments, who have to pay royalties either at the same time or at different times to different bodies. In this connection, will the Government inform this Council:*

- (a) whether it knows of the present number of bodies in the territory which may collect royalties from users of copyright music and the basis adopted by such bodies for determining this type of music royalties;*
- (b) through what channels can the public find out which bodies may legally collect music royalties; and*
- (c) whether consideration will be given to establishing a mechanism which will incorporate all royalties charged by the relevant bodies and which will collect such royalties from users of copyright music on a unified basis, thereby avoiding unnecessary confusion and disputes arising from the payment of royalties to different bodies?*

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

- (a) At present, there are two bodies in Hong Kong which may collect royalties for public performance of music. One is the Phonographic Performance (South East Asia) Limited (PPSEAL), a subsidiary of the International Federation of Phonographic Industry (IFPI), which collects royalties in respect of sound recordings. The other is the Composers and Authors Society of Hong Kong Limited (CASH) which collects copyright royalties in respect of the lyrics and music underlying the sound recordings. The separate collection of royalties for sound recordings and for music and lyrics



is a common practice internationally.

Copyright is a private economic right that can be exercised by the copyright owners. The charging of royalties is a means to exercise such a right. The determination of copyright royalties is a commercial matter between the copyright holders and the copyright users, having regard to the supply and demand for the copyright works, the form and scale of usage, the established royalties charged by major foreign societies for similar rights, and other factors as considered appropriate. The Government should not intervene.

However, to guard against possible abuse, under existing legislation, disputes over copyright royalties between copyright owners or collecting societies on the one hand and the copyright users for the public performance of music on the other may be referred to the Performing Right Tribunal (PRT) for arbitration. The PRT was established under the provisions of the United Kingdom 1956 Copyright Act as amended and extended to Hong Kong.

- (b) The public can find out which bodies may legally collect music royalties from copyright lawyers or from the Intellectual Property Department.
- (c) It would be impractical, costly and cumbersome for the Government to establish a mechanism incorporating all royalties charged by the relevant bodies and collecting such royalties from users of copyright music on a unified basis. There is no international precedent in this regard. Furthermore, even if such a mechanism was set up, the Government could not debar individuals from pursuing their rights separately, or in groups, as this would put Hong Kong in breach of the international copyright standard.

### **Incentive Award Scheme for Chinese Textbooks**

16. **DR ANTHONY CHEUNG** asked (in Chinese): *On 27 October 1995, an amount of \$54.4 million was approved by the Finance Committee of this Council*

*for implementing Phase IV of the Incentive Award Scheme (the Scheme) for Chinese textbooks. Of this amount, some \$13 million has been earmarked for publishers to produce Chinese Mathematics textbooks for the sixth-form for use by students in the 1998-99 academic year. However, it is learned that the Curriculum Development Council (CDC) is planning to revise the Mathematics syllabus of the sixth-form, and the revision is expected to be completed by 1998. Hence, the Mathematics syllabus may have already been revised by the time the new Chinese Mathematics textbooks for the sixth-form are available in September 1998, which will render the new textbooks useless and result in the incentive award of \$13 million being wasted. In this regard, will the Government inform this Council:*

- (a) why the Education Department has recommended the inclusion of Mathematics for the sixth-form in Phase IV of the Scheme when it has already known that the Mathematics syllabus will be revised shortly; and*
- (b) whether it will consider withholding the amount earmarked for Chinese Mathematics textbooks for the sixth-form under the Scheme until the CDC has completed the revision of the Mathematics syllabus; if not, why not?*

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

- (a) Phase IV of the Chinese Textbooks Incentive Award Scheme is recommended by the Chinese Textbooks Committee. One of the criteria adopted by the Committee in selecting subjects for inclusion in the Scheme is that subjects which would undergo syllabus revision in the next two or three years will not be included.

In its deliberations, the Chinese Textbooks Committee noted that the Curriculum Development Council would not make substantial changes in the immediate future to the syllabuses of the four Sixth Form Mathematics Subjects, namely:

*Advanced Level (AL)*

Pure Mathematics

Applied Mathematics

*Advanced Supplementary Level (ASL)**Applied Mathematics  
Mathematics and Statistics*

The Committee also noted that there were plans to elaborate on the teaching notes of ASL Mathematics and Statistics Syllabus, for use by teachers by 1998. This would not, however, affect the content of the textbooks concerned.

After consultation with the Curriculum Development Institute of the Education Department and the Hong Kong Examinations Authority, the Committee recommended that three Sixth Form Mathematics Subjects, together with 13 other subjects, for inclusion in the Scheme. This involves awards up to \$4.1 million for AL Pure Mathematics, \$5.6 million for AL Applied Mathematics (which also covers the content of ASL Applied Mathematics), and \$3.3 million for ASL Mathematics and Statistics.

- (b) It remains the position that the Curriculum Development Council has no plan in the immediate future to make substantial changes to the syllabuses of the four Sixth Form Mathematics Subjects. The Council might propose minor changes in its regular reviews but these will not affect the suitability of the textbooks concerned for use by students. Thus, the question of withholding the amount earmarked does not arise.

**Market Monopolization by Public Utilities**

17. **MR FRED LI** asked (in Chinese): *With regard to the Government's policy on the monitoring of public utilities, will the Government inform this Council:*

- (a) *of the criteria adopted by the Government for determining whether a public utility company has monopolised the market;*
- (b) *what measures the Government will take to safeguard the*

*consumers' rights in the event of a public utility company monopolising the market; and*

- (c) *whether the Government will only monitor those public utility companies operating on a franchise basis?*

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

- (a) In general, the following characteristics of the market structure will be considered in deciding whether a public utility company has attained a monopolistic position in a certain market — the degree of market concentration, economies of scale, barrier to entry, pricing behaviour, and availability of close substitutes for the product;
- (b) The Government believes that, in the delivery of public utilities services, market forces are the best to determine the scale and quality of services and the price at which enhanced efficiency and minimum costs can be achieved. However, the Government is prepared to intervene when a monopolistic situation exists or when intervention becomes necessary to protect the public interests. There are no standard ways of intervention; all are tailored to specific industries and circumstances. The intervention may be by way of legislation, franchise and/or a scheme of control agreement. In all such cases, the level of intervention is kept to the minimum compatible with the public interests. For instance,
- franchises are introduced for franchised transport companies;
  - a price control scheme, that is price-cap, is introduced for the Hong Kong Telephone Company; and
  - Scheme of Control Agreements are entered into between the Government and the two power companies.
- (c) Government monitoring depends on the need to intervene and is not limited to franchised business. For instance, the Government has entered into a Scheme of Control Agreements with the two power companies which do not hold any franchise.

### Costs of Western Corridor Railway

18. **DR SAMUEL WONG** asked: *The Kowloon-Canton Railway Corporation (KCRC) has recently announced that the estimated cost for the proposed Western Corridor Railway project has increased from \$35 billion to more than \$70 billion and that consultants will be invited to submit tenders for the next stage of the investigation and design work. In this connection, will the Government inform this Council:*

- (a) how much has been earmarked for land resumption and what is the breakdown of the estimate on the construction cost;*
- (b) whether consultants will be invited locally to submit tenders for the investigation and design work in accordance with the tendering procedures adopted by the Government's Works Departments; if not, why not;*
- (c) what criteria will be adopted by the KCRC for selecting professional consultants for the Western Corridor Railway project; and whether the consultants' local design experience in the environmental, building regulations and fire safety aspects will be taken into consideration in the selection process; if not, why not; and*
- (d) whether non-salaried directors of the KCRC will be involved in the selection of consultants for the project?*

**SECRETARY FOR TRANSPORT:** Mr President, in January 1995, following the announcement of the Railway Development Strategy (RDS), the Government invited the Kowloon-Canton Railway Corporation (KCRC) to submit a proposal for building a new railway running from the border to West Kowloon, through the western part of the territory, that is, the Western Corridor Railway (WCR). The KCRC submitted its formal proposal to the Government in November 1995. This outlines the Corporation's scheme for the WCR project and serves as the

basis for detailed discussions between the Government and the Corporation and on which the Corporation intends to carry out further in-depth planning and design work.

The cost estimate of \$75 billion given by the KCRC in its project proposal is in Money of the Day (MOD) terms. The relevant corresponding figure in the RDS is about \$53 billion. It has been clearly explained that the estimates given in the RDS were only rough indications of cost. They were based on a preliminary assessment without the benefit of a more detailed study like the one that the KCRC has since undertaken. Furthermore, the KCRC's cost estimate has allowed for changes in the scope in the project, such as the extension to Tuen Mun Town Centre, as well as project reserves and financing costs, which were not included in the RDS estimates.

As regards the specific points raised:

- (a) The land resumption and clearance costs involved are estimated to be in the order of \$5.4 billion (MOD). This has not been included in the estimated capital cost of \$75 billion, as the intention is that the Government will meet the costs of making the land available for the railway right-of-way.

A breakdown of the capital cost, as given by the KCRC, is set out below:

	<i>Rough Indication of Cost (\$B) (Money of the Day)</i>
Facilities (stations, depots and so on)	25.3
Railway (line segments, viaducts, tunnels and so on)	27.0
Systems (signalling, power, communications and fare collection)	4.4
Rolling Stock (train cars)	4.3

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Financing	7.5	
Project Reserve	6.1	
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	74.6	say, 75.0
	==	==

It should be stressed that \$75 billion is KCRC's estimate and a preliminary one at that. The figure will need to be refined in the light of detailed planning, engineering and financial studies and in-depth discussions with the Government.

- (b) Consistent with KCRC's and Hong Kong Government's procurement policies for major projects, consultants will be selected through a competitive, open tender process. Both local and international firms have been invited to prequalify to tender for the preliminary engineering design of the WCR project. Of the more than 200 firms which have expressed interest in the KCRC's invitation, some 40% are Hong Kong-based companies.
- (c) The criteria that will be adopted in selecting consultants include their track record and work experience in Hong Kong and in undertaking similar work, staff resources, management systems and plans for implementing the project.
- (d) Consistent with current procurement practices, the award of all major contracts will have to be approved by the full board of the KCRC.

### Recycling of Used Engine Oil

19. **DR JOHN TSE** asked (in Chinese): *In view of the fact that used engine oil was previously collected by private companies for recycling purpose and that there is no such practice now, will the Government inform this Council:*

- (a) *whether it has adopted any monitoring measures to prohibit the disposal of used engine oil in drains or open areas;*

- (b) *whether it has considered the introduction of a recycling plan for used engine oil which will involve the collection of such oil by private companies for recycling purposes; and*
- (c) *what measures it will adopt to solve the pollution problem caused by used engine oil in the long term?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS:** Mr President, there are still 13 licensed collectors of waste lubricating oil and a privately-run plant in Yuen Long which specializes in the recycling of such oil.

- (a) Used engine oil or waste lubricating oil, except those generated from domestic use, is classified as chemical waste which is subject to control under the Waste Disposal (Chemical Waste) (General) Regulation. The Local Control Offices of the Environmental Protection Department are responsible for monitoring and controlling the storage and disposal of chemical waste in the territory. Anyone prosecuted and convicted under the Regulation for improper disposal of chemical waste is liable to a maximum fine of \$200,000 and imprisonment for six months.
- (b) As stated in the 1989 White Paper "Pollution in Hong Kong — A Time to Act", it is government policy to ensure the provision, by either the private or the public sectors, of facilities for the cost effective and environmentally satisfactory disposal of all wastes. It is also government policy to encourage local waste recovery and recycling activities. There are, as noted above, already a number of local collectors and a plant in Yuen Long which collect and recycle waste lubricating oil. Waste lubricating oil that is suitable for recycling and collected by the Tsing Yi Chemical Waste Treatment Centre will also be sent to the Yuen Long plant for recycling. We also liaise with vehicle and drivers' associations to increase public awareness of the importance of proper disposal of waste lubricating oil. Drivers and vehicle owners are encouraged to have their oil changed at garages where the waste oil will be properly disposed of.
- (c) The above measures, and increased public awareness of the



importance of proper disposal of waste lubricating oil through education and publicity, would help achieve environmentally acceptable disposal of engine oil. Any improper disposal is liable to prosecution.

### **Review of Remuneration of Heads of Universities**

20. **MISS EMILY LAU** asked (in Chinese): *In regard to a recent report concerning the appointment of a consultancy firm by the University Grants Committee to review the remuneration of heads of universities in the territory, will the Government inform this Council:*

- (a) of the reasons for and the objectives of commissioning the review;*
- (b) whether the remuneration received by heads of universities is set at 98% of that received by the Chief Secretary, if so, what the rationale is;*
- (c) whether the existing system of linking the remuneration and fringe benefits of heads and senior teaching staff of universities to those of comparable ranks in the Civil Service will be examined in the review; and*
- (d) when the review will be completed and whether the findings of the review will be released for public consultation?*

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

- (a) In the context of the University Grants Committee (UGC)'s review of the salaries of the Heads of City University of Hong Kong (CityU), Hong Kong Baptist University (HKBU), Lingnan College (LC) and Hong Kong Polytechnic University (PolyU), the Administration requested the UGC to undertake a review of the salary scales of all the Heads of the UGC-funded institutions as the Government is concerned about whether the existing salaries of the

Heads are at an appropriate level. At present, the salaries of the Vice-Chancellors of the Chinese University of Hong Kong (CUHK), Hong Kong University of Science and Technology (HKUST) and University of Hong Kong (HKU) are pegged at 98% of the Chief Secretary (CS)'s salary whereas that of the Heads of other four UGC-funded institutions are set at lower levels equivalent to various points on the Directorate Pay Scale of the Civil Service. In the light of the changes in the nature and scale of responsibilities of the CS and other senior civil servants in recent years, there is a need to review the current relativity of the salaries of the Heads to the CS. The objectives of the consultancy are, therefore, to:

- (i) assess the appropriateness of the current salary levels of the Heads of the seven UGC-funded institutions having regard to the need to maintain broad comparability of their total remuneration packages with those of grades with a similar level of responsibilities in the Civil Service; and
  - (ii) advise the UGC on the appropriate remuneration packages for the Heads of the UGC-funded institutions.
- (b) Members of the Finance Committee of the Legislative Council advised in September 1970 that the Vice-Chancellors' emoluments should not exceed those of the Chief Secretary, and approved in October 1974 the pegging of the salaries at one and two-thirds times the average of the professorial salary range. Hence, the Vice-Chancellors' salaries became indirectly linked to the top point of the Master Pay Scale (MPS) as the non-clinical professorial average was 143.8% of the maximum for that of the Senior Administrative Officer. However, as a result of the upward extension of the MPS the Vice-Chancellors' emoluments had exceeded that of the CS by 1979. Hence, on 28 July 1982, the Finance Committee of the Legislative Council approved the pegging of the Vice-Chancellors' salaries to that of 98% of the CS's salary. In June 1988, the Finance Committee approved that the salary scale of the Vice-Chancellor of HKUST, whose level of responsibilities was considered to be the same as that of the Vice-Chancellors of CUHK and HKU, should also be pegged at the same level.

- (c) The review examines the linking of the salaries of the Heads to that of the CS. The linking of the remuneration packages of the senior teaching staff of the UGC-funded institutions, namely, those at the professorial rank to those of civil service grades of comparable responsibilities is not considered in the review.
- (d) The consultants are expected to complete their study in February 1996. With the benefit of the findings of the consultancy report, the UGC aims to complete the review in April 1996 and tender its advice to the Government. The determination of salary levels is a technical matter. The Administration does not consider it appropriate to mount a public consultation exercise on the findings of the consultancy or the UGC's recommendations. Should changes to the salary levels of the Heads of UGC-funded institutions be proposed, the Administration will put its recommendations to the Finance Committee of the Legislative Council for consideration.

## MEMBER'S MOTIONS

**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 15 January. The movers of the motions will have 15 minutes for their speeches including their replies and another five minutes to speak on the proposed amendments. Other Members, including the movers of the amendments, will have seven minutes for their speeches. Under Standing Order 27A, I am required to direct any Member speaking in excess of the specified time to discontinue his speech.

## FORMULATION OF LONG-TERM INDUSTRIAL POLICY

**MR CHAN KAM-LAM** to move the following motion:

"That this Council urges the Government to formulate expeditiously a long-term industrial policy, implement the Hong Kong Science Park

Project and allocate additional resources to support the development of the manufacturing industry, so as to enhance the competitiveness of local products, the productivity of our workers and the value of our industrial outputs, with a view to strengthening the basis of the economy, promoting economic growth and providing more employment opportunities."

**MR CHAN KAM-LAM** (in Cantonese): Mr President, I move the motion standing in my name on the Order Paper. The motion urges the Government to formulate as soon as possible a long-term industrial policy, implement the Science Park project, allocate more resources to assist the development of the manufacturing industry, improve the competitiveness of Hong Kong products, heighten labour productivity and enhance the value of industrial output so that Hong Kong's economic foundation will be reinforced, its economic growth will be promoted and more job opportunities will become available.

**PRESIDENT:** Mr CHAN Kam-lam, you are entitled to speak for 15 minutes including your reply, this will be your first speech.

**MR CHAN KAM-LAM** (in Cantonese): The manufacturing industry's contribution to the gross domestic product (GDP) has markedly declined from its peak in the 1970s. Yet we cannot overlook the fact that the manufacturing industry and many of our local industries still possess considerable value added potential. If only the Government will formulate a long-term policy to give appropriate assistance to it, the manufacturing industry in Hong Kong can still put in a strong showing.

However, unfortunately, economic restructuring in recent years coupled with the Government's positive non-intervention policy has hastened the manufacturing industry's decline in the past decade, or has put the industry on the road to "natural demise". Some have commented that Hong Kong's industries are dead. This, though a bit exaggerated, has spelt out people's pessimism with regard to the prospects of local industries. Even some of the public service announcements placed by the Government on television have made reference to the current difficulties besetting local industries. This gives people the impression that local industries are in dire straits.

The manufacturing industry, at its peak during the 1970s, accounted for 30% of Hong Kong's economic output. However, following the reform and opening up of China in 1979, Hong Kong's manufacturing industry has been gradually relocating to China in order to reduce production costs. According to the report on Hong Kong's manufacturing industry published by the Government at the end of last year, the industry's GDP share had declined from 24.3% in 1984 to 11% in 1995.

There are two main reasons for the rapid decline of the manufacturing industry in recent years and they are as follows:

First, the Government has long been pursuing a high land price policy which has led to sharp rises in production costs and caused difficulties to the labour-intensive manufacturing industry.

According to the latest information, rents for factory premises in Hong Kong rank second in the world in terms of expensiveness and rents for office premises rank fourth. Relatively speaking, according to statistics of the United States Labour Department, among the 24 countries or regions practising market economy, Hong Kong's wages only rank twenty-second, lower than those of Singapore and Taiwan and only slightly higher than Portugal and Mexico. However, Hong Kong factory operators have in recent years been relocating to China one after another. The main reason for this is that they have no way to lower their rent and raw material costs and therefore have no alternative but to relocate so that the operating costs can be reduced through the employment of cheap labour in China. There is a saying that relocation, even to a new site which is one floor below, would entail considerable expenses, let alone relocation of a well-established factory from Hong Kong to a strange place for a fresh start. If the Government had not held fast to the principle of "positive non-intervention" and had not resolutely refused to create a favourable environment for local industries by giving them appropriate assistance, I believe local factory operators would not have resorted to this drastic measure of relocation. I hope Members from the industrial and commercial sector seated here today will tell this Council what hard times the industries have fallen on.

As a matter of fact, in the long run it would not be desirable to rely on China's cheap labour to reduce production costs and maintain our competitiveness. It is because wages in China will rise in tandem with economic development. For this reason, in recent years some factory operators

have moved their operations even further inland or relocate to other Southeast Asian countries.

On the other hand, although the Government merged the Industrial Development Board and the Science and Technology Board in 1991, it took no steps to positively propel local industries in the direction of high-tech development. Today, when most of the basic industries have relocated elsewhere, the Science Park project in respect of which the Government proposed a feasibility study way back in 1992 would now appear to be too late in coming. In the absence of appropriate conditions or facilities to match with the project, such as a technological research base and manpower training, only a few technological production lines foreign to Hong Kong would be introduced at best. We believe that local industries desiring to benefit from the Science Park project over the short term would meet with considerable difficulties and hindrances.

This notwithstanding, the consultation exercise in respect of the Science Park Stage II Feasibility Study Report has been completed. I still hope that the Government will make response as soon as possible and formulate a package of proposals for implementation over the long term.

Hong Kong is an important international centre of finance, trade, aviation, shipping, information and tourism in the Asia-Pacific region. As a free port, it is a cardinal commercial link between the West and the Asia-Pacific region. We agree that we are now adequately equipped to set up a Science Park. I am of the view that the focus of the Science Park should be placed on innovative high-tech product design, research and market development. The fruits of such endeavour can be transferred to local industrial estates for commercial production.

I believe that if we want to make a success of the Science Park government assistance as a matter of policy will be necessary, particularly during the incipient stage of operation. Not only must the Government give preferential treatment in terms of its policy relating to land grants within the Park, infrastructure, taxation and financial arrangement, it may also consider setting up a loan fund to encourage technical personnel to establish their businesses within the Park. As a matter of fact, other countries have adopted similar measures.

Science parks all over the world each developed in their own characteristic way. But we can still perceive a common feature among them. Science parks must be sited in proximity to the related academic or research institutions; they must be supported by the government and the business sector; they must be conveniently located and have advanced communication facilities; and they must have pleasant natural surroundings.

After we have fixed the development target for the Science Park, the success or failure of the Park will depend on whether we can create an appropriate environment or conditions which will attract to the Park well-established high-tech enterprises from Hong Kong, Macau, Taiwan, Asia-Pacific countries and the world as well as the necessary manpower and capital. Therefore the Science Park must strive for and be built to the best specifications to make sure that it will have a useful role to play in improving industrial productivity and upgrading technology.

Technology and qualified personnel are two indispensable elements in relation to the development of the Science Park. Hong Kong holds a distinctive edge in terms of management expertise, capital funding, communication facilities and market development with backup in the form of trained manpower and primary and high-tech research available from the Chinese mainland. Therefore, the science parks and science cities inside China, particularly those in Beijing and Shanghai, should maintain close cooperation with Hong Kong's Science Park and enhance information and manpower exchanges. This set of arrangements will make it possible for the science parks to complement one another.

With regard to management of the Science Park, I support the proposal to set up a public corporation charged with the responsibility of managing the Park. The board of directors of the corporation should be composed of representatives from the industrial and commercial sector. The Government should play an active coordinating role by setting up a coordinating organ. This organ and the Industrial Technology Centre as well as the Industrial Estates are each to perform their respective roles in promoting development.

The Government always objects to our drawing comparisons with the policies of other countries or regions. Yet the plain fact before us is that in neighbouring Taiwan and Singapore their governments have since the 1980s

been encouraging the manufacturing industry to upgrade and to conduct technological research through the offer of a diverse range of tax concessions and subsidy schemes. The result of this is that the two countries have been economically outperforming Hong Kong in the 1990s.

Taiwan's total technological research expenditure in 1992 accounted for 1.79% of its gross national product and Singapore's accounted for over 1%. On the contrary, the Hong Kong Government has been refusing to invest more resources in this respect on the ground of positive non-intervention. Even the few research schemes the Government has recently been recommending to Members, including the Industrial Support and Subsidy Scheme and the Cooperative Applied Research Development Scheme, have been in place for no more than a couple of years. It is estimated that such schemes account for only 0.1% of the GDP; this can in no way compare with the 0.29% developing countries spend on research projects on average, let alone the 3% advanced countries spend in this regard.

There is a saying that "crop yield is ever commensurate with the amount of effort a farmer puts in". Faced with keen competition for overseas markets, no wonder the manufacturing industry's GDP share has been sharply declining.

Members would agree that it would be more effective if the commercial or industrial sector, rather than the Government or any other party, should decide as to how industrial production methods could be improved and productivity raised. But this does not mean that the Government can just look on with folded arms and let the self-adjustment mechanism of the market run its own course. For this would lead to the natural demise of the basic industries.

In relation to the problems faced by factory operators, only a minority of the operators can develop new technologies and reduce production costs. In the absence of government assistance, most of the operators have no alternative but to relocate their operations and seek cheap labour in the Chinese mainland as a means to reduce costs. This has resulted in massive job losses among local workers and created the false impression or vicious circle of the manufacturing industry in terminal decline.

The Hong Kong Government has during the past decade been actively developing the financial industry. The success has been phenomenal and the



Government has been describing this as economic restructuring. However, the Government has not been similarly assisting industrial development. Industrial project financing as is available has not been given full play. The industrial restructuring the business sector has been long expecting has failed to materialize. They had been counting on the Government helping low value added industries to upgrade to high-tech, high value added industries. Unfortunately, the Government did very little in this respect. Even at a time when neighbouring countries are beckoning to Hong Kong factory operators, the Government feels complacent about Hong Kong's success as a financial centre and neglects industrial development.

I think that, if the Government today buckles down to long-term industrial planning, there will be vast prospects in the next century for "China to prosper and Hong Kong to prosper".

The Democratic Alliance for Betterment of Hong Kong (DAB) has a number of views to put forward in this regard. We hope the Government will seriously consider them.

1. The Government can refer to the industrial policy and government subsidy model of Singapore and consider offering preferential treatment or tax concessions to designated high value added industries, including high-tech manufacturing industry and traditional labour-intensive manufacturing industry. For example, the designated industries can be granted tax holidays or an environment be created in Hong Kong to enable diverse types of manufacturing industries to continue to exist and thereby providing more job opportunities.
2. The Government should as soon as possible draw up a time-table for the implementation of the Science Park project, including the provision of technical manpower training and matching facilities by the academic institutions and the utilization of technical personnel from China. The Government can at the same time consider directly investing in the Science Park and offering suitable tax concessions to attract foreign investors.
3. The Government should offer fixed-amount subsidies to working people who incur expenditure in taking up government-recognized

part-time courses. This would encourage them to upgrade their knowledge and production skills through private study.

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

*Question on the motion proposed.*

**PRESIDENT:** Mr LEE Cheuk-yan and Mr SIN Chung-kai have separately given notices to move amendments to this motion. As there are two amendments to the motion, I propose to have the motion and amendments debated together in a joint debate.

The Council shall now debate the motion and the amendments together in a joint debate. As Members were informed by circular on 12 January, under Standing Order 25(4), I shall ask Mr LEE Cheuk-yan to speak first, to be followed by Mr SIN Chung-kai; but no amendments are to be moved at this stage. Members may then express their views on the main motion as well as on the proposed amendments listed on the Order Paper.

**MR LEE CHEUK-YAN** (in Cantonese): Mr President, today's original motion and the two amendments have one and the same objective. Therefore, regardless of what the voting result is going to be, I would like to call on Members to strive for this objective so that there will be a change in Hong Kong's industrial policy and eventually high value added industries will be developed.

"The peach blossoms still look the same, but Hong Kong no longer looks the way it used to". In May 1992, the Legislative Council held a motion debate on industrial development strategy. At that time the Hong Kong economy, be it in terms of unemployment, underemployment, consumption desire and economic growth rate, was better than what it is today, four years on. The promises and assurances given then by the Secretary for Trade and Industry with regard to local industries (the manufacturing industry in particular) are as yet unfulfilled. We feel intense disappointment and regret over this. First, the Government has delayed building the second Industrial Technology Centre; the third Industrial Estate in Tseung Kwan O is still under construction; only the Stage II feasibility

study report on the Science Park project has been completed; funding for and investment in various research and development (R & D) projects stays at less than 0.05% of the gross domestic product (GDP); and the Education and Manpower Branch has been turning a deaf ear to requests made by technical schools for additional funding in order to improve the teaching of courses in industrial drawing, metalwork, carpentry, printing, costume and garment manufacturing.

As the Legislative Council Member returned by the manufacturing sector, I am concerned and worried about the present state of Hong Kong's industries. Despite continued economic growth, the Hong Kong economy is principally led and driven by entrepot trade and massive infrastructure construction. We are over reliant on the wealth-generating capability of China-Hong Kong trade, the financial sector and the services sector. The prospects, however, of the manufacturing industry which has good foreign exchange earning capabilities are rather pessimistic.

In the 1995 Report on the Manufacturing Industry, the Industry Department pointed out that, in terms of added value per worker, the manufacturing industry's average annual productivity growth rate is 14.4% and during the 10-year period from 1983 to 1993 the average annual added value growth rate was 8%. As a matter of fact, since 1988, the added value growth rate of the manufacturing industry has been manifestly declining. The report did not give an explanation of this. Moreover, the number of people engaged in the industry has been steadfastly declining and the figure for the second quarter this year was 0.39 million. Generally speaking, the displaced manufacturing workers are earning less than what they used to earn and the wages of those who stay being manufacturing workers are growing at a lesser rate, or even at a negative rate. Furthermore, the manufacturing industry's GDP share has fallen from 24% of a decade ago to the present 11%. But the Director-General of Industry is of the view that this does not represent a decline in real terms. It just represents a larger "cake" and the manufacturing industry's share has declined in relative terms only. I think these are subterfuges aimed at deceiving and window-dressing.

As a matter of fact, following the opening up of the China market and the start of the manufacturing industry's relocation to China in the 1970s, the local manufacturing industry has been declining under the *laissez faire* economic policy of the Government while the financial and service industries have

registered phenomenal growth. At the same time, the Government's high land price policy, coupled with its repeated and emphatic claim of Hong Kong's economic usefulness to China as an international financial services centre, has contributed to the predicament that the manufacturing industry is now in. The root cause of all this is the Government's "short-sighted" or "weak-sighted" industrial policy on the one hand and the "1997 effect" on the other hand. With 1997 fast approaching, the "enterprising spirit" of the industrial sector has taken a nosedive; profit-making is their prime and sole objective; the period for investments to start yielding returns has been drastically shortened to months or even weeks. As a result, no consideration has ever been given to high-risk high-tech industrial investment. There is little awareness that a crisis, namely, a hollowing-out of the economy, is looming large. Manual workers are looking forward to switching to white-collar jobs and engineering graduates are doing the salesman's job. More and more of the industrial undertakings in the manufacturing sector are being relegated to the status of sunset industries and they will disappear in the foreseeable future.

Faced with such difficult times, we must be united. First, we must smash to smithereens the "weak-sighted glasses" the Government is wearing which only give a murky view of what way to proceed in terms of industrial policy. We hope that the Government will formulate as soon as possible a long-term industrial policy with clearly defined objectives, adopt positive measures to assist and lead the manufacturing industry's development and match it with an appropriate manpower policy so as to enhance the employable skills of workers, improve their employment opportunities and better their livelihoods.

Industrial development in the next century will be technology-led. We must attach sufficient importance to the technological conversion to which the industries will be subject and pool our strength in order to take on major project items which will have a significant socio-economic effect. At the same time, we must attach importance to the results of technological research, popularize and promote them. Therefore, the principal objective of an industrial policy must be to develop capital-intensive, high-tech and high value added industries. Let me refer to the fourth framework programme for technological R & D adopted by the European Union in 1994 and the 1994-98 United Kingdom report on the way forward for technology where there are obvious domains with development potentials, such as information, biology, material resources and environmental protection. The Government can vigorously drive and propel development in these aspects.

Apart from the need for a clearly defined objective, there must be matching efforts on other fronts to complement the policy so as to ensure its implementation. I think that the most important ones are:

*First, to develop high quality adult education to upgrade workers' abilities*

Currently the Government only focuses its attention on education provided by institutes of higher learning. In 1995-96, the Government will spend \$9.7 billion on such education. But most of the \$1.5 billion allocated to the Vocational Training Council will be spent on technical and industrial colleges, with little, if at all, spent on adult education. The Employees Retraining Board under the Council is running a deficit of \$100 million. Not only does this show the Government's neglect of basic education, it also hinders the development of adult education. Faced with the demand from workers for upgrading of their employable skills, I think that the Hong Kong Government must revamp the training strategy and structure of the Vocational Training Council and the Employees Retraining Board to ensure that the courses will dovetail with industrial development, that the ability of the course participants will meet market requirements, and that more training courses will be on offer which will have depth, practical value and market recognition. As is the case with Germany, academic education and vocational training should, as a matter of principle, proceed in the direction of equality of value.

*Second, to set up a development fund to offer low interest or interest free loans to assist industrial development*

High-tech and high value added industries imply an element of high risk and technical difficulty. It would not be easy for operators to borrow from banks. Therefore, we think that the Government should set up a development fund in this regard to offer appropriate assistance.

*Third, to set up as soon as possible an R & D-based Science Park and to offer related technical support and guidance to the manufacturing industry*

The 21st century will be an era of technology. The Government should make up its mind to enhance the allocation of resources to meet R & D expenditure.

Thank you, Mr President.

**MR SIN CHUNG-KAI** (in Cantonese): Mr President, the debate we are holding today could be said to be a continuation of the 1992 debate on the same subject. At that time Legislative Council Members sought to urge the Government to review Hong Kong's industrial policy. The motion was passed by a majority vote. Going over the Hansard record, Members will find a multiplicity of constructive ideas put forward by Members, including the proposal to set a development direction for the manufacturing industry, increase funding for technological research, grant tax concessions, encourage enterprises to invest in technological research and build a high quality workforce. Three years have elapsed since the last debate and it would appear that the Government has not adopted the views of Members. It is still espousing the policy of interfering as little as possible in local industries. Therefore, I am seeking to amend the original motion proposed by Mr CHAN Kam-lam. My amendment urges the Government to carry out work on three fronts, including the Science Park and related tax concessions, enhancement of manpower training and improvement of existing measures to help industries.

First, I would like to discuss the current problems the local manufacturing industry is faced with. In a recent speech entitled *Hong Kong's Manufacturing Industry — the Road to Success*, the Director-General of Industry had this to say:

Although the gross domestic product (GDP) share of the manufacturing industry and the number of workers engaged in it has declined, this does not indicate that the industry has been hollowed out. It is because Hong Kong manufacturers are switching from assembly of parts to high value added activities, such as research and development, product design and archetypal development. The output value and productivity of the manufacturing industry has been rising. A greater number of manufacturing workers are engaged in higher-paid work requiring higher technical skills. I wonder if this analysis has stemmed from the Government's ignorance or from its disguised attempt to forestall our demands. The Government's response to be made later in this debate might cite similar views in order to maintain the status quo.

My understanding of the present state of the manufacturing industry is that its output value has been declining, it has experienced no upgrading and its workers are faced with the threat of unemployment, not to mention that they have never switched to higher-paid positions on a higher technical level. I am not indulging in alarmist talk; I am only exposing the beautiful lie that the

Government is telling us. It is because only in facing up to reality can we administer the requisite remedy that will radically cure the malaise. I shall elaborate on my argument as follows:

The manufacturing industry's output value in 1993 fell 3.7% when compared with the output value of 1989. In the interim period there was a slight rise but it was lower than the inflation rate, in other words, it was negative growth. What is more important is that in recent years the rise in added value has been disappointing. No upward trend is noticeable. In 1993 the added value was lower than those of the previous four years (that is, from 1989 to 1992). This shows that Hong Kong's manufacturing industry is not headed for high value added activities. Moreover, the output value and added value of certain trades with a higher GDP share, such as garments, textiles and watch-making, have been falling year after year from 1989 to 1993. This reflects that these conventional trades have not been going for higher added value. At the same time, what merits particular attention is that, according to the categorization carried out by the Organization for Economic Cooperation and Development (OECD), garment-making and textiles are labour-intensive operations on a low technical level whose development prospects are limited. Therefore, the Democratic Party (DP) is of the view that not only must Hong Kong's manufacturing industry be headed for higher value added development it must also develop new-found activities (such as multi-media communication) in order to lessen the reliance on conventional operations.

On the other hand, if we take some reports, such as the 2000 Manpower Forecast and the Household Statistical Survey, do some extrapolation therefrom and then add a few actual cases for consideration, we will find that although the number of positions in the manufacturing industry requiring higher technical expertise has slightly increased, probably by less than 1%, the overall number of workers in the industry has declined by 10%. Upon careful counting, we will find that the number of people occupying positions requiring higher technical expertise is falling, not rising. I hope that the Director-General of Industry will produce data to support his statement that more manufacturing workers are engaged in activities of a higher technical level.

Mr President, the argument I advanced above illustrates that under the Government's policy of no set targets, knee-jerk reaction and as little interference as possible, Hong Kong's manufacturing industry has no way at all to upgrade on its own. As a matter of fact, in the light of other countries' experience,

industrial upgrading requires active support from the government, including improvement of the operating environment, enhancement of the infrastructure, raising of the quality of the workforce, granting of tax concessions and investment in research in order to develop high-tech and high value added industries. Let us compare ourselves with two of the Little Dragons of Asia — Singapore and Taiwan. Singapore grants numerous tax concessions and low interest loans to encourage enterprises to invest in technological research and development with the object of becoming a manufacturing centre by the year 2000. In terms of the manufacturing industry's output as a component of the gross national product (GNP) and the size of its workers as a proportion of the overall workforce, Singapore hopes to maintain those at 25% and 20% respectively. The Singapore Government has invested \$5 billion to set up the Cluster Development Fund and, by way of equity injection, is sharing the investment risks of enterprises subject to the requirement that the investment items must be conducive to heightening Singapore's competitiveness. The Taiwan Government is following suit and is planning to set up a manufacturing centre in the 21st century. Its current mission is to enhance industry's ability to upgrade. It is also planning to set up 20 to 30 "intelligent" industrial zones throughout the island in order to encourage enterprises to invest.

Mr President, I have a few views to put forward with regard to government assistance to industry. First, government funding for technological research accounts for less than 0.05% of GDP. A number of Members have dwelt on this and I do not wish to repeat their arguments. Secondly, Hong Kong's manufacturing industry is mostly made up of small to medium-sized enterprises. But a vast number of these enterprises think that the Productivity Council and the Industry Department have failed to help them upgrade their technology and product quality. I hope that the Government will put in greater efforts in this regard. Thirdly, one of the principal missions of the Hong Kong Industrial Technology Centre is to nurture the development of high-tech industrial undertakings, including computer software. The Centre is now finding its existing accommodation insufficient. The Government should as soon as possible develop a second industrial technology centre.

Lastly, with regard to Mr LEE Cheuk-yan's proposed amendment, the DP will not support it. It is because we do not agree with the part of Mr LEE's



amendment which expresses "regret". Upon construing the amendment's wording, we find Mr LEE holding the view that "the Government's policy for the past decade or so has been to favour the financial and services sectors". However, we have found that the Government has done nothing significant in this respect. The Government's attitudes towards industry and financial services could be said to be the same, that is to say, to leave them to their own devices. I believe Members will recall that when two financial disasters broke some years ago, that is, the 1987 stock market crash and the BCCI incident, the Government only hastily patched up things *ex post facto*. Therefore, the DP cannot support Mr LEE Cheuk-yan's amendment.

Let me add one point here. The Hong Kong manufacturing industry's GDP share has been steadily declining. This is a cause for worry and unease. The manufacturing industry needs the Government's active participation. Dr HUANG Chen-ya will later advance arguments with regard to the Science Park project.

**MR HENRY TANG** (in Cantonese): Mr President, in May 1992 and June 1993, in other words, for two years in a row, I participated in the motion debates before the Legislative Council on the subject of industrial policy, which urged the Government to review and positively assist Hong Kong's industrial development, particularly in enhancing Hong Kong's competitiveness in high technology. I am glad that the two motions were endorsed by the majority of Members of this Council. I guess that this represents a consensus which, given the conflicting views of different parties in this Council, is hard to come by these days.

Members of this Council and the Administration, who are concerned with Hong Kong's industrial development, are, I believe, already well acquainted with my views in this regard. And therefore I shall not be giving an unduly long speech to elaborate my stance today. Instead, I shall today concentrate on discussing the Honourable LEE Cheuk-yan's proposed amendment.

Mr President, the Liberal Party will oppose Mr LEE Cheuk-yan's proposed amendment. It is because, in the verbose amendment, we discover a number of departures from the spirit of a free economic policy hitherto upheld in Hong Kong. It may be due to Mr LEE's inability to grasp the mystery or wonderful essence of a free economy. Mr LEE's amendment, as presently worded, refers to "the Government's long-standing neglect of Hong Kong's industrial

development for the past 10 years or so". This I agree and I shall not take issue with him on his expression of regret in this respect. I believe that if the Government had, as early as 1979 when China first started to launch her reforms, known that it would be an inevitable trend for the territory's labour-intensive industries to undergo a transformation and had assisted industrialists in pursuing high-tech development, there would not have been so many people out of job today. The Government has never had any breadth of vision and this is regrettable.

However, I would take issue with Mr LEE Cheuk-yan on his comment that the Government has neglected industrial development and favoured the financial and service industries. It is because in actual fact the Hong Kong Government has similarly taken no substantive measures to help the development of the finance and service industries. New overall economic development direction is set according to the natural adjustments of market mechanism based on market demand. Mr LEE goes on to urge this Council to express regret over the decline of the manufacturing industry, as a percentage component of the GDP, from 24.3% in 1984 to the present 11%. Mr President, the decline of the manufacturing industry in GDP terms is basically due to the *en masse* relocation of labour-intensive manufacturing processes to southern China. As a matter of fact, faced with keen industrial competition from Southeast Asian countries, Hong Kong will fail to survive if it does not enhance its competitiveness and lower its production costs. Conversely, not only has the relocation of industrial undertakings to China saved the overall economy from registering nil growth, it has also led to the flourishing development of the services trades. I believe this is a correct development direction having regard to the complementary economic roles played by Hong Kong and China. From a macroscopic perspective, the relocation to China for the purpose of development will, in the final analysis, have more advantages than disadvantages. Therefore we should not express regret over this.

Mr President, there is one point in LEE Cheuk-yan's proposed amendment that imports ambiguity. He urges the Government to formulate specific "targets" and adopt substantive measures to assist and "guide" the development of the manufacturing industry.

I would like to point out clearly to Members here that we cannot ask the Government to intervene directly in the market or to guide it. It is because this would be a dangerous move. The Government may not have a correct view or

grasp of the situation. If, after it has set the targets for industrial development, the Government adopts various measures to "guide" the industrial sector to proceed in full force in a certain direction, there could be far-reaching effects in the event of the targets proving to have been wrongly set. There are such precedents in some of our neighbouring countries.

Mr President, it would not be easy to strike a reasonable balance between government assistance in and support for high-tech development at one end of the scale and maintenance of the principle of a free market economy at the other end. Any error would precipitate a crisis of government intervention in the market. I hope the Government will understand my intent and purpose.

We can do no more than asking the Government to provide an ideal and perfect investment environment so as to assist in a positive way high-tech industrial development. The strategy concerned may include:

- (1) The Government to allocate increased funding for research; to encourage the industrial and commercial sector to invest in research and development so that investors will be free to choose research items with good potentials and to launch them; to let small-scale industries develop the way enterprises do.
- (2) To grant tax concessions to high-tech industries, such as double tax deductions in respect of expenditure outlays on research projects, and low interest loans for capital investment in acquiring factory premises.
- (3) To expedite the establishment of a Science Park; to identify market niches for development of such high-tech industries as are Hong Kong's strong suit in order to enhance competitiveness.

Hong Kong has entered stage II of its industrial revolution. There is a pressing need for us to put high-tech industrial development on the fast track so as to enable Hong Kong's economy to maintain its unfailing international status. To put in place a perfect investment environment will of course require a coordinated endeavour to dovetail with other policies, apart from carrying out what I just mentioned. These other aspects of the endeavour will include education, training and land supply. These are basic forms of assistance which

cannot be neglected. But I have to reiterate that it would not be advisable for the Government to intervene in or guide market operations.

Mr President, with regard to the Honourable SIN Chung-kai's proposed amendment, the Honourable James TIEN will later comment on it. I support Mr SIN's amendment in principle. However, I can detect little difference in wording between his amendment and the Honourable CHAN Kam-lam's original motion. As I would not wish to encourage Members to propose amendments just for the sake of proposing them, Members from the Liberal Party will oppose Mr SIN's amendment.

With these remarks, I support the original motion.

**MISS CHRISTINE LOH:** Mr President, as the Honourable Henry TANG just reminded us the Honourable Allen LEE and the Honourable James TIEN moved debates last year on kick starting the economy. I thought then that the call on the Government to "do something" about the economy was misguided. I regret the Liberal Party continues along this thing as just expressed by the Honourable Henry TANG, a surprise, I may say, from such business elite. In Hong Kong, our philosophy has been to get business, not government to "do" things about the economy. The Government's job is to facilitate business, not to intervene. We have a free market economy, not one practising central planning or central direction. The Government's job is to ensure that there is a free economic environment, and a levelled playing field for all sectors of business.

The Government does not pick winners, and taxpayers' money should certainly not be used to support losers. That philosophy cannot be turned on and off like a tap. It should be the case in good times, and in bad times.

Today, Mr President, we have three Members, long associated with grassroots politics, demanding government intervention in the economy. I urge them to be very careful in thinking that the economy, or any particular sector of the economy, could be managed by the Government to produce certain positive results. Their suggestion for a Science Park, for the Government to pick winners, preferential government loans, government guidance to business, and tax concessions are nothing more than *ad hoc*, and if I may say, ill conceived, half-baked ideas.

I urge them to recognize what they are doing. They are calling for government intervention, the result of which could set a very bad precedent for intervention on a much larger scale in the future. If we go down that road, how does that differ from China's own planned economic policy of backing and maintaining certain core industries? So, beware. Tread very carefully. Better still, turn back.

The Honourable LEE Cheuk-yan makes a curious point in his amendment. Some of those issues have already been taken up by the Honourable Henry TANG. For example, Mr LEE Cheuk-yan regrets that the manufacturing sector has declined in its contribution to the value of our GDP from 24.3% in 1984 to 11% today. In fact, in the last 15 years, Mr President, Hong Kong's GDP has tripled even though the manufacture industry has shifted to South China and elsewhere.

This Council should note that Hong Kong's growth over the last 15 years was not simply in adding factors of production, such as capital and labour. Hong Kong has increased what economists call "total factor productivity", that is, Hong Kong increased workers productivity in increasing knowledge. Value-added also increased, and thereby our ability to expand the service sector, which requires a more sophisticated workforce.

Let us contrast the situation in Singapore as the Honourable SIN Chung-kai has done, since, also, Singapore has admittedly done very well economically. There, the government extracted massive Central Provident Fund contributions from its citizens to provide capital for growth, resulting in Singaporeans having relatively less disposable income than our residents. Hong Kong experiences no less a rate of growth but enjoys a high level of disposable income and if I may say, Mr President, a lot more freedoms as well. Hong Kong's utilization of capital was about twice as efficient as that of Singapore's. Why is that? Because our development was directed by the market and theirs by the government. It is also very well for the Honourable SIN Chung-kai to quote the Singapore way, but it is more important to perhaps take a more macro view.

Therefore, is it really appropriate for this Council to express regret, as the Honourable LEE Cheuk-yan had said? Mr President, surely not. If we did, we

would be laughed at for our ignorance. This Council, rightly, should concern itself with those members of our society who, because of a lack of an education, could not cope with fundamental economic change. Let us therefore, of course, look at retraining and adult education and may be also other measures; but let us not argue for a poorly articulated set of industrial initiatives as the motion and the amendments suggest.

Finally, perhaps I can end by saying what I think is the proper province of government in industrial management:

- Firstly, the Government should assist economic adjustment by the collection, analysis and dissemination of comprehensive information on the economy, so that the private sector decision-making can be better informed;
- Secondly, maintain and improve where possible all elements of the business environment which are conducive to business, namely, the rule of law, free flow of information, low taxation, intolerance to corruption, and so on;
- Thirdly, remove impediments to free operation of the market. This includes breaking cartels and minimize restrictive practices, and however politically incorrect, let me add, I am afraid this includes not banning the importation of labour or imposing unreasonable limits;
- Fourthly, assist in the setting and the maintenance of industrial standards, such as certificate of origins; and
- Lastly, ensure that labour and environmental regulations relating to industry are adequate and enforced.

Mr President, for the above reasons, I shall vote against the motion and both amendments.

**MR DAVID CHU:** Mr President, the Fraser Institute ranks our economy as the freest in the world over the past two decades. We have thrived throughout without an industrial policy, business tax breaks and a Science Park. Our

Government, therefore, never thought much incentive was needed. But that may be changing as our manufacturing base shrinks and our technology development trails further behind our rivals. On the other hand, the globalization of business, the boom in the Asia Pacific region and China's recent and future developments offer fresh opportunities. While the Government tinkering too much with the economy is wrong and private initiatives are much better, I believe the Government should formulate a long-term industrial policy which can help guide our future development in the right direction and set the atmosphere for further improvement.

A Science Park is long overdue. The promise was made in the mid-eighties. Since then, computer technology has matured and our university enrolment has doubled. We now have enough computer-literate young people to give us the edge. We must seize the day and put together all our competitive advantages, such as proximity to a huge market in China, the brains of our youth and the ingenuity of our businessmen.

The Hong Kong Government cannot devise a long-term policy on its own because our success depends on how well we serve others. Thus we should co-ordinate our industrial policy with China and with regional and global views in mind.

With those observations, Mr President, I support the original motion.

**MR NGAI SHIU-KIT** (in Cantonese): Mr President, owing to economic restructuring, the manufacturing industry has been in continuous decline in recent years in terms of its contribution to the gross domestic product so has been the number of workers engaged in the industry. Nevertheless, along with the automation of the production processes and the raising of productivity, the manufacturing industry has still an important role to play in Hong Kong's economy. However, because of the Government's policy of non-intervention and *laissez faire*, over the years no positive measures have ever been adopted to propel local industries in the high-tech and high value added direction. This has resulted in Hong Kong lagging behind its competitors among the Four Little Dragons of Asia in terms of industrial technology.

In a typical free and open economy as Hong Kong is, the manufacturing

industry has an obvious function to fulfill in terms of maintaining the overall stability of its economic structure and the labour market. Last year the unemployment problem kept worsening and the Government eventually changed its relatively passive attitude it had adopted in the past. From the Governor to the Director-General of Industry, their unanimous emphasis as expressed is on supporting the technological upgrading of the manufacturing industry. The Government is attaching renewed importance to industrial development. This is indeed a cause for joy as far as the public is concerned. Hong Kong's economic development is poised to make a new breakthrough.

With regard to the drive to achieve technological advancement for industry, I must point out that verbal support from the Government will not suffice. The Government should take up the responsibility it is obliged to take up. It should formulate an industrial development strategy and set long-term plans to render positive support. Only in so doing will it be possible to put Hong Kong firmly on the road of success towards industrialization.

Mr President, as the representative of the industrial sector, I am of the view that the Government, in its drive to promote high-tech industrial development, may proceed on three fronts. On the first front, the Government must formulate a specific long-term plan. Although the Government in recent years has launched a number of schemes to encourage the local manufacturing industry to go for technological advancement, such as the Industrial Support Subsidy Scheme and the Applied Research and Development Scheme, yet such multiplicity of schemes look rather fragmented and piecemeal. Their effect will, in the final analysis, be limited. The proposed large-scale Science Park, which is a long-term investment, is what Hong Kong pressingly needs. The industrial sector is in full support of this scheme. It is hoped that the Government will get on with the project as soon as possible.

On another front, though there is long-term planning in respect of the infrastructure "hardware", the Government must also improve the business environment, which is the "software", in order to nurture technology-based local industries, attract multi-national industrial concerns to invest in Hong Kong, and introduce new technology as well as technical personnel into the territory. Many years ago, I already suggested giving tax concessions to investors in high-tech industries. The Government should carefully consider this. Although it may be a bit late now, yet it will be a shot in the arm that will boost industry. Moreover, technological research projects need vast amounts of



funding. Hong Kong being an international financial centre, the Government should assist in the development of the bond market so that it will become more mature and function as a mechanism for raising funds in favour of industrial technological research organizations.

Finally, in respect of Hong Kong's industrial technological research, the vast strength of China can be relied on as a backup. This is something our competitors do not have. The Hong Kong Government should give full play to this advantageous position, enhance co-operation and exchange between Hong Kong and China in the area of technological research, probe the possibility of putting China's industrial technological research results to practical use in local industries so as to produce high value added products. Hong Kong can, by virtue of its superior management expertise and superb communication facilities, play the role of an intermediary for technology transfer between China and the international community and stand to benefit immensely in the course of it.

Judging from the present state of affairs, Hong Kong is adequately equipped for high-tech industrial development and an industrial revolution of an explosive nature may be about to start. I believe that, having regard to Hong Kong's successful experience in terms of economic development, Hong Kong has vast potentials to become the technology centre of southern China in the next century and thence to become the technology transfer centre of Asia. It will glow like a beacon for the world to behold.

With regard to the amendments proposed by the two Members, I am of the view that they tend to focus on trifles and lack principles. I agree with the comments by the Honourable Henry TANG and those to be made by the Honourable James TIEN later on. I shall not repeat them here.

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

**MR PAUL CHENG:** Mr President, increasingly we seem to be taking the view that since most of Hong Kong's manufacturing sector has moved across the border, we should now focus our efforts in promoting Hong Kong as a service centre. It sounds logical, and this certainly fits in with the Government's

non-intervention policy. But is this really good for Hong Kong's long-term economic future? I think not.

In order for an economic entity such as Hong Kong to continue to prosper we need to have a more balanced portfolio, and to achieve this we must not give up on manufacturing *per se*. I support the *laissez faire* policy which has worked well in the past. The marketplace, however, is changing and competition in the region increasing. The Government needs to urgently take a leadership role in steering the restructuring of our economy. This is not intervention. Far from it. Every endeavour requires leadership to succeed and that is all I am asking the Government to do.

Our current interim unemployment situation is due partly to this restructuring. If we can regain some grounds in attracting selected manufacturing sectors to return or make new investment in Hong Kong, it will help create jobs for our unemployed. In the last 10 years, manufacturers' share of Hong Kong's total GDP as a percentage has slipped from the mid-twenties to around 12%, while Singapore has been able to maintain their manufacturing sector as 26% of GDP.

I know we have taken several initiatives such as the establishment of the Industry and Technology Development Council and Centre to help incubate innovations, the establishment of the University of Science and Technology, and the proposed Science Park. These are all efforts we should commend and support. But what we now need is a comprehensive policy and a comprehensive plan of action so that all parties, both in private and public sectors, can work closely as partners. We have highly motivated and educated workers, and an efficient commercial environment. We now need the Government to lead, and I would like to stress, not interfere, but to lead the effort to come up with a well-thought out plan and policy in co-ordination with China.

Mr President, I therefore support the original motion.

**MR IP KWOK-HIM** (in Cantonese): Mr President, Hong Kong owed much to the manufacturing industry for its present prosperity and for being commended as one of the "Four Little Dragons of Asia" by the international community. Hong

Kong's manufacturing industry developed rapidly after the end of World War II. Apart from certain special historical factors, the rapid development was due to Hong Kong's labour resources and technical personnel as were then available, who had a decisive effect on the industry's development. Since the end of the war, Hong Kong's industries have been labour-intensive operations which rely on low cost and low grade products to attract buyers. This has caused Hong Kong's economy to boom so fast that it became a miracle. However, with local wages ever on the rise and with Southeast Asian countries as well as China posing as keen competitors, the manufacturing industry's continual relocation northwards and its inexorable decline have become all too apparent. If this state of affairs continues, I believe Hong Kong's industries will be heading for their "natural demise".

Now people from various sectors of society are advocating the development of technology-intensive and high value added industries. This, they argue, would be the most feasible way to save Hong Kong's industries. The Democratic Alliance for Betterment of Hong Kong also agrees that the labour-intensive, low-cost and low-grade mode of production can no longer survive in the actual environment of Hong Kong at present. However, we have to pay attention to one point. To back up the introduction of advanced technology, we have to actively train local personnel to prepare for and welcome the new industrial era. If the Government and the industrial sector only raise strident cries for technology transfer without actively training up the necessary personnel, the so-called technology-intensive and high value added mode of production will eventually be just there "for show". This will not bring about any advantage to Hong Kong, faced as it is with ever keener competition for international markets.

Mr President, undoubtedly, the task of upgrading local workers' production skills cannot be completed in a year or two. At present, importation of foreign labour indeed can meet short-term needs. But the root cause of our current trouble is that the Government has not had any long-term programme to train up local personnel and such failure has resulted in the absence of a *corps* of technicians and specialists of high calibre to co-ordinate with the transformation of Hong Kong's industrial production mode. Therefore, a far-sighted and responsible government should never shirk the responsibility in training up local personnel so that Hong Kong's industries will proceed in the direction of

high-tech and high value-added industries.

With local industries proceeding in the direction for high skill and high technology, I believe that more and more unskilled and semi-skilled workers will be facing the threat of unemployment. Practically, these manual workers will not be able to find new jobs under Hong Kong's present circumstances of economic and industrial transformation. However, if we give them appropriate training to upgrade their production skills, this group of low-skill workers will become a valuable pool of manpower resources to serve the industrial sector in the future. The setting up of the Employees Retraining Board (ERB) can precisely provide these workers, who are displaced by the new industrial production mode, with retraining so that they can continue to contribute to Hong Kong. However, the courses presently being offered by the ERB are principally related to commercial and services trades. The retraining needs of workers engaged in industrial production processes, comparatively speaking, are being neglected. Therefore, the Government should increase its funding for the ERB, offer more industrial courses and re-enlist into the industrial sector the manpower originally engaged in industry so as to assist Hong Kong's industrial sector in its transition towards high-tech and high value-added industries.

In terms of manpower training for the future, the present Vocational Training Council, technical colleges and the universities, particularly the former two, should redesign their curricula. They should offer related courses that meet the current mainstream development of local industries. They should introduce advanced industrial equipment and teaching materials so as to train up a batch of technical personnel with high calibre.

Mr President, with regard to professional personnel, although the Government has in recent years increased its funding for tertiary education, the majority of the present-day graduates cannot meet the requirements of the industrial sector. Therefore, apart from the tertiary institutions offering the abovementioned professional courses, the Government should play a co-ordinating role so that our tertiary graduates can appropriately cater to the needs of the industrial sector. The implementation of the Science Park project and its future development orientation should dovetail with industrial development so that the status of local industries will be raised afresh, thus attracting more young people to enroll with courses related to industrial production.

Mr President, to sum up, the old labour-intensive, low-tech and low-grade production mode is approaching its "sunset" days. What follows is the technology-intensive and high value-added production mode. This transition absolutely needs a *corps* of technical and professional personnel with high calibre and high skill who will match with such development. Therefore, the Government should play a co-ordinating role in putting in place a long-term training programme to assist local industries in their transition.

These are my remarks.

**MR JAMES TIEN:** Mr President, the Governor in his latest policy address dusted off a decade-old proposal to build for Hong Kong a Science Park. The revived promise, even if fulfilled, strikes me as a case of too little, too late. But it is still better late than never. In the more than 10 years since the idea was first mooted until now, several generations of computer technology have passed us by. We today are lagging behind Singapore, Taiwan, South Korea and certain areas of China in technological development and innovation. The gap widens as I speak and everybody pays a price — from manufactures who have to go offshore, unemployed workers who are unable to find a new job to their satisfaction, to university graduates who must settle for jobs that they are over-qualified for.

Disappointed as we are at the wasted opportunities to further technology in Hong Kong, we are still keen for a Science Park so that we can join the race, if only from the back of the pack. Look around us and you will see that our once vibrant manufacturing capacity has been hollowed out. Those low technology manual jobs which sustained us have gone and they will not come back because of our surging wages, our ever demanding employee benefits and increasing costs of living. True, we have replaced some of these job losses with an improved retail and financial sector. But in recent months, we realized that white collar jobs cannot be created fast enough to cope with increased labour supply. The consequence is a 3.5% unemployment rate. The future may be bleak unless we diversify our base with an industrial policy emphasizing on high technology.

Mr President, it is easy to fantasize on how we are going to launch an age of high technology in Hong Kong. But the reality is that, while technology is

accelerating in the United States, Japan and other countries, ours has not even taken off. By the time we finally get this rocket ready, their spaceship will be in orbit.

Try as we may to reach far, we have been pulled back down by a wage spiral. Each year for the past decade has seen worker's pay rise on an average of over 10% per annum. I understand that the increase is necessary to let our workers maintain their standard of living in a period of serious inflation. But foreign companies may not understand because, to them, what counts is the highest productivity for the lowest production cost — the bottom line. All things being equal, China, other Southeast Asian countries seem to be better places to manufacture while the United States and Japan are the countries to do consumer R&D.

To draw investment capital to our shores, we have to make sacrifices. The Government makes its through tax concessions. We, local business, make ours by putting our money into Hong Kong even when we may earn a better return elsewhere. Labour has to make it also by restraining and containing its demand for more pay and extra benefits. To help ourselves, we have to develop a three-way partnership involving the Government, business and labour. Hong Kong has no choice but to forge again the consensus for growth — and the motion today is perhaps a sign that some of us are realizing at last that our economy has to take priority. I hope so. We cannot afford to falter. Others are standing by to pick up our slack.

Over the past decade, we have also expanded tertiary education to enrol more promising students. We started to broaden our youths' horizons in the belief that the economy would turn up quality jobs to greet them when they are ready. Mr President, we are about to graduate 15 000 university students this year, more than a third of whom will have degrees in science and technology. Society would be unfair to them, after putting them through such rigour, to say to them that there are not enough places for them. If that happens, we will have betrayed their talents, dashed their dreams.

Even if we were to have the Science Park before the turn of the century, we must also grant investors tax breaks to make their ventures worthwhile. Our Administration has traditionally reacted coldly to any such suggestions. To the Government, Hong Kong is attractive enough with its low taxes and superior infrastructure. While this stance might have been sensible a decade ago, it is

not today — not when we have competitors out there willing to undercut us. Singapore is a good example of a community that will do whatever is necessary to lure high tech. We have low taxes but this advantage is eroded by expensive rent, high labour cost, excessive labour benefits, high and excessive fees and charges and high inflation.

At the early stage of our economic development, it was essential to let businesses seek out their niches, adjust or perish. But our Government now senses that total economic freedom is not right. The result of this new thinking is a more assertive Administration which pushes for workers' benefits. The Government has done much for labour in the past two years by increasing benefits. Will it do as much for investors and industries who deserve a few carrots too after getting hit by so many sticks? The answer is, for me, for us, a resounding yes. What good is in having all the labour benefits when no one has a job?

Mr President, the Liberal Party enthusiastically supports the ideas of tax concessions, the Science Park and higher technology. Let us have the chance to explore technology, to go for its cutting edge rather than be left behind to scrape the bottom. We have the people, the capital, the skills, and the entrepreneurial drive to take on the competition.

Mr President, the Liberal Party notice with dismay that in recent weeks, the Democratic Party and the Democratic Alliance for the Betterment of Hong Kong have been waging a political war in which public interests have been the first casualty. The example of this Council failing last week to back the motion or any of its amendments for a review of the sewage charges because of partisan posturing will be remembered by the electorate. Therefore, the Liberal Party will vote against the Honourable SIN Chung-kai's amendment because it is in substance, and I repeat in substance, no different from the original motion. The Honourable Henry TANG has already explained why the Liberal Party will vote against the Honourable LEE Cheuk-yan's amendment. With those words, Mr President, the Liberal Party will express support for the original motion moved by the Honourable CHAN Kam-lam.

**DR HUANG CHEN-YA** (in Cantonese): Mr President, since 1991 the then United Democrats (now the Democratic Party) and I have been warning the Government that Hong Kong's economic driving force has been declining year

after year and that it must implement a new policy to enable Hong Kong's industries to resume their vigour. Unfortunately, when it comes to dealing with industries or the services sector, the Government has been holding fast to conventional rules to have the matter over and done with in a cursory manner. Then in 1995, unemployment rose sharply and the red light came on. This indicates that Hong Kong's industries, which used to dominate the economic scene and drive the local economy, are today like an aircraft with all its oil gauges showing zero; the engines have spluttered out one after another; the aircraft is gliding rather than flying; and if there is no fresh power to enable it to pull out of its dive the aircraft will soon hit the ground, crash to smithereens and kill all on board.

But where will such fresh power come from? As this crisis looms, the Government must take responsibility for it. The old, labour-intensive industrial undertakings in the manufacturing sector are disappearing, a trend which none can stop. Along with this, jobs for workers in the sector are also disappearing. And the new, high-tech industrial estates have not yet been built and new jobs are not yet available.

From the late 1980s to the early 1990s, Hong Kong's manufacturing industry was faced with the crisis of transformation. Calls for the Government to build a Science Park multiplied. It was not until 1992 that the Government took the first step in commissioning a consultancy firm to carry out a Science Park feasibility study. Then three years passed before the Stage II study report was completed. Today, not a single slab of concrete has been erected by way of construction of the Science Park; there is only a study report. Let us look at our competitors. Taiwan's Hsin Chu Science Park has been the most important driving force behind the economic growth of Taiwan. It has now been decided that a second science park is to be built in southern Taiwan. The second stage of Singapore's science park is now under construction. Therefore, we cannot afford to waste time and stall the project. We must implement the Science Park project as soon as possible.

But it would not be sufficient just to ask the Government to implement the Science Park project. We must be on guard against the Government "substituting a dud for the real thing" by building a science park that will bring little benefit to the Hong Kong economy. The Science Park shall not be just an industrial estate in a fresh guise, nor shall it be a technology centre housed in a sprawling low-rise compound. The principal objective of the Science Park should be to develop technology and to make it available in the form of



commercial products.

Therefore, first, the Science Park must be sufficiently large in area before it can make technology commercially available in the form of produced goods. If the park is only to engage in technological research or in preliminary work to make technology commercially available, then a technology centre can adequately fulfill such purpose. Foreign companies can engage in technological research in their own countries without the need to relocate to Hong Kong's Science Park. But the present sites at Pak Shek Kok and Pak Shing are each no more than 20 hectares in area. They are pathetically small when compared with the science park sites at Hsin Chu, Tainan or Singapore which cover hundreds or thousands of hectares.

Therefore, the Government must specify that the two sites be used to develop the Science Park so that Hong Kong will have a Science Park covering an area of at least 40 hectares. If only one of the sites is chosen for development and no alternative sites are being considered, then there will be insufficient land for development of the Science Park. The Science Park, if built, will then be of nominal significance only and will not be a substantive driving force to Hong Kong's industries.

Of course, the Government can argue that a company may conduct research in the Science Park and carry out production in one of the industrial estates. But if such a mode of operation is to be adopted, how can the Government guarantee that after the research conducted by the company has come to fruition there will be land within the industrial estates for use by the company? If there is no land available for use, how can the company be prevented from setting up its production operations inside China after it has completed its research? If this cannot be prevented, the Science Park will only be a surrogate mother "who bears in her womb the child of another person". The child does not belong to her. This will be of no help to Hong Kong's economy and industries.

Secondly, one of the functions of the Science Park will be to procure the introduction of new technologies. Generally speaking, the science parks of developing countries offer tax holidays and tax concessions to encourage operators to join the parks. In recent meetings with us, the Government said that it was not in favour of granting tax concessions for two reasons: 1. Hong Kong's tax rates are already low; 2. it would be against the Government's long held principle if tax concessions are offered to some particular industries. The

Democratic Party disagrees with this argument. To make new technologies commercially available is a high-risk activity. The enterprises engaged in such activity are often small-scale companies without substantial capital and facing cash flow problems. Therefore, the granting of tax concessions will enhance the attractiveness of the Science Park and heighten the survival rate and success rate of such companies. Moreover, Hong Kong's high rents for domestic accommodation will add to the operating costs of these enterprises. Unless the Government is willing to provide low-rent living quarters for the Science Park's research personnel, the costs of domestic accommodation will mitigate the attractiveness of the Science Park. Therefore, the Government should not adopt a miserly approach in caring too much about a small loss in tax revenue and neglecting the long-term wealth which the Science Park will generate.

Mr CHAN Kam-lam urges the Government to formulate an industrial policy. In fact, if we care to look at the annual reports on the review of industry, we will find that they are invariably the same year after year. They report that almost every trade in Hong Kong's industrial sector is relying on imported parts, that there is no supporting industry and that almost every trade is suffering from a lack of technical personnel. Year after year, the Government fails to devise ways and means to deal with this but continues in its same old way. Therefore, it would be meaningless to ask the Government to write out things on paper. What we need is actual implementation of an industrial policy to solve the problems of technology transfer and enhance manpower training so that local industries can recover their former vigour.

In their speeches, both Mr CHAN Kam-lam and Mr LEE Cheuk-yan express the hope that the Government will lend a helping hand to certain designated industries. I must point out that Singapore suffered heavy losses in its chemical industry and that Europe, China and many other countries likewise suffered heavy losses in certain designated industrial items. It would be a waste of public money to subsidize sunset industries. Therefore, we disagree with such a way of doing it. We are not in favour of this sort of planned industrial economy. The Liberal Party will not support Mr SIN Chung-kai's proposed amendment on the ground that they fail to see any difference between the amendment and the original motion. Since the Liberal Party is not illiterate and since it cannot give a reason of its own, Members will know that this is only a politically motivated rather than an economically motivated decision.

**MR AMBROSE LAU** (in Cantonese): Mr President, I am of the view that in order to have in place as soon as possible a policy to help local industries, Hong Kong must first of all review the government policy of "positive non-intervention". For the past decade or so, the Government has been relying on this as the reason for leaving local industries to their own devices without ever offering them assistance or preferential treatment of any sort. The Government has labelled this approach "free economy". However, if we compare Hong Kong with the other three Little Dragons of Asia during this same period, we will find that their governments have each year been allocating 2% to 4% of their GNP as funding for industrial technology development. The Korean Government's investment in technological research accounts for 3.49% of its GNP and Singapore's investment accounts for 2%. But Hong Kong's investment in this respect accounts for no more than 0.02% of GDP which is just 0.5% to 1% of the investment of our competitors. No wonder the upgrading of Hong Kong's industries has been beset with difficulties. On the other hand, Singapore, for example, accords 10-year tax holidays to high-tech industries. Hong Kong, however, is not giving any tax concessions to high-tech industries. Comparatively speaking, in the absence of government assistance, local industries are experiencing slower technology upgrading and lower added value. Factory operators have no alternative but to relocate their operations elsewhere to seek to survive. This has caused a decline in local industries. Such serious consequences show that to redress Hong Kong's industrial policy errors the first task would be to review the so-called "positive non-intervention" policy.

The Hong Kong Progressive Alliance (HKPA) has suggested to the Government that a statutory body known as the "Economic Development Council" be set up which would advise the Government on important economic matters, attract foreign investments through the setting up of overseas offices and promote Hong Kong's industrial development. The Council's work on the home front would be to focus on the development and upgrading of technology and assist in the specialization process of enterprises so that they would concentrate on development in a particular area, such as product design or production research. The Council might also consider establishing ties and business links with economically developed countries to encourage them to participate in infrastructure projects, such as the building of industrial estates. Singapore already set up such a body way back in the 1970s which has successfully promoted economic development. Hong Kong should hasten to catch up.

Mr President, the industrial policy to be adopted by Hong Kong will be

able to mitigate the present operational difficulties of local enterprises and curb rising unemployment only if it employs positive and aggressive strategies. It will promote the revival of medium to small enterprises and create more employment opportunities while at the same time lower industrial production costs. It will further attract overseas investments and develop international markets for Hong Kong products. It will change the concept prevalent among Hong Kong society that white-collar work is better than blue-collar work. It will attract more engineering students and talents to join the industries and Hong Kong's trend of declining industrial competitiveness will turn around.

Mr President, with these remarks, I support Mr CHAN Kam-lam's motion.

**DR LAW CHEUNG-KWOK** (in Cantonese): Mr President, the Hong Kong Government has all along been an exponent of "positive non-intervention" and "*laissez faire*" economic policies. Although such policies have brought to Hong Kong rapid economic growth, vast fiscal reserves and the status of an international financial centre, yet whether these policies can continue to enable Hong Kong to succeed in the 21st century is increasingly open to question.

Hong Kong's industries (mainly the consumer goods manufacturing industry) used to play a significant role during Hong Kong's economic takeoff. At its peak, the manufacturing industry provided jobs for close to 1 million people, or 40% of the working population, and accounted for one quarter of Hong Kong's gross domestic product (GDP). However, in recent years, particularly after the reform and opening up of China, because of the rising costs of production in Hong Kong, technology and product upgrading has been very slow which has resulted in continual relocation to China or elsewhere of Hong Kong's manufacturing industry. At present the number of people engaged in the manufacturing industry accounts for only 13% of the working population and the output value of the industry accounts for only 10% of the GDP. The Hong Kong Government is ignoring this situation and is not undertaking any study or making any preparation. If Hong Kong's industries continue to decline, what adverse effect will this have on our social and economic structure? We cannot help but ask: Is the Government duty-bound to adopt positive measures to deal with the situation?

In the process of de-industrialization of Hong Kong's economy, capital funds flow mainly into the finance industry, the services industry and other

tertiary industries. Funds also flow out to other parts of the world. Hong Kong is now going for the development model of London and New York. This might be useful in maintaining Hong Kong's status as an international financial and services centre. Yet this might also cause structural unemployment and widen the gap between the rich and the poor. Since Hong Kong's unemployed workers will not "relocate" elsewhere, the social problem in this regard is worsening.

When Hong Kong's manufacturing industry started to decline and factories were relocated to China, manufacturing workers could still switch to other service trades. But in recent years many service trades have relocated part of their work processes and departments to China. Unemployment might spread. The Government should ponder on the question of whether industry can play afresh an important economic and job-providing role.

It is imperative for Hong Kong to formulate a long-term industrial policy. Taiwan and Singapore provide a good example in this regard whose experience we can draw on, particularly Singapore. A number of Members also mentioned this example moments ago. Singapore is similar to Hong Kong in many respects. The Singapore Government already formulated a rather positive industrial policy as far back as in the 1960s. In 1961 it set up the Economic Development Board charged with the specific responsibility of formulating long-term economic policies. The Singapore Government has all along attached importance to industrial development and has faced economic transformation in a positive way. It has given added weighting to the services industry as a focal point for economic development and at the same time has actively developed high value added industries. It has formulated an industrial policy which sets the target that industry should account for about 25% of the gross national product. In view of the industrial success of Singapore, we know that the Government can play the role of providing guidance and impetus in this regard.

In comparison with Singapore, the Hong Kong Government, having learnt a lesson the hard way, should do a self-examination. If the Hong Kong Government still dogmatically and superstitiously sticks to its "four insistences" — that is to say, insistence on positive non-intervention, insistence on *laissez faire*, insistence on small government, and insistence on vast fiscal surpluses —

and neglects to take the initiative in formulating effective economic and industrial policies in disregard of the practical conditions of society, then it will be detrimental to the long-term socio-economic development of Hong Kong.

I have to point out that when the Government is formulating a long-term industrial policy it must take into account the China factor. During the past 10 years, economic links between Hong Kong and southern China, particularly Guangdong, have been continually increasing. The Pearl River Delta has become the prime location for Hong Kong entrepreneurs to set up their manufacturing operations. This is evident from the fact that large numbers of factories have relocated there and Hong Kong entrepreneurs have employed over 3 million manufacturing workers in the Pearl River Delta. Competition of course exists between Hong Kong and Guangdong. But, most important of all, their economic relationship is one of mutual co-operation. When the Hong Kong Government formulates an industrial policy, it must take this factor into consideration. We feel that the Hong Kong Government should, on its own initiative, contact the relevant departments of the Chinese Government and other enterprises in the hope that China's petroleum industry, bio-chemical industry, heavy industry and aeronautical industry can be introduced into Hong Kong.

To sum up, the Hong Kong Government has already wasted a lot of time in considering whether there is the need to formulate a long-term industrial policy. Under the existing policy, Hong Kong's industry may be facing the prospect of stagnation. However, I do not think that this is going to be an inevitable outcome. The Government should immediately resort to action and set up an economic development council to formulate the targets under long-term industrial and economic policies.

These are my remarks.

**MR CHOY KAN-PUI** (in Cantonese): Mr President, in a short span of a few decades after World War II, Hong Kong has developed and become one of the Four Little Dragons of Asia. Some have called it a miracle. But it could also be said that this is the result of joint efforts on the part of Hong Kong people. The manufacturing industry used to play a pretty important role in the process of Hong Kong's passage to prosperity and economic boom. However, in recent years, Hong Kong's economy has evolved from one that is manufacturing-led to one that is services-led.

Once upon a time, the manufacturing industry created numerous

employment opportunities. But, following Hong Kong's economic transformation, many factories and manufacturing processes have gradually been relocating to China. This has led to unemployment and under-employment of local workers. Some even cannot find new jobs. This upsets me very much.

Mr President, Hong Kong is a free economy. It would be impractical if we should ask the Government to interfere with the process of economic transformation and the relocation of industrial undertakings to China, not to mention that this would weaken and further hamstring Hong Kong's economic development.

However, can a responsible government just ignore such a state of affairs and look on with folded arms? As a matter of fact, it is precisely because of the "stopgap" measures long adopted by the Government, its lack of long-term objectives and the absence of an industrial policy formulated by the Government to help the local manufacturing industry that transformation has taken place in recent years. And what we are seeing today is the result of such neglect.

Mr President, I support in principle the two proposals put forward by Governor PATTEN in his policy address last October to set afresh a direction in which Hong Kong's manufacturing industry is to develop. The first proposal is to upgrade technical expertise through the provision of a solid technology base. The second proposal is to train up the necessary and suitable technical personnel through co-operation with local institutes of higher learning and industrial support organizations.

However, these two proposals should not stay forever in the realm of theory. To enhance the competitiveness of Hong Kong's industrial products and the productivity of workers, the Government must fully implement these proposals as quickly as possible. Failing which, our economic foundation will remain shaky and the glorious days of Hong Kong's manufacturing industry will be lost forever with the advent of 1997.

With these remarks, I support the original motion.

**MR CHIM PUI-CHUNG** (in Cantonese): Mr President, we must first recognize that the achievements made by the industrial and commercial sector and the manufacturing sector in Hong Kong are absolutely beyond question. In the 1950s, an enormous pool of cheap labour flooded into Hong Kong following a

series of changes in China. In the late 1950s, many foreign companies, including American companies and Japanese companies, took advantage of the cheap labour force in Hong Kong and created favourable milieux for their operations while at the same time giving Hong Kong the impetus to develop its light industries and the industrial and commercial sector. Hong Kong is endowed with unique advantages which enable us to reap the fruits that we deserve. In the past 16 years since China opened up her market and introduced reforms, we can see Hong Kong businessmen reaping benefits in China by following the examples of Japanese and American capitalists who reaped benefits in Hong Kong in the 1950s. In this connection, we must recognize the fact that, apart from working for their own good, the commercial sector and the manufacturing sector are also providing employment opportunities to the labour sector, enabling workers to gain benefits despite being considered to be subjected to exploitation.

It is beyond doubt that the manufacturing industry is not the most lucrative business at present. Given the unique environment in Hong Kong, professionals such as doctors and lawyers get higher remuneration than their counterparts do elsewhere in the world. Other than the professionals, those who are in the real estate business and companies which are listed on the stock exchange are making the biggest profit. But we must bear in mind that I do not mean those who engage in stock speculation. I mean only those who issue shares. It is very difficult to become rich through stock speculation but one stands a chance of making a fortune from issuing shares.

Recently, in view of the difficulties which have plagued the manufacturing sector, the Government has shifted its emphasis to the service sector and the financial sector. As a matter of fact, in comparison with many other places, the financial sector in Hong Kong is far more open. It is because people who work in the financial field, be they from Britain, the United States, Taiwan or any other places, can, if they so wish, start their operation in Hong Kong after they have acquired the brokerage licence. However, countries such as Korea and Taiwan still take a conservative stance, refraining from opening up the market. In an effort to comply with the special 301 provision, the Chinese Government has undertaken to open up her financial sector to foreign countries. In my view, this decision warrants pondering and discussion. The Government can only play a passive role in the development of the financial sector and the service sector because, where the service industry is concerned, only when people have money to spare will they spend it in Hong Kong. Should there be any factors adversely



affecting other countries, the service sector in Hong Kong would have to "look to heaven for help".

Personally, I am absolutely against criticizing the past policies of the Government, as many of my Honourable colleagues have done. My view is that we should let bygones be bygones and the only constructive thing to do is to look ahead. It is better to give constructive opinions than hurling criticisms at what was done in the past. In fact, Hong Kong need to attach greater importance to the industrial and commercial sector and should not confine itself only to the development of the communication, service and financial sectors.

As I mentioned just now, the financial sector in Hong Kong now is different from what it used to be. We must remember that in order to promote the financial sector, most importantly, we should know what advantages Hong Kong possesses. I think the spot market remains the focal point. Although some people say that derivatives and futures can make up for the inadequacies of the spot market, we must understand that transactions involving derivatives and futures are largely an instance of gambling. Ordinary investors and small shareholders are destined to suffer losses. For this reason, I would like to take this opportunity to urge the Government, in particular the Secretary for Financial Services and the Financial Secretary, to pay close attention to this issue. In order to facilitate the transactions of futures and derivatives, the Government should teach investors the ways to cope with changes, otherwise they will be pushed up to the "guillotine" and ravaged by foreign interests. In that case, it would not be convincing to interpret the scenario as the prevailing financial trend in Hong Kong.

I very much hope that the Government will set up a task force to conduct a research study on the development of industries, commerce and the manufacturing sector. In the New Territories, there is still ample land which can be used for the development of high-tech industries. The Government can provide businessmen or factory owners who are interested in promoting the industries and commerce of Hong Kong with land at a relatively cheap rent. If they can make profits subsequently, the Government can surely charge them a reasonable amount of rent. Besides, land can be provided in the same manner for the building of more quarters for their workers. I think this is a way to attain equilibrium in society.

In the meantime, I also wish to take this opportunity to tell Members

representing the labour sector that their role in the development of the industrial and commercial sector is not limited to fighting for the well-being of workers or making claims that workers are being exploited. From the point of view of factory owners and businessmen, if they feel constrained in developing their operations in Hong Kong, particularly when such constraints are of a political nature, they may pull out and invest in China or other places to safeguard their interests. If this is the case, workers will lose their jobs and their interests will less likely be protected. Therefore, while workers' interests should be protected, reviews should also be made at the same time. It is also our hope that the labour sector can weigh up the circumstances in various aspects. Hong Kong has undergone a myriad of changes. Not everyone is the so-called exploiter. Therefore, the Government, the labour sector and factory owners should work together.

Mr President, I support the original motion.

**MR CHAN WING-CHAN** (in Cantonese): Mr President, since the 1980s when China introduced a series of reforms and adopted the open door policy, many local manufacturers have relocated their factories and manufacturing processes to China. Adhering to the principle of positive non-intervention, the Hong Kong Government took no notice of the northward relocation of industries, thus prompting the gradual shrinkage of the manufacturing sector in Hong Kong. As a result, the number of manufacturing workers dropped from 900 000 plus in 1981 to around 400 000 in 1995, which marked an average decrease of 4.7% yearly. In other words, over the past decade or so, some 500 000 workers have been displaced from the manufacturing sector. Job vacancies in the service sector, however, are incapable of absorbing these unemployed workers. A crisis stemming from Hong Kong's economic transformation being founded otherwise than on a sound industrial base began to take shape.

Such being the case, it is my hope that in developing the service sector, Hong Kong should also take vigorous steps to draw up a long-term industrial development strategy with a view to boosting the productivity of the labour force in Hong Kong. High-tech industries will be the key industries in future and innovative technology has become one of the main factors which serve as the driving force of economic development. Statistics showed that in developed countries, the reliance on technology constituted an increasingly important factor in economic growth, accounting for 50% to 70% of the economic growth

between the 1970s and 1980s, showing a drastic increase in comparison to a mere 5% to 20% in the beginning of the century. In view of this, the other three of the "four little dragons" in Asia, namely South Korea, Taiwan and Singapore devised their own technological development strategies. China has also emphasized the paramount importance of scientific technology in the course of production. The neighbouring Guangdong Province has also formulated its long-term industrial development strategy, under which the development of the economy will rely on technological advancement and improvement in the quality of workers. Hong Kong is nevertheless lagging far behind in this respect.

Take scientific research investment for an example. The investment made by the western countries in general accounts for some 2.5% to 3% of the Gross National Product. While that of the other little dragons still stands at a mere 1% to 2% at this stage, they are working very hard to make improvements. In Hong Kong, however, the percentage is only 0.1%, which is indeed incommensurate with the economic capacity of the territory. Should there be no scientific technology to back up economic development, industries would not have the staying-power to carry on.

The only solution now is to take advantage of the good relationship between Hong Kong and the Mainland in an effort to raise the level of cross-border technological co-operation, expedite the restructuring of the manufacturing sector in Hong Kong and enhance the competitiveness of local products. While China has a greater capacity to conduct primary research studies and an enormous pool of technological experts, the lack of a well-established mechanism to link technology with the economy effectively has inhibited the practical application of technological achievements. The popularization and application rate is only around 20% and technology's contribution accounts for a mere 30% of economic growth. The massive potential intellectual resources have yet to be released. If, in bringing its advantages into play, Hong Kong can translate China's technological achievements into commodities here, introduce them into the market by taking advantage of Hong Kong's information-rich environment, and co-operate with China to improve technology and the quality of local products, the competitiveness of the manufacturing sector will, in turn, be enhanced. This will facilitate the development of high-tech and high value-added operations in the manufacturing sector.

In order to cope with an upgraded and updated economic structure, it is necessary to step up the provision of training to the existing labour force. In 1992, the Government injected a lump sum of \$300 million into the Employees Retraining Board and levied \$400 from every employer who takes on imported workers. In 1994-95, retraining courses were provided for over 15 000 workers. Yet, given that the Government has neither long-term economic development planning nor industrial development policy, the training courses have not been formulated to attain any prescribed objectives. As a result, the problems faced by Hong Kong in the course of economic restructuring are by no means resolved. Besides, the retrained workers are given no assurance that they can apply what they have learned to their work. In this connection, without the support of other economic policies, the retraining scheme is not very effective.

In the long run, the solution lies in the formulation of a range of long-term industrial and economic policies and a strategy to develop the economy through the application of scientific technology by the Hong Kong Government. Without the support of science and technology, the economy can hardly have the stamina to sustain development. For this reason, it is necessary to formulate specific policies on the overall manpower resources, step up the vocational training efforts, improve the technological standard of the manufacturing sector and enhance the competitive edge of local products. These measures will be conducive to halting the shrinkage of the local manufacturing industry and preventing the "hollowing out" of the economy of Hong Kong.

Therefore, my view is that the Hong Kong Government must review its positive non-intervention policy, devise an industrial development strategy in future, take vigorous steps to support the upgrading and updating of production technology in industries and improve the skills of workers. On the other hand, the Government also needs to work in concert with factory owners to prevent the further shrinkage of the manufacturing sector. On the whole, an economy with a relatively balanced development and a society based on advanced technology will certainly be a boon in a sense that they will bring economic prosperity, increase employment opportunities, improve the living standard of the people and maintain social stability.

Mr President, I so submit.

**DR ANTHONY CHEUNG** (in Cantonese): Mr President, the subject of this debate is the long-term industrial policy and I would like to speak on the macroscopic aspects.

For a long time, many people are of the view that the economic development and economic take-off of Hong Kong are attributed to the adoption of the "positive non-intervention" policy and hold that under a market-led economy, the market forces will certainly entail an effective deployment of the initiatives of the people, thus creating affluence and prosperity. While this ideology prevails, any proposal calling on the Government to formulate an economic policy or industrial policy is branded as "executive intervention in the economy".

People who hold this view argue that government bureaucrats are not the appropriate persons to choose the most cost-effective kinds of industry. They think that under a government-led industrial policy, the Government will always arbitrarily earmark certain industries for development and government assistance, supporting them through the injection of capital, preferential treatments or even with the Government taking the lead to promote these industries. An economy under government intervention will ultimately lead to the over-concentration of resources, an exceedingly lopsided economic development and a market devoid of dynamics. In 1994 the World Bank published a report named *East Asian Miracle* (Note 1). It is mentioned in the report that the economic take-off in the region is mainly attributed to the free market approach, a stringent control over public finance and the suppression of labour outlay. The publication of this report seemed to be a recognition of the achievements of the "non-intervention" policy.

However, we must note that the *World Development Report 1995* (Note 2) published by the World Bank has overruled the foregoing arguments. The World Bank pointed out that the success of market economy should not be pursued by subjecting workers to wanton exploitation or suppression. Instead, the government should formulate labour policies to protect the rights of workers and rectify discrimination and injustice. Given that the World Bank also advocated co-operation between employers and employees, the Government is absolutely behind the times if it still blindly believes in "non-intervention" when considering intervention in the economy.

Judging from the analysis presented in these two reports of the World Bank, there is no generally-accepted conclusion as to whether government intervention can facilitate economic development or whether the economic miracle will come forth if the government washes its hand off the economy.

Many economists are of the view that the miracle in East Asia is the result of the integration of government intervention and manipulation with the market economy by governments in the region. Therefore, it is of paramount importance that expedient economic policies and industrial policies be formulated in line with the objective social environment.

### *Colonialism and economic development*

In his book called *The Dual Mandate of British Tropical Africa* (Note 3), Lord Lugard, the Governor in 1907, pointed out that one of the means to govern a colony is indirect governance, under which the customs and practices of the subject people in the colonies are maintained and protected for the convenience of governance. In this connection, Britain has never formulated any long-term and strategic economic policy for its colonies. In fact, the so-called "non-intervention policy" is tantamount to no policy and is merely an excuse of the colonial government for not committing itself to initiate policies for economic development. Judging from this point of view, the economic development in Hong Kong is indeed a miracle in comparison with the performance of most of the former colonies under British rule.

However, as the colonial rule in Hong Kong is coming to an end and Hong Kong will subsequently reunite with China, to be a highly autonomous Special Administrative Region which will form part of China while maintaining a global vision, there is every need to formulate and implement a long-term industrial policy. To any effective government, industrial policy is indispensable. The Democratic Party's position in respect of economic policy is that we do not blindly believe in the omnipotence of the Government. Nor do we blindly believe in the omnipotence of market forces.

### *The role of Hong Kong in the world and its industrial policy*

Mr President, the previous economic success of Hong Kong was manoeuvred by small factories, a cheap labour force and a labour-intensive mode of economy. Following the development of the economy, the escalating labour costs and the northward relocation of factories, the economy of Hong Kong now faces the hardship that a developed region is bound to face and that is, how to maintain a high value-added and quality labour force in the face of exorbitant labour costs and the decline of traditional industries in order to increase productivity and promote economic growth.

Yet, we cannot simply depend on a lopsided approach by ploughing massive resources into the training of workers in the hope that the problem will be resolved. In order to maintain a high value-added labour force, it is necessary to formulate a long-term industrial policy to facilitate the effective deployment of human resources to areas which are appropriately identified. Such industrial policy must keep pace with the trend of global development. In order to survive the global trend, and act promptly and be responsive to it, it is highly imperative to formulate a corresponding industrial policy.

As a matter of fact, judging from the world trend of economic development, the situation of Hong Kong is promising. At the meeting of the Asia Pacific Economic Co-operation last November, countries which attended the meeting agreed to gradually set up free trade zones in the 21st century. As these countries are to open up their markets which will in turn speed up their domestic capital flow, and with the economy of China serving as a supporting factor, it is vitally important that Hong Kong should grasp the chance and attract capital and talents to implement an effective long-term industrial policy with a view to gaining a foothold in the Asia Pacific region. One of the keys to success is infrastructure.

#### *A comprehensive package of infrastructure*

Speaking of infrastructure, I refer to "infrastructure" in a broad sense, not in a narrow sense which means physical infrastructure projects. It includes manpower infrastructure and information infrastructure. In the long run, the economic development should be further enhanced by developing a diversity of aspects. In view of the impending flourishing of information worldwide and when an adjustment in the economy of affluent regions is warranted to pave the way for a high value-added economy, the development of intelligence will be the main source of momentum. To achieve this end, we should have in place a comprehensive range of sound policies in human resources and education. But meanwhile, we cannot lay undue emphasis on the investment in human resources and lose sight of other supportive measures to sustain economic development.

For this reason, in the introduction and implementation of the industrial policy, not only should we gain a good mastery of "hardware" such as the Science Park, training, communication facilities and so on, we should also maintain a good mastery of the peripherals, including a good environment for

investment, a good management of public finance and a free flow of information. In addition, we must also have regard for a balance between economic development and the environment. With the co-ordination of both "software" and "hardware", Hong Kong can thus be assured of a "sustainable development" in the ever changing world.

Mr President, the market is not omnipotent. Nor can we simply look to an economy of Hong Kong which reacts to instructions from the top echelon to grow further. It is very important to balance the market forces and government participation.

I so submit.

(Note 1) World Bank, *East Asian Miracle*, Oxford University Press, 1994

(Note 2) World Bank, *World Development Report 1995*, Oxford University Press, 1995

(Note 3) Lord Lugard, *The Dual Mandate of British Tropical Africa*, Cass, Reprint 1964

**DR SAMUEL WONG** (in Cantonese): Mr President, within the industrial engineering sector there is a facetious saying: "Low tech, you will rake it all in; high tech, you will be in for a drubbing". This sounds like joking. But, as far as the developed countries are concerned, this epitomizes a painful experience. Now the majority of the public, and even Members of this Council, are asking the industrial sector and the Government to go high tech. I think we need to be wary.

I support in principle the wording of the original motion tabled by the Honourable CHAN Kam-lam though I have certain reservations as to the Science Park project.

To match a long-term industrial policy, the first and foremost task is to upgrade the basic knowledge and technological expertise of the local workforce so that they will be able to meet the demand of new jobs and production processes. This will involve a matching effort on the part of primary and



secondary schools in enhancing language, computer, mathematics and science education. In addition to this, a review and forward planning of tertiary education and vocational training should also be undertaken. Furthermore, we must know how to go about leading the industrial and commercial sector to go medium-tech and perhaps high-tech.

In his policy address last year, the Governor already pointed out that the development of technology is the sole and only way to improve our economic competitiveness. But, unfortunately, the Government has not committed itself as to how much resources it will invest in such development. In terms of percentage proportion of GNP, investment in technological research in South Korea at present accounts for 2.33%, Taiwan 1.79%, Singapore 1.77% and Hong Kong no more than 0.05%. Hong Kong's percentage is so low that it is grossly out of proportion. If the Government is willing to spend 0.5% of GDP as funding for technological development, then each year we will have \$5 billion to \$6 billion available for use. For certain areas of research with obvious development potentials, such as environmental technology, bio-chemical technology, video and telecommunication technology, the funding will surely expedite the achievement of results.

Last year's policy address also mentioned that technology and academic research should not be subject to local or regional constraints. Therefore we encourage local experts to cooperate with China's new generation of scientists. The Applied Research Board set up year before last has been charged with the specific responsibility of providing financial assistance to researchers from China and Hong Kong to conduct technological research. Unfortunately, up to now, only \$11 million has been allocated by way of financial subsidy for two applied bio-technology projects regarded as most worthy of research. This subsidy is all too meagre and will have little effect.

About 10 years ago, the Government set up a Scientific Adviser post but the post was later scrapped on personnel grounds. At present, within the government establishment, there are the posts of Political Adviser and Economic Adviser. However, in respect of science and technology which is the most important area, there is no adviser to assist in its development. I believe that now is the time to set up a post of secretary rank together with a policy branch to take charge of scientific and technological development.

Mr President, with these remarks, I support the original motion in today's

debate.

**MR YUM SIN-LING** (in Cantonese): Mr President, in a meeting with the Governor at the Government House after I was elected as a Member, I expressed my concern about the unemployment problem and suggested some short-term and long-term measures which would help increase employment opportunities. I proposed, as a long-term measure, to follow the examples of Taiwan, Singapore and Thailand by setting up an institution, such as Industry Investment Promotion Council, to attract foreign investment and to induce the comparatively technology-intensive industries to set up factories in Hong Kong by offering them tax holidays in order to increase employment opportunities. However, the Governor said at the time that over the years, Hong Kong had shown good economic performances and that Mr LEE Kuan-yew of Singapore had also expressed his admiration for Hong Kong. Therefore, he thought there was no need to make any change in things that had already existed in Hong Kong, bearing in mind that the tax rate was already at a very low level. I, of course, took exception to his view but the Governor said at the time that many economic-related issues were controversial and that there was no time to argue on this any further. I would like to take this opportunity to give my views on how we should probe into this problem. In my view, an overall economic success does not mean that every and each sector of the economy is successful or heading in the right direction. Nor is a low tax rate comparable to tax holidays spanning a number of years. If the positive non-intervention policy has paved the way for success in some sectors in the economy but sluggishness on the part of the Government has rendered many people in other sectors jobless, then it will be an obvious manifestation of the imbalances and errors in the Government's policy. I absolutely agree with some colleagues who said earlier that Hong Kong should actively draw on the experiences of Taiwan and Singapore.

Dr the Honourable HUANG Chen-ya mentioned just now that the proposed Science Park of Hong Kong could hardly compare with those of Taiwan. Although the proposed Science Park is in such a small scale, the Hong Kong Government has been turning it over in its mind without reaching any decision. It is disappointing that the Government is dragging its heels over this issue. I also have to point out that the development of industrial science parks in Taiwan is paralleled by a large-scale Industrial Technology Research Institute, where a diversity of research studies in such areas as mechanics, electronics and chemical industry are carried out with a view to contriving technology which can

then be applied to business to make profits. The findings derived from successful studies will be sold to private enterprises on appropriate terms, thereby facilitating the establishment of many new companies in the Science Park. Such being the case, when the first district designated to be a Science Park is "full", a second one will be set up. The new business opportunities so generated are, I believe, something that the financial sector in Hong Kong will be happy to see.

In this connection, it is my hope that Hong Kong will not only set up an Industrial Investment Promotion Council, but will provide more resources for the expansion of the Productivity Council and the Hong Kong Industrial Technology Centre Corporation in order to absorb a large number of graduates from science and engineering disciplines. Given the huge surplus that the Hong Kong Government has amassed, how should the money be spent if it is not spent on this meaningful task? Besides, as this is a policy which caters for the long-term interests of Hong Kong and will be beneficial to the future Special Administrative Region government, the Chinese authorities will definitely not oppose the surplus being spent this way.

Mr President, I basically support the original motion and the two amendments because they point to the same direction. These are my remarks. Thank you.

**MISS CHAN YUEN-HAN** (in Cantonese): Mr President, for the past 10 years or so, the Government has been neglecting Hong Kong's industrial development. The local economy has been transforming into one which is service industry-led. Such over-dependence on the service industry has brought a series of social problems or crises. My colleague the Honourable CHENG Yiu-tong will elaborate on this later and I shall not be discussing this particular aspect. I would like to concentrate on the question as to how we should face this transformation. We are of the view that a sound economic system must have the service industry and manufacturing industry co-exist side by side. This should be the correct model on which healthy social or economic development would proceed. We can see that, because of Hong Kong's over-dependence on the service industry, the manufacturing industry is declining and large numbers of manufacturing workers are out of job or are being displaced or are switching to jobs requiring lower skills. This has caused a continual shrinkage in the size of Hong Kong's workforce in active employ in this sector, from 1 million to

below 0.4 million. These people are having a downgraded standard of living and reduced incomes. The reduced purchasing power of these people has affected the whole community, including the retail and services sectors. The purchasing power of the whole community has thus been reduced. The negative effect in the form of reduced purchasing power, arguably of a psychological nature, has hamstrung the overall economy of Hong Kong.

Viewed from this angle, if we only attach importance to the service industry but neglect industrial development, Hong Kong will transform into a service industry-led economy which will not be capable of absorbing our entire workforce. What I am talking about is the current state of affairs. At present the academic qualifications of 1.6 million of our employees are below Secondary III. The manufacturing industry used to absorb most of such employees. Judging from our present development trend, we are having no alternative but to sacrifice some of our not too old employees who have poor education standards and low skills. What will these people do? This is one of the factors contributing to the persistently high rate of unemployment.

As pointed out by a local economist, this state of affairs undoubtedly amounts to drawn-out economic suicide. Therefore, in formulating their long-term economic strategies, many countries will seek to keep the manufacturing industry's contribution to the gross national product at a certain specified percentage. For instance, a number of Members today have cited the example of Singapore where, during 1993, the number of workers engaged in the manufacturing industry accounted for not less than 25% of the total workforce. But let us look at Hong Kong to see how it fared in this respect. The corresponding percentage in Hong Kong was only 11.4% and the trend of an inexorable decline was much in evidence.

I am of the view that Hong Kong's economy must develop in a diversified manner, but not of a non-industrial nature. We must not let go of industry which used to contribute so much to the local economy. On the contrary, we must upgrade the quality of our industrial products in order to sharpen our competitive edge. This will form a good framework for the healthy development of Hong Kong's economy.

To my way of thinking, a long-term industrial policy for Hong Kong must dovetail with its human resources policy. As I said a moment ago, we must not neglect those workers whose education standard is below Secondary III. At

present, the labour market can only absorb part of these 1.6 million workers. Faced with the present-day society of high-tech, high level or high educational development, what can the hundreds of thousands of workers do? How can we help these people face such development process and enhance their competitiveness? In this regard, Mr President, I think the Government is obliged to take up the responsibility. The predicament local manufacturing workers are in and the difficulties workers with education standard below Secondary III are faced with are precisely the sequelae of the short-sightedness and lack of a long-term development strategy on the part of the British colonial government. We can recall that, towards the end of the 1970s, Hong Kong already foresaw the sort of competition we had to go through to keep pace with the other Little Dragons of Asia. At that time, we were faced with competition on a number of fronts. With regard to upgrading and introducing new-generation technology, the Government set up a Diversification Advisory Committee chaired by the then Financial Secretary Philip HADDON-CAVE. The committee published a report on industrial policy which argued that in competing with the other Little Dragons of Asia Hong Kong had to upgrade and introduce new-generation technology in the manufacturing sector. Unfortunately the Government failed to grasp the opportunity to assist manufacturers in carrying out an industrial revolution. Neither did it assist workers in upgrading their skills. On the contrary, the Government adopted, as was its wont, the policy of "positive non-intervention". With this catchcry of "positive non-intervention", the Government avoided its responsibility entirely. This mistake has caused a number of problems that are plaguing Hong Kong today.

Under the Government's economic policy of "*laissez faire*" and "non-intervention" which has been implemented for years, large numbers of workers, particularly low-income workers, are suffering, to say nothing of manufacturers. Female workers aged between 30 and 40, who used to be leaders of work teams in the manufacturing sector, have recently been in difficulty finding jobs. Why are they unable to find jobs? Their failure to find jobs is patently due to the Government's error in terms of its industrial policy. The female workers are at a loss as to what to do. According to them, they are being left in the lurch. Faced with such a situation, what are they to do? They can only return to their homes. They are, so to speak, in a spiritual void. They have no means of knowing when they can rejoin the workforce. Middle-aged technicians aged 40 and above, who spent the past 10 years or more painstakingly doing researches, are finding that their acquired skills are not

standing them in good stead. Such being the situation, we are of the view that the Government has the responsibility to help them rejoin the workforce.

Mr President, I hold that the Government should take up the responsibility and allocate resources to help these people tide over their difficulties. To this end, I think the Government should offer them education courses of superior quality to help them meet the requirements of future development, including technology upgrading. All these must be carried out in such a manner as to dovetail with the targets of our industrial or socio-economic development and address the difficulties the workers are faced with. Moreover, I think more encouragement should be given so that the workers can adapt to the process of social development. I am of the view that the Government should set up some new job positions the way the Hospital Authority did when it created the posts of health care workers because of a shortage of nurses. I feel that this is one of the ways to help workers, to help the 1 million-plus grassroots people find jobs at this time of economic difficulty.

Thank you, Mr President.

**MR LEUNG YIU-CHUNG** (in Cantonese): Mr President, Hong Kong's economic growth has been slackening in recent years and unemployment has been rising in the last few months. The Government attributes this to industrial restructuring. Secondary production activities — such as textiles, garments and other manufacturing operations — which used to nurture Hong Kong's economic growth have, since the opening up of the Chinese market, been relocating to China one after another. This, coupled with Hong Kong's lack of an ideal internal investment environment, has caused local factory operators to relocate or switch to other trades, resulting in workers originally engaged in secondary production losing their jobs. Older workers or workers less well adapted to switching jobs are finding themselves in dire straits.

Those who bear the brunt of this general trend of "restructuring" and "closing-down" are the textile and garment workers. According to the data published by the Census and Statistics Department, there were over 10 000 textile and garment factories in 1992 but the number shrank to 8 000-plus in 1994, a more than 20% fall. In terms of workers employed, the number in 1992 was 0.24 million which shrank to 0.17 million in 1994, a more than 30% decline. It is believed that the situation in 1995 worsened even further.

As a matter of fact, if we go over the 1994-95 Report of the Protection of Wages on Insolvency Fund Board, we will find that textile and garment manufacturing had persistently been among the foremost three trades with the largest number of claimants for arrears of wages. In the year 1990-91, textile and garment workers accounted for 54% of the total number of claimants for arrears of wages against bankrupted employers; and this rose to 65% in 1994-95. We can see from this how sharp the decline has been in respect of this industry which during the 1960s and 1970s was one of the top four industries in Hong Kong.

Some economists have pointed out that a phenomenon known as the "new international division of labour" has emerged in the international market, that is to say, the production processes of some developed world markets have been relocating from developed regions to less developed regions where there are better returns for labour and investment.

During the 1960s and 1970s, the production processes of a number of trades were relocated from Europe and America to developing countries or regions in Asia, including Taiwan, Singapore and Hong Kong. A natural extension of this phenomenon would be for the industrial production processes of Taiwan, Singapore and Hong Kong, after a period of intense development, to relocate to the Chinese mainland and other economically backward regions with abundant cheap labour, such as Indonesia, Thailand and recently Vietnam, where production costs are low and investment returns high.

This is an inexorable trend which no one can arrest. But I have to solemnly point out that this trend is dealing a heavy blow to workers and local industries. Unfortunately, the Government has been looking on with folded arms and failing to act.

As a matter of fact, Hong Kong's industrial development scored phenomenal success during the 1960s, 1970s and even the mid-1980s. Unfortunately, the Government failed to take positive action to formulate a long-term industrial development strategy. Neither did it address the problem of environmental pollution brought about by industrial development nor did it do anything to protect the future livelihood of workers. It was not until the mid and latter part of the 1970s that the Government felt obliged to propose an industrial diversification policy to encourage self-development of the various

trades and industries. In fact this industrial diversification policy was just a policy under which the industries were left to their own devices so that the Government could avoid committing itself.

On 22 November last year, the Secretary for Education and Manpower replied to my question before this Council as to what short-term and long-term policies the Government would adopt in order to help the declining textile and garment industries. The Secretary said that, in respect of the textile and garment industries, apart from encouraging them to enhance their productivity and to produce goods of high added value, a number of measures were being taken which included the following:

1. To regularly carry out consultation and study to assist operators in assessing the strengths and weaknesses of the industries as well as the opportunities that are available and the threats that loom ahead;
2. To provide suitable facilities in order to enhance productivity and operational efficiency, such as the setting up of the garment art and craft demonstration centre and the rapid response centre;
3. To maintain close cooperation with institutions of higher learning, the Vocational Training Council, the Productivity Council and the Garment Industry Training Council in order to provide consultancy services to and training courses for the textile and garment industries; and
4. Through the industry support fund, to subsidize projects which would be beneficial to the overall technological development of the textile and garment industries, such as subsidizing the scheme to enable these industries to replace existing production processes with high-tech and high value added processes.

From the above-mentioned measures we can see how the Government viewed the development of these industries. It is evident that the Government had no clear-cut understanding of the practical needs of the factory operators and workers.

The Government's alleged regular consultation and study to assist operators in assessing the strengths and weaknesses of the industries as well as the opportunities that are available and the threats that loom ahead in fact has



little effect on medium and small-scale factory operators. It is because the problem they are faced with is rising investment costs which erode their competitiveness. Moreover, the art and craft demonstration centre set up by the Government has become more or less another demonstration laboratory for academic institutions. It has failed to cater to the interests and needs of people engaged in the industries. The setting up of the industry support fund is not widely known and therefore not popular. Furthermore, close cooperation between the Government, the institutions of higher learning, the Vocational Training Council, the Productivity Council and the Garment Industry Training Council will undoubtedly train up technical personnel and upgrade expertise and production technology. Yet, unfortunately, because the industries concerned have lost their attractiveness there are fewer and fewer people coming forward to receive training. And even those trained have switched to other trades because of the industries' decline. This has hindered development.

The above measures as suggested by the Government, and even the particular measure that it emphasizes — to encourage the enhancement of competitiveness through heightened productivity and the production of goods with high added value — appear to me to lack something. What is lacking is that the Government has played no part in it. This is in sharp contrast to developments in other countries or regions.

Many investors long ago perceived this. They have moved their production lines to China. By employing cheap labour and having the use of low-cost factory premises, they have developed their operations in places other than Hong Kong. In this regard, we can see that many factories have been relocated and those which cannot be relocated are struggling and gasping for their last breath. They are the victims of the Government's industrial policy, or lack of it.

Although the "international division of labour" phenomenon may become an irresistible trend, yet the Government has to play an active role in delaying it or mitigating the adverse effects it will have on local industries and workers. The Government can stick to its non-intervention policy no more.

Thank you, Mr President.

**MR CHENG YIU-TONG** (in Cantonese): Mr President, with respect to the economic restructuring of Hong Kong, the Hong Kong Federation of Trade Unions (FTU) has on a number of occasions suggested to the Government that it

should assist the industrial transformation of Hong Kong with a view to preventing the manufacturing industry from further declining. However, the Government of Hong Kong turns a blind eye to this fact and lets the industry stew in its own juice on the pretext of subscribing to positive non-interventionism. The time that Hong Kong's economy suffers from the impacts of restructuring coincides with the time that China introduces its reform and open policy, thereby attracting large numbers of labour-intensive industrial undertakings to move northward. That creates pressure which affects Hong Kong industries' efforts to upgrade and to introduce production methods of a newer generation and which also hampers the restructuring of Hong Kong's industries. At the present moment, following the economic development along the coastal areas of China, restriction is imposed upon the establishment of backward production industries. Hi-tech Development Zones are established one after another to attract hi-tech and high value-added industries to invest in these areas. Since Hong Kong's economy has always been dependent on the operation of "Three Processings and One Compensation" and "Production at the back, Export at the front" in the Pearl River Delta, this has put Hong Kong's economy under rigorous test. "Three Processings and One Compensation" is an abbreviated term for processing supplied materials, processing in accordance with supplied samples, assembling supplied parts' and compensatory trade. In the long run, it would be very risky for an economy not to base itself on industry, but to shift its focus in order to become increasingly dependent on entrepot trade, finance, marine transport, telecommunication, warehousing services, and so on.

We can see that western economies are in recession in recent years and economic recovery is slow. At the same time, trade protectionists begin to gain an upper hand and world trade is growing at a sluggish pace. In particular, we have to take into consideration that the United States is saddled with an enormous trade deficit. Therefore the past mode of Hong Kong's economic development being driven by the economic growth of western developed countries is no more tenable in the context of a changing global economic situation. On the other hand, China is taking a further step in implementing its economic policy so as to improve its link and contact with the outside world, and the role of the "bridge" that Hong Kong has played in the past is now subject to challenge.

Local businessmen have heavy investments in the Pearl River Delta because they want to make use of the cheap labour available in China to maintain

the competitiveness of Hong Kong products. The wage gap alone between China and Hong Kong can save a total of \$200 billion a year. However, with the robust economic development now under way in the Mainland and with the production methods experiencing upgrading and generation change, the industrial equipment and facilities that local businessmen invest in in the Mainland are now under the threat of being phased out. Moreover, China is beginning to restrict the development of these technologically less advanced industries so as to provide incentives for investment in new and hi-tech industries. These changes in the policy of attracting foreign investment and in the policy of production have subjected local businessmen to the threat of keener competition in view of the upgrading and generation change that have been set into motion in the Pearl River Delta. If we do not catch up and upgrade the industrial production level of Hong Kong, then even the manufacturing industries that have managed to stay in Hong Kong will also be phased out.

Looking at the issue from the angle of employment, we can see that the size of our working population is about three million. If Hong Kong really develops into an entirely service-oriented economy, then it would be difficult for Hong Kong to absorb all the existing labour force. By that time, Hong Kong may have to suffer from stagflation where high inflation, high unemployment rate and low economic growth prevail. It is because Hong Kong's inflation is mainly driven by internal demand and profits to the tune of tens of billions of dollars a year flow back to Hong Kong from the Pearl River Delta. The capital is not invested in Hong Kong's industries but is used for speculation purpose in the stock and property markets and for consumption. In addition, the finance and service industries are capital-intensive industries. They require less labour while a high level of professional knowledge is required. It is therefore impossible for them to absorb the displaced labour as a result of the decline of the manufacturing industry. As time passes, structural unemployment will transform into permanent unemployment.

Relative to western countries and by way of comparison among the four little dragons of Asia, the industrial development of Hong Kong really lags far behind. It lags further behind the other three little dragons of Asia. At present, it is imperative for the Government to immediately formulate a long-term industrial strategy, so as to prevent Hong Kong from turning into a "bubble economy" which is devoid of industrial development.

Mr President, I so submit.

**MR ALBERT CHAN** (in Cantonese): Mr President, I would like to talk about Hong Kong's industrial policy and industrial development from the angle of land

and planning. In 1981, labour in the manufacturing sector accounted for 41% of the entire working population of Hong Kong. In 1991, the proportion of manufacturing workers in the entire working population of the territory dropped to 28%, although in terms of the number of workers in each trade the manufacturing trade still tops all other trades. During the present decade, the decrease in the number of workers in the manufacturing sector is really shocking or may be described as worrying.

The number of workers in the manufacturing sector, who are also the toiling masses in Hong Kong, drops and the manufacturing sector declines. They are the victims of the Hong Kong Government's high land price policy. When the Government published the Territorial Development Strategy in 1993, six objectives were laid down. One of which clearly stated that regarding the overall development strategy, it would promote business, tourism, entrepot activities, and the last one that was mentioned was manufacturing. Thanks to the Government for not forgetting the importance of the manufacturing sector. However, if we take a look at the many policy directions and the contents of the document, we can see that in respect of specific policies and actions, the Government seldom assists industrial development. At least, in the area of land and planning, the Government has ignored the development need of Hong Kong's industries and the manufacturing industry. In the area of promoting industrial development, the only good thing that the Government has ever done is the establishment of industrial estates. However, in 1994, the land price in industrial estates stood at or above \$2,000 per square metre. Of course, it is still an affordable price for the big businesses. Fact also shows that the development of industrial estates is conducive to sustaining the continued survival of many large-scale industrial undertakings in Hong Kong. If there were no industrial estate, I believe that many of the large-scale industrial undertakings might have moved out of Hong Kong.

However, let us not forget that Hong Kong's industrial development was given the impetus in the 1960s and 1970s. Many of the establishments started from small-scale industrial undertakings and they contributed to Hong Kong's industrial success. However, on land planning and use, the Government has not in good earnest assisted the development of small enterprises and small-scale industrial undertakings. Regarding the Territorial Development Strategy, the Industrial Land Development Strategy stated clearly that it must ensure that the need of industrial development is satisfied. We must understand that it is not sufficient just to satisfy the present need for development and just to maintain the

*status quo*. When we study the arguments and the conclusions therefrom, we can find that the paper acknowledged the influence of South China and Southeast Asian countries on our industrial development and basically accepted the cruel reality that Hong Kong's industries were declining. Therefore, on land and planning development, the Government does not intend or attempt to promote and assist industrial development through land policy and related arrangements. I am disappointed with this approach. I hope that the Government can give up its myopic view when it looks at the issue of land. The Government should not stifle the development of industry by focusing only on the drop in government revenue resulting from concessionary land grant. Not a few countries, in particular Southeast Asian countries, adopt premium-free, low-premium or low-rental land grant policy to allow the industries to build plants and to facilitate their long-term investment. That will stimulate employment and provide impetus for industrial development.

We know clearly that Hong Kong's success started from the 1960s and 1970s. The development of industries, in particular light industries and small-scale industrial undertakings, contributed most to our success. We shall never forget the reasons behind our success even though we have attained success. If the Hong Kong Government, on the ground of land shortage, fails to assist industrial development through land grant, we will be worried as to whether Hong Kong's success can last long. If the myopic view of the Government results in the decline of industries, Hong Kong's economy in the future may be subjected to great impacts and so will be the massive working population in Hong Kong. Therefore, I very much hope that the Government can seriously review its land and planning policy so as to stimulate the industrial development of Hong Kong.

Thank you, Mr President.

**PRESIDENT:** I now invite Mr CHAN Kam-lam to speak for the second time so that he may address the two amendments to his motion. He has five minutes to speak on the two proposed amendments. This is in addition to the 15 minutes for his opening speech and his final reply. Mr CHAN, do you wish to speak?

**MR CHAN KAM-LAM** (in Cantonese): Mr President, I would like to respond to the two amendments made to the original motion today. The Democratic

Alliance for the Betterment of Hong Kong (DAB) will not support the amendment of the Honourable LEE Cheuk-yan. It is because the words "strengthening the basis of the economy" and "promoting economic growth" as contained in the original motion are deleted in the amendment and this is precisely a major departure from the notion of the original motion. The DAB is of the view that the Government should formulate a long-term policy to assist the manufacturing sector for the purpose of promoting economic growth, thereby providing employment opportunities. The amendment, however, lays emphasis on improving workers' employable skills and employment opportunities. This seems to be putting the cart before the horse.

As for the Honourable SIN Chung-kai's amendment, in which the wording of the original motion relating to the formulation of a long-term policy has been changed to "implement" an industrial policy, we consider it an all too plain recognition and endorsement of the existing policy of the Hong Kong Government, which only attaches importance to the financial and service sectors and high-tech industries but ignores the manufacturing sector. Therefore, we will not support his amendment.

Other Members have urged the Government to assist the industrial sector and we find it very disappointing that, in the view of the Honourable Miss Christine LOH, this is an intervention in the economy. We dare not say that Miss Christine LOH is oblivious of the operating hardships that the industrial and commercial sector is faced with. But at least, she has failed to understand the frustration that the sector has experienced in recent years in the face of pressure from external competition, for the Government has not taken any measure to cope with the situation. The contribution that the industrial and commercial sector has made in bringing about a prosperous economy in the territory certainly merits our commendation and recognition. Today, many colleagues have put forward a host of useful ideas on the local industrial policy. We do not intend to criticize the Government scathingly for its conservative attitude in the industrial policy. Yet, we hope that the Government can take Members' call as an encouragement and sincerely co-operate with the industrial and commercial sector to contribute to the economic development of Hong Kong in the run-up to the 21st century.

Thank you, Mr President.

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Mr President, I

am glad to be able to take part in today's motion debate. Members have today expressed their views with regard to the motion. I would perhaps describe such expression as "a diversity of views similar to a myriad of flowers blooming in riotous profusion". Some Members have adopted analogies I personally consider to be replete with coloration and panache, such as "drawn-out suicide", "aircraft destroyed and people killed", "bubble economy" and "surrogate motherhood". These could be said to be rather emotive arguments. But regrettably, I cannot agree with them. Mr President, I would like to take the opportunity of today's motion debate to explain clearly what policy the Government has in order to promote Hong Kong's industrial development. At the same time, I would also like to tell Members how the Government implements this policy.

*Government policy to support industry*

Our industry-supporting policy is derived from the Hong Kong Government's basic economic principle, that is, allocation of resources as decided by market forces will bring maximum wealth and maximum benefits to society. Based on this criterion, we formulated a policy to support industry in a positive way. The objective of the policy is to maintain and upgrade the productivity and international competitiveness of the local manufacturing industry.

This policy recognizes and confirms that market forces can make it possible for Hong Kong's manufacturing industry to match, with the fastest speed and in a most effective way, the ever-changing conditions of the world market. The policy also recognizes that industrial development should be assessed by the business sector in terms of the possible returns and possible achievements so that the business sector can arrive at a decision they think they should make. Moreover, the policy further recognizes that the Government has a duty to create an environment that will help the manufacturing industry give full play to its potentials and ensure that, under the multilateral trade system, goods manufactured in Hong Kong can be sold in overseas markets throughout the world.

*Measures adopted by the Government to support industry*

Mr President, Hong Kong has a simple and stable tax system, low tax rates by world standards, and substantial tax concessions in respect of machinery and equipment depreciation. Besides, Hong Kong has a legal system that we presently have, a stable currency, free flow of capital, and free flow of communication data. Furthermore, the Hong Kong Government has made enormous investments in the physical infrastructure. We also have education and training schemes on a vast scale. Members should be well acquainted with all these. I believe Members know full well that the Government has conducted numerous difficult negotiations at the World Trade Organization forum with the objective of removing market barriers for the benefit of local manufacturers. Therefore, in sum, I would like to say here that, pursuant to the Government's policy to support industry, particularly the manufacturing sector, we have adopted and provided a diversity of measures and services whose coverage is ever expanding.

When the Productivity Council funded by the Government was first established in 1967, it was of a very small scale. It has now developed into a body with 270 manufacturing engineers and consultants whose task it is to provide support services in terms of improving productivity, enhancing high value added capabilities and upgrading the level of technology. Here I would like to specially emphasize that the services provided by the Productivity Council are of immense help to the territory's medium to small scale factory operators. The principal reason is that about half of the funding for the Productivity Council comes from the Government. Therefore the Council provides services of a subsidy nature to Hong Kong's medium to small scale manufacturers. Furthermore, the Hong Kong Industrial Estates Corporation, established in 1977, is provided with land and financial subsidy by the Government. The corporation has provided, through its three industrial estates, formed sites with public facilities installed to certain industries which cannot operate in multi-storey factory buildings.

In the mid-1980s, the Government, through the Industry Department, set up the Standard and Calibration Laboratory, the Product Standards Information Bureau and the Hong Kong Laboratory Accreditation Scheme. These three measures are to help Hong Kong manufacturers upgrade their product quality. In 1989 the Government set up the Hong Kong Quality Assurance Agency to



provide quality accreditation service under Article 9000 of the International Standardization Organization.

In recent years, the Hong Kong Government has adopted a consistent policy to improve the territory's technical infrastructure and support services in order to enhance the international market standing of Hong Kong's industries and to make Hong Kong the manufacturing industry's productivity control centre in the Asia-Pacific region so that the competitive edge of Hong Kong's manufacturing industry can be further sharpened. For instance, in 1993 the Government set up the Hong Kong Industrial Technology Centre Corporation. The Government provided land and funding to enable the corporation to build an industrial technology building. The building was completed at the end of 1994. Now, apart from offering training and nurturing schemes to 19 technology-based local small-scale companies, the corporation also provides applied technology research work venues and office space to 33 large, medium and small-scale technology companies.

Having obtained approval from this Council, the Industry Department set up a financial assistance fund in support of industry. The fund provides financial assistance to schemes which seek to upgrade manufacturing technology and promote manufacturing technology transfer. Since the fund was set up in April 1994, a total of \$390 million has been allocated to it. In the next financial year, in other words, two months later, we hope to get approval from this Council for a further allocation of \$250 million to the fund.

Apart from setting up a financial assistance fund in support of industry, the Government also set up an Applied Research Council. The Council is now administering two financial assistance schemes which involve a total of \$250 million. The two schemes will provide direct financial assistance, in the form of loans at preferential rates or equity injection, to locally registered companies which undertake applied research and development (R & D) projects. It is thus evident that the Government, through the Applied Research Council, is effectively providing R & D funding to some project items. The nature of such role is akin to that of a "venture capitalist". At present more than 12 project items are receiving financial assistance under these two schemes.

Furthermore, three months ago the Hong Kong Government set up an

economic and trade office in Sydney, Australia to enhance work in promoting investment in Hong Kong. We now have seven industrial promotion units located in strategic places all over the world. Their work is to encourage overseas investors to invest in Hong Kong's manufacturing industry. Foreign investments of such sort can bring about technology transfers so that local workers can be led into using more advanced technology. This is therefore very important as well as advantageous to Hong Kong. As at the end of 1994, the aggregate amount of foreign investment in the local manufacturing industry amounted to \$44 billion, up 8% from the figure at the end of 1993. This figure was derived from the findings of a survey conducted by the Industry Department. However, as the survey findings were based on information voluntarily supplied by people within the industry, there is reason to believe that the figure might be lower than what actually was the case. I would like to mention specially here that Hong Kong, though a place of low tax rates, offers no tax holidays and yet we are able to continue to attract foreign investors to invest in Hong Kong's manufacturing industry. This continued direct investment by foreign businessmen in the industrial sector of Hong Kong can serve as a more concrete example to illustrate the Government's continuing effort to maintain Hong Kong's superior investment environment.

The Government has not neglected to provide adequate and suitable education and training to the working population so that they will be able to meet the ever changing demands of local industries. The Government spends billions of dollars each year on providing various levels of education and vocational training. It has also allocated \$105 million to launch a new technology training scheme to upgrade the technical expertise of local workers. Under this scheme, employers can arrange for employees to undergo new technology training in local or overseas institutions at half fee, the other half being paid for by the scheme.

The points I emphasized above do not represent in its entirety the Government's industry-supporting policy. They have been cited only as examples. Based on the aforesaid points, I believe none can say that the industry-supporting policy means "inertia" or that the Government only supports the financial and service industries in willful disregard of the manufacturing industry. As a matter of fact, treading carefully so as not to breach the basic principle of a free market, the Government has formulated and actively implemented a variety of measures in support of the local manufacturing industry to ensure that the industry will, in an ever-changing world market, have diversified development to enhance its market position and maintain its

competitiveness.

The industry-supporting policy that we are implementing does not in any way interfere with the manufacturing industry's development pace and direction. The Government will not attempt to select any so-call "star performers", that is to say, certain products or industries, and give them direct financial assistance or tax concessions. We have not, for the purpose of maintaining sufficient job opportunities in Hong Kong, given assistance to any industrial activities or undertakings which are no longer competitive in the world market. Simply put, the Government will oppose any policy that would hinder the transformation of the manufacturing industry into a market-led industrial structure.

*An industry-supporting policy that is necessary and proven to be valuable*

As a matter of fact, to maintain Hong Kong's competitiveness in the world market, industrial restructuring is necessary. Not only is this a phenomenon that is happening on the international scene, it is also an inevitable and unalterable outcome given the present-day technological advances and the emergence of a global economy. Advances in telecommunication technology has enabled manufacturers to focus their attention on the development of trans-regional production work.

Apart from professionalized and globalized development, more and more countries, particularly China, are adopting a more open economic policy. All these factors have made it possible for local manufacturers to relocate their labour-intensive and low-growth manufacturing processes or assembly processes that require little technology input to places of low production costs, such as the Pearl River Delta. With regard to high value added processes (such as market research and development, archetypal manufacturing, sales promotion, financing, dealerships and so on), these can continue to be carried out and expanded in Hong Kong, with the Chinese hinterland serving as the rear base for the production work. To put it briefly, Hong Kong's industrial restructuring is the outcome of technological advances and globalization of the economy.

Such restructuring has not weakened Hong Kong's industrial base. On the contrary, it has enabled our manufacturing industry to develop in such a way as to transcend Hong Kong's regional boundaries. About 10 years ago, local entrepreneurs employed less than 1 million manufacturing workers. Nowadays, local entrepreneurs have achieved a multi-fold increase in production value and

the number of workers employed by them has increased to 4 million, 0.4 million of whom are Hong Kong workers and the rest are engaged in work processes conducted in the Pearl River Delta. As regards products that require input of a higher technological level, they continue to be manufactured in Hong Kong as Hong Kong's export products. As a relatively higher level of technical expertise is required to manufacture these products which in turn have a higher added value, local workers can earn higher wages through engaging in such production.

Mr President, I have described the actual situation. Members should now have a better understanding of it. However, this actual situation cannot, for the time being, be adequately reflected in our statistics. It is because, in calculating our GDP, most of the high value added work processes other than assembly of parts carried out in Hong Kong are subsumed under the services sector. Therefore, based solely on the manufacturing industry's change in GDP contribution in recent years, it would be misleading for one to say that the industry is in decline. In fact, during the past 10 years, the manufacturing industry has registered sustained and healthy growth in terms of output and productivity. During the 10 years from 1983 to 1993, the total output and productivity of Hong Kong's manufacturing industry grew at the average rates of 6.2% and 14.4% respectively each year.

Mr President, I would like to state clearly that, like many Members of this Council, I have similar concern for the various problems workers are faced with when they lose the jobs they have been doing for years. That this is happening in the labour market is because the added value generated by the work these workers have been doing is out of line with the level of wages expected by the workers. Members have this afternoon expressed their views with regard to education, training, further development of appropriate high-quality education to enhance technical expertise in various fields, and workers' qualifications for employment. I fully agree with their views. I believe that my colleague, the Secretary for Education and Manpower, the Vocational Training Council and other local organizations which provide adult and continuing education, including the Employees Retraining Board, will follow up on the work concerned.

### *Conclusion*

Mr President, the Government will continue to study what more it should do to further assist Hong Kong's industries and to enhance their competitiveness

through the development of industrial technology and incessant upgrading of workers' expertise. A couple of months ago, I presented to the Trade and Industry Panel of this Council a consultants' study report commissioned by the Government with regard to the proposed Hong Kong Science Park. I can assure Members that, before deciding on the matter, the Government will fully and carefully consider the views and suggestions they have expressed this afternoon.

Members are of the view that the manufacturing industry has a significant bearing on Hong Kong's economy. I perfectly agree. A manufacturing industry with high productivity and strong competitiveness will promote Hong Kong's economic growth. A flourishing economy will create new employment opportunities. The persistent upgrading of local workers' expertise will help them meet the challenges posed by the changing demands of the local economy.

Finally, Members may be interested to know that Canada's Fraser Institute, a world famous research body, together with the research institutes of 10 other countries, last week published the first batch of consolidated indices on economic freedom which rated the degree of economic freedom in over 100 countries during the 20-year period from 1975 to 1995. And Hong Kong tops the list of 103 countries and regions in this rating exercise. When it comes to average purchasing power, Hong Kong in 1994 ranked second in terms of *per capita* GDP, second only to the United States but way ahead of the three other Little Dragons of Asia. These study findings further prove that economies with more economic freedom will have higher economic growth.

Mr President, the findings of this thorough and scientific study clearly show that Hong Kong must do its best to maintain its economic freedom otherwise its economic prosperity will suffer. Not only will this apply to Hong Kong's manufacturing industry, it will also be applicable to other industries.

Thank you, Mr President.

**PRESIDENT:** Mr LEE Cheuk-yan has given notice to move an amendment to the motion. His amendment has been printed on the Order Paper and circularized to Members. I now call on him to move his amendment.

***MR LEE CHEUK-YAN's amendment to MR CHAN KAM-LAM's motion:***

"To delete all the words after "That" and substitute with ", as the Government has long neglected the development of the territory's industries during the past decade or so but placed emphasis on the financial and service sectors thereby resulting in the decline of the manufacturing industry and its contribution to the value of gross domestic product from 24.3% in 1984 to the current 11%, this Council expresses regret over this situation and urges the Government to expeditiously formulate a long-term industrial policy with well-defined targets, adopt concrete measures to assist and guide the development of the manufacturing sector as well as to draw up a corresponding manpower policy to match such development, so as to improve the employment potential, job opportunity and quality of life of workers; and that such policy should aim at developing capital intensive, high technology and high value-added industries, and should include the following measures:

- (1) the development of quality adult education to enhance the employment potential of workers;
- (2) the establishment of a development fund to assist industrial development by way of low-interest or interest-free loans; and
- (3) the speedy establishment of a research and development-oriented science park, as well as the provision of relevant technological support and guidance to the manufacturing sector".

**MR LEE CHEUK-YAN** (in Cantonese): Mr President, I move that Mr CHAN's motion be amended as set out under my name on the Order Paper.

*Question on Mr LEE Cheuk-yan's amendment proposed, put and negatived.*

**PRESIDENT:** Now that we have disposed of Mr LEE's amendment, Mr SIN Chung-kai may formally move his amendment now so that Members may take a vote on it.

***MR SIN CHUNG-KAI's amendment to MR CHAN KAM-LAM's motion:***

"To delete "formulate" and substitute with "implement"; to delete "a long-term" and substitute with "an"; to delete ", implement the Hong Kong Science Park Project and allocate additional resources to support the development of the manufacturing industry, so as to enhance the competitiveness of local products, the productivity of our workers and the value of our industrial outputs, with a view to strengthening the basis of the economy, promoting economic growth and providing" and substitute with "covering the following areas: (1) to establish a science park and provide corresponding tax concessions, (2) to step up the training of industrial personnel and (3) to strengthen supporting measures on technological development and transfer, so as to enhance the territory's development and create"."

**MR SIN CHUNG-KAI** (in Cantonese): Mr President, I move that Mr CHAN's motion be amended as set out under my name on the Order Paper.

*Question on Mr SIN Chung-kai's amendment proposed and put.*

*Voice vote taken.*

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

Mr WONG Wai-yin claimed a division.

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

**PRESIDENT:** I would like to remind Members that they are now called upon to vote on the question that the amendment moved by Mr SIN Chung-kai be made to Mr CHAN Kam-lam's motion. Will Members please register their presence by pressing the top button and then proceed to vote by selecting one of the three buttons below?

**PRESIDENT:** One short of the head count. 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, Dr LEONG Che-hung, 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 Eric LI, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Mr LEE Cheuk-yan, Mr Andrew CHENG, Dr Anthony CHEUNG, Mr Albert HO, Mr LAU Chin-shek, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr LEE Kai-ming, Mr LEUNG Yiu-chung, Mr Bruce LIU, Mr MOK Ying-fan, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE, Mrs Elizabeth WONG and Mr YUM Sin-ling voted for the amendment.

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

THE PRESIDENT announced that there were 31 votes in favour of the amendment and 23 votes against it. He therefore declared that the amendment was carried.

**PRESIDENT:** Mr CHAN Kam-lam, you are entitled to your final reply. You have one minute 58 seconds out of your original 15 minutes. Do you wish to speak, Mr CHAN?

**MR CHAN KAM-LAM** (in Cantonese): Mr President, Members of this Council, notwithstanding their disparate political views, have today expressed the unanimous opinion that importance is not being attached to Hong Kong's industrial development. They cherish keen expectations of the territory's



economic development. I hope that through this motion debate the Government will be exhorted into real action. A debate lasting no more than several hours is of course not sufficient for Members to fully express their views. Therefore, the Democratic Alliance for the Betterment of Hong Kong plans to launch a large-scale industrial seminar shortly to enable people from all walks of life, including politicians, businessmen and academics, to further offer ideas for the benefit of local industry so as to reinvigorate Hong Kong's industrial and commercial sector.

Today, although my original motion has not been passed, yet basically I think the Government can learn from the speeches of the Members. I hope that in the future the Government will cooperate with the industrial and commercial sector to develop Hong Kong's economy. Thank you, Mr President.

*Question on Mr CHAN Kam-lam's motion as amended by Mr SIN Chung-kai put and agreed to.*

## PROTECTION OF CIVIL RIGHTS IN HONG KONG

***MR ANDREW CHENG to move the following motion:***

"That, as the unfair trial and unreasonable conviction of WEI Jingsheng by the Chinese authorities has caused apprehension among Hong Kong people that the existing and post-1997 laws will not be adequate to protect their civil rights, this Council urges the Government to expeditiously reflect to the Chinese authorities the wish of the Hong Kong people that WEI Jingsheng be released as well as their worry about Article 23 of the Basic Law; and that the Government should immediately introduce amendments to existing legislation relating to the act of treason, sedition and theft of state secrets, and enact legislation prohibiting subversive activities, in order that such laws will form the basis for formulating legislation relating to the act of treason, sedition, subversive activities and theft of state secrets by the Special Administrative Region Government after 1997 thereby ensuring the protection of civil rights of the people of Hong Kong."

**MR ANDREW CHENG** (in Cantonese): Mr President, I move the motion standing in my name on the Order Paper. By way of preamble, allow me to

quote a passage from an article relating to the rule of law entitled *A Continuation of the Five Modernizations* written by WEI Jingsheng under the *nom de plume* of Jin Sheng published this very day 16 years ago, that is, on 17 January 1979.

Mr President, in the article WEI Jingsheng said:

Some are of the view that the rule of law and autocracy are two diametrically opposed concepts. The rule of law, according to them, means democracy. As a matter of fact, this is not correct. Law constitutes a fixed part of any political system..... The principal means, by way of political approach, with which to maintain the stability of society is known as the rule of law. Democracy can employ such means. Autocracy can likewise employ such means. An autocracy, coupled with the rule of law, will constitute a malevolent political system. WEI Jingsheng finished writing this article on 17 January. And on the self same day 16 years later I am proposing the present motion which has everything to do with the way WEI interprets the rule of law.

The motion I am moving today may embarrass the Hong Kong Government or the Preparatory Committee. But when we see one of our compatriots being unreasonably and unfairly subjected to political persecution inside China, can we just sit idly by doing nothing? When sovereignty over Hong Kong reverts after 1 July 1997, we shall be under the governance of the Chinese Government and become a small special administrative region under the People's Republic of China. The historically unprecedented formula of "one country, two systems" will be implemented and developed. As an adage has it, "We must learn from precedents". Therefore, ought we not face the WEI Jingsheng incident with a serious attitude and learn the lesson thus given to us Hong Kong people?

Mr President, after WEI Jingsheng published his article *Do We Want Democracy or a New Dictatorship?* in March 1979, he was charged with such crimes as anti-revolutionary propaganda, divulging state secrets and subversion of the government. He was convicted and sentenced to 15 years' imprisonment. WEI had all along been criticizing the Chinese Government for being authoritarian and dictatorial. He had been demanding that China should open up, reform and take the road towards true democracy, including political democratization. This, I think, should be a civil right of an ordinary citizen and should not be labelled "sedition" or "conspiracy to subvert". Other Members from the Democratic Party will elaborate on the incident of WEI Jingsheng being persecuted by the Chinese Government.

Mr President, the arrest and sentencing of WEI Jingsheng had far-reaching repercussions in Hong Kong. Many Hong Kong people took to the streets to hold processions, to demonstrate, to protest, to sign their names and to stage sit-ins. They called on the Chinese Government to release WEI immediately. According to the findings of a recent survey conducted by the University of Hong Kong, after the conviction of WEI, Hong Kong people's confidence in the Beijing government and "one country, two systems" has plunged. As representatives of Hong Kong people, we request the Hong Kong Government to reflect to the Chinese Government Hong Kong people's wish, namely, that WEI be released! At the same time, we request the Hong Kong Government to reflect to the Chinese Government Hong Kong people's misgivings caused by the WEI incident, particularly their worries with regard to Article 23 of the Basic Law. It is because Article 23 of the Basic Law provides that the Hong Kong Special Administrative Region (SAR) government to be set up in 1997 shall enact laws on its own to prohibit any act of treason, secession, sedition, subversion of the central people's government or theft of state secrets. And these charges are precisely the sort of trumped-up charges which the Chinese Government is in the habit of employing against dissidents who criticize the Chinese Government for being autocratic and dictatorial.

Mr President, Prof GAO Mingxuan, a renowned Chinese jurist in criminal law, commented on the WEI Jingsheng case in the following terms: The facts of the WEI case, as measured against the criteria set by the Chinese criminal law, inexorably lead to the conclusion that WEI Jingsheng is guilty. He further pointed out that the United States Code also expressly provides against advocating the overthrow of the government.

Having heard Prof GAO's comments, we are even more worried. It is because what WEI Jingsheng did was no more than this: writing articles in a peaceful manner to comment and express his views on what he perceived to be the autocratic and dictatorial style of government of the present Chinese communist regime. Such an act on WEI's part bore no similarity to and was far removed from that prohibited under the United States laws, namely, overthrowing or engaging in propaganda to overthrow the existing government by violence or force — for instance, scheming to assassinate an important government official. The spirit of the Chinese criminal law will considerably stifle Hong Kong people's freedom of expression so that they will live under a

"white terror" where they dare not speak out what they truly think.

Mr President, Article 23 of the Basic Law provides an opening to require the SAR government to enact the relevant laws. What worries people even more is that the Chinese Government does not recognize the present popularly elected Legislative Council as qualifying to straddle 1997. It will disband this popularly elected Council on 1 July 1997 and replace it with an appointed provisional legislature. We are worried that, under the control and influence of the Chinese Government, the future provisional legislature would refer to the relevant Chinese laws and introduce into Hong Kong's legal system the concepts and ways of interpretation currently adopted by the Chinese Government with regard to the crimes of treason, sedition, subversion and secession. Apart from jeopardizing Hong Kong people's civil rights after 1997, this would also jeopardize Hong Kong's judicial independence.

At present, the crimes of treason and sedition are already expressly provided for in the Crimes Ordinance (Chapter 200 of the Laws of Hong Kong). But the definition of treason, treasonable act and sedition as contained in the provisions is very wide indeed and liable to be abused for the purpose of stifling or deterring freedom of expression and press freedom. And Hong Kong's existing laws do not provide for the crimes of subversion and secession.

Therefore, to protect Hong Kong people's post-1997 civil rights, we urge the Hong Kong Government to amend immediately the relevant laws according to the following four principles so that the provisions will be couched in such clear and unequivocal terms as to limit the connotation of the wording on treason and sedition and thus to strike a balance between the need to prevent acts endangering the state and the need to protect the citizen's civil rights.

We insist that the four principles include:

- (1) The laws concerned must be consistent with The Bill of Rights. This accords with the principle that no Hong Kong law shall breach the Hong Kong Bill of Rights Ordinance;
- (2) The laws concerned must be consistent with the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. This accords with the principle and spirit of Article 39 of the Basic Law;

- (3) Article 23 of the Basic Law only provides that the SAR government shall enact the laws concerned on its own. The Standing Committee of the National People's Congress has the right to interpret the Basic Law but it shall not have the right to interpret the SAR laws enacted pursuant to the Basic Law. As the laws concerned are part of the common law system, the contents of such laws, including the definition and interpretation of its wording and the procedure of trial shall be dealt with by the SAR's judicial authorities which shall be fully competent to do so. This would ensure that Hong Kong possess a high degree of autonomy in accordance with the spirit of "one country, two systems and Hong Kong people ruling Hong Kong";
- (4) The laws concerned should be modelled on similar laws of other common law jurisdictions and revised according to the practical needs and conditions of Hong Kong so as to cater to the interests of Hong Kong people and to enable Hong Kong's common law spirit and concept to straddle 1997.

After studying the relevant laws of a few common law jurisdictions, the Democratic Party has concluded its preliminary analysis with regard to the definition of these sensitive offences. We would like to present it to Members for discussion and to the Hong Kong Government to serve as the basis for amending the laws concerned. Generally speaking, we are of the view that the offences of treason, secession, sedition, theft of state secrets and subversion of the central government can be subsumed under the existing Crimes Ordinance under the heading of offences against the Chinese Government and the state. We are inclined to the view that the laws must further provide that an indispensable element of the crimes of treason, sedition and subversion of the central government shall be an intention or specific action "to use violence against", "to resist with force of arms" or "to overthrow" the government. Only when such an element is proved to be present will the crime be constituted. This will narrow the definition of what will constitute a crime and will avoid criticisms against the government being mistakenly alleged to be seditious. The Honourable Martin LEE and the Honourable Albert HO from the Democratic Party will later elaborate on this.

Mr President, in our countdown to 1997, we will of course discover that there are 500-odd days to go before the handover of sovereignty on 1 July 1997. However, up to the present moment, the Hong Kong Government can only say to Hong Kong people that the relevant agenda has been passed to the Sino-British Joint Liaison Group for discussion and a response from the Chinese side is being awaited. There is little we can do. Seeing how WEI Jingsheng, after serving a 14.5-year prison term for doing no wrong, has once again been thrown into jail for the rest of his life, we feel that we cannot go on waiting forever. To give effect to the spirit of "one country, two systems" and a high degree of autonomy, we have to grasp the value of our existing freedom of expression and the valuable existence of the Legislative Council which represents public opinion. We have to build a democratic and free legal system for the future to protect our future civil rights and freedom of expression. To this end, I propose the motion today on behalf of the Democratic Party. I hope Members will support it and together present our wish and request to the Hong Kong Government.

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

*Question on the motion proposed.*

**MR ALLEN LEE** (in Cantonese): Mr President, it seems that the motion proposed by the Honourable Andrew CHENG and the Democratic Party, in light of Mr CHENG's speech that I have heard, has now transformed itself into a motion requiring this Council to debate whether the WEI Jingsheng case was correctly or unreasonably decided. This is because Mr CHENG kept referring to the WEI case. I shall now express a two-point view of my own with regard to this motion.

First, according to Standing Order 31(9), no debate of this Council shall discuss the judicial act of any judge or other person. It is because every country or region has its own legal system and is entitled to the independent exercise of its judicial powers. Therefore, all cases should be dealt with by the judicial authorities through due process of law. The legislature should not challenge any court decision. I believe not only does the Attorney General agree, he also knows full well our Standing Orders. Mr President, I did not raise this point with you because I did not want to hold up this debate.

**PRESIDENT:** Mr LEE, since you have made that observation about the fact that the President is listening to your speech, I have to rule that Standing Order 31(2) makes reference only to a case pending in a court of law.

**MR ALLEN LEE** (in Cantonese): I said Standing Order 31(9).

**PRESIDENT:** Standing Order 31(9) only refers to judges in Hong Kong.

**MR ALLEN LEE** (in Cantonese): Mr President, there were indeed controversial cases decided by the courts have aroused fresh controversy on the international scene. A glaring example is United States footballer O J Simpson's alleged murder of his wife. How one views a case is one thing, but to ask the Legislative Council to interfere with the judicial decision of another country would not be too appropriate.

I hope the Chinese Government will review and deal leniently with the WEI case. I have expressed my views on the case to the relevant authorities of China. Indeed, I know that some Hong Kong people are worried because of the limited knowledge they have of the case. I hope the Chinese Government will understand the cause of Hong Kong people's thinking as well as their worries and consider reviewing and dealing with the WEI case leniently. Nevertheless I do not think that, on account of this, we should, for the purpose of discussion, associate an individual mainland case with Article 23 of the Basic Law of the future Special Administrative Region (SAR) government. It is because this would unnecessarily add to Hong Kong people's worries and aggravate their suspicion.

Secondly, Hong Kong's existing law on treason, sedition and theft of state secrets is included in the Crimes Ordinance. The contents of this law are not as restrictive as its English counterpart. It is a fitting law for Hong Kong. After 1997 Hong Kong will no longer be a British colony. Therefore, the wording of "Her Majesty the Queen" will not be appropriate. But the spirit of this law is to deal with sedition against the Hong Kong Government as well as any act of inciting the people to seek to change the laws by illegal means, to rebel against

the enforcement of law by the government or to commit any act in violation of the law or in breach of social order. This legal defence line of maintaining effective governance and social stability must continue to exist. Although Hong Kong's existing law does not provide for the offence of subversion, yet I think that the future SAR government should enact laws to this effect on its own in the overall interest of Hong Kong and having regard to the maintenance of Hong Kong people's lifestyles and confidence.

Mr President, after 1 July 1997 Hong Kong people will be Chinese people. China will be our mother country. Hong Kong people will invariably have certain expectations of our mother country. But I think that, as the elected representatives of Hong Kong people, we have the responsibility to ensure that the goal of "one country, two systems" be achieved. To achieve this important goal, we should not pre-empt or gainsay the SAR government insofar as its work is concerned or the SAR legislative assembly insofar as its legislative work under the Basic Law is concerned. Neither should we advocate a confrontational approach to be taken by our present government against the Chinese Government. It is because this would not be in the interest of Hong Kong. I believe Hong Kong people will not be keen to see our government confronting the Chinese Government at every turn.

Mr President, I am speaking on behalf of the Liberal Party. I am worried that if we think we should confront China at every turn then Hong Kong would be in for a rough ride. I oppose the motion on behalf of the Liberal Party.

**MR LAU CHIN-SHEK** (in Cantonese): Mr President, when the name of WEI Jingsheng is mentioned, I instinctively think of another man. He is XU Zhucheng, one of the founders of *Wen Wei Po*.

XU was persecuted first by the Kuomintang and then by the communists. In one of his interviews, he said this: "The Kuomintang persecutes intellectuals by starving them, throwing them into jail or even killing them. But it can do nothing to insult you in terms of spirit. The communists, however, insult you in terms of spirit into the bargain. When they stick a label on you, even your family members will look at you in a different light. When you think of this you will break into a cold sweat!" XU further pointed out saying: "If a thief got caught for stealing from others he could not care less. But if you, being an upright person who does no wrong, have been stolen from and yet are arrested



and pilloried before the public, it will be hell!"

WEI Jingsheng has been twice thrown into jail. This again is persecution of an upright, rational, peace-loving and non-violent citizen by the powers-that-be. However, I feel that the Chinese Government's persecution of WEI has not in any way caused him to compromise in terms of spirit. Moreover, Chinese people of today will not discriminate against WEI. On the contrary, more and more people will extol his deeds!

From beginning to end, WEI Jingsheng has been striving for democracy, human rights and freedom for China in a peaceful and non-violent manner. He is brave enough to stand up and bear whatever persecution visited upon him. I am of the view that WEI represents the conscience of the Chinese people. The conviction and imprisonment of WEI warrants concern from the Chinese people and the world at large. Social progress precisely requires such a moral driving force. We can see that Nelson MANDELA of South Africa, Vaclav HAVEL of Czechoslovakia and AUNG SAN Suu Kyi of Burma are similarly following such a concept in their attempt to drive their country in the direction of progress. Even in the most difficult times, they still would not forsake their native country where they were born. And WEI is China's Nelson MANDELA, Vaclav HAVEL and AUNG SAN Suu Kyi!

Today, apart from calling for the release of WEI Jingsheng, I believe the most effective way to manifest our stance would be to express our respect and concern for WEI. The Honourable Miss Christine LOH and I are starting a campaign to support the nomination of WEI for the 1996 Nobel Peace Prize. I hope Members will sign jointly in support of it. As candidates for the Peace Prize must be nominated by parliamentarians and university dons, Members' support in this regard will be of considerable importance. I will later distribute to Members the letter written by Miss LOH and myself as well as the joint signature form. I hope to have Members' support!

WEI Jingsheng represents the conscience of the Chinese people. His steadfast devotion to his own convictions is similar to that of Nobel Peace Prize winners Nelson MANDELA, Vaclav HAVEL and AUNG SAN Suu Kyi. Please support WEI Jingsheng's nomination for the Nobel Peace Prize to express our highest respect and deepest concern for WEI! This will also be our best wishes extended to a kind-hearted and genuine patriot who strives for democracy, freedom and human rights in a peaceful and non-violent manner and who has the loftiness of character to face prison and death in his attempt to accomplish such mission.

Mr President, these are my remarks. Thank you.

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

**DR PHILIP WONG** (in Cantonese): Mr Deputy, I have five points to make in regard to today's motion.

First, any sovereign state is free to enact and implement laws within its sovereign jurisdiction having regard to the national situation or condition. This freedom to legislate must be respected. Members in fact know full well that the WEI Jingsheng case was, pure and simple, one of conspiracy to subvert the government which China's judicial authorities tried and dealt with according to law. The powers and functions of the Legislative Council of Hong Kong are clearly defined in the Letters Patent and the Royal Instructions. What qualifications does the Council possess, what need is there and what responsibility does it have to interfere with a trial conducted by a sovereign state in the exercise of its judicial powers within its own sovereign jurisdiction?

Secondly, viewed from the angle of "one country, two systems" about to be implemented in Hong Kong, if Members of this Council need to express concern over the way the sovereign state exercises its judicial powers, they will have to pay all the more attention to the meaning of "two systems" that follows "one country". They should not, in a contrived manner, seek to associate China's conduct of a trial with Hong Kong, that is to say, with Hong Kong's way of judicial trial before and after 1997. Otherwise, they would be like "offering themselves voluntarily" to favour "one country, one system".

Thirdly, in present-day Hong Kong where judicial independence is being upheld, we would have to respect absolutely the decision of the Hong Kong courts if a similar case should be tried here. Hence, what basis is there for Members of this Council to interfere with a judicial trial held in China?

Fourthly, no government in the world will permit its people to engage in any activities of treason, secession, sedition, subversion or theft of state secrets. Even the United States Government, which regards itself as "the guardian of human rights" has prescribed under Articles 2383, 2384 and 2385 of the United States Code rather severe punishments for advocating, abetting, indoctrinating, inciting, procuring, aiding or carrying out any of the aforesaid anti-government

acts. For instance, an offender who advocates the overthrow of the government shall be liable to imprisonment for 20 years and, for five years following the expiration of his prison term, the offender shall be barred from being employed by the United States Government or any department or agency of the state. For years, the United States government has been taking a heavy-handed approach towards such activities. May I ask if there is anyone who can be certain that anti-United States activities and anti-China crimes are two entirely different matters?

Fifthly, if one is worried lest Chinese laws against treason and sedition be implemented in Hong Kong, such worry will only betray one's ignorance or mistrust of the Basic Law. It is because Article 23 of the Basic Law already clearly provides that the Hong Kong Special Administrative Region (HKSAR) shall enact laws "on its own" to prohibit any act of treason, secession, sedition, subversion of the central people's government or theft of state secrets. If this Council tables a motion today to urge the Government to amend the existing laws relating to treason, the laws, when amended, will wholly fail to protect Hong Kong people. It is because the acts of "treason" as referred to in the existing legislation are construed to mean treasonable acts against the United Kingdom and should have no bearing at all on the definition of treason applicable to the HKSAR under Chinese sovereignty.

Mr Deputy, I am of the view that Members who respect state sovereignty and judicial independence and support "one country, two systems" should vote against this motion. These are my remarks.

**MR BRUCE LIU** (in Cantonese): Mr Deputy, the Association for Democracy and People's Livelihood (ADPL) and myself will support the Honourable Andrew CHENG's motion. Even if the motion is not carried today, I still believe that history will draw its own conclusion. Hong Kong people's wish is clear enough, that is to say, we hope the Chinese authorities will release WEI Jingsheng as soon as possible.

Human rights bodies all over the world consider WEI Jingsheng to be a prisoner of conscience. I consider him to be a prisoner of conscience who does not cower before those in power and is regarded by the powers-that-be as a thorn in their side. The brave need have no fear. WEI epitomizes Chinese people's political and moral courage. He deserves our respect.

Some say there is no need to worry that something similar to the WEI Jingsheng incident would happen in the future Hong Kong Special Administrative Region (SAR). However, the verdict has shocked Hong Kong people out of their slumber. WEI's imprisonment has aroused and made manifest Hong Kong people's worries. We must prepare ourselves for rainy days, that is to say, avoid being blown up by a land mine because of some ill-defined rules of the game Hong Kong would adopt and avoid being convicted for subversion for writing articles in good faith which nevertheless provoke the ire of our leaders.

Article 23 of the Basic Law provides that the SAR government shall enact laws on its own to prohibit any act of treason, secession, sedition, subversion of the central people's government or theft of state secrets.

Hong Kong people have a number of worries. Their worry over Article 23 of the Basic Law was expressed numerous times during the drafting and formulation of the Basic Law:

Some people are worried: Will the laws enacted by the SAR "on its own" be so draconian as to cause apprehension?

Some people are worried: Will the criteria adopted in China with regard to the constituent elements of the offence of subversion be forcibly incorporated into the SAR laws?

Some people are worried: Will the courts of Hong Kong still enjoy judicial independence after 1997?

Taking cognizance of the misgivings of Hong Kong people, the Legislative Council has the responsibility to actively respond to the worries cherished by the public. The ADPL and myself urge the Government to carry out the following two tasks:

First: To amend the existing law on treason, sedition and theft of state secrets; and

Second: To enact law to prohibit any act of subversion so that it will serve

as a reference basis for the future Hong Kong SAR to legislate pursuant to Article 23 of the Basic Law.

In carrying out the aforesaid two tasks, the Government must abide by the following two principles:

First, the principle of "one country, two systems": each country has its own laws the way a household has rules. Chinese laws have their own criteria; Hong Kong laws should likewise have criteria of their own. It would neither be necessary nor appropriate for the Chinese criteria to be introduced into Hong Kong.

Second, the principle of conformity to international human rights standards: the relevant laws must be consistent with the two international covenants on human rights.

The ADPL requests the Hong Kong Government to refer as soon as possible to related laws in other common law jurisdictions and expeditiously draft amendments to the laws concerned for submission to this Council for scrutiny.

Lastly, I am obliged to further comment on Mr Andrew CHENG's motion on behalf of the ADPL. The wording of the motion is not too appropriate. As the saying has it, well water shall not encroach on river water and river water shall not encroach on well water. It would not be appropriate for this Council to comment on and describe a Chinese court decision as "unfair and unreasonable". Neither would it be appropriate if the Beijing Municipal People's Congress should some day describe a Hong Kong court decision as "unfair and unreasonable".

Nevertheless, the inappropriate wording will not affect the way the ADPL and myself will vote nor will it affect the central idea of the motion.

"Hot blood coursing in our veins should be treasured; if spilled it can still transform into green water." WEI Jingsheng's steadfast devotion to his own ideal is a beacon of hope for China's future.

With these remarks, I support the motion.

**MR ERIC LI** (in Cantonese): Mr Deputy, although WEI Jingsheng has never been to Hong Kong, his name has been widely publicized in Hong Kong by the mass media. After extensive media coverage of what happened to him, the name of WEI Jingsheng has become a "symbol for the pursuit of democracy". What happened to him, how he held fast to his own ideal and the unfair treatment he was subjected to have become something that Hong Kong people are more familiar with than with current news and local figures. He has also won a lot of sympathy.

The motion moved by the Honourable Andrew CHENG is a true reflection of Hong Kong people's "self projection" based on the WEI Jingsheng case. From what happened to him, the people of Hong Kong are shocked to find that for many years there has been no clear definition in law in Hong Kong in respect of the acts of treason, sedition and theft of state secrets. We rely only on the British common law system. Therefore, Hong Kong people are eager to have clear definitions in law in respect of these offences so as to strengthen their personal protection. This part of the motion deserves our unreserved support.

Regarding the "cardinal question of right and wrong", Mr CHENG's motion and the direction reflected therein have not overstepped the limits of propriety. After reading carefully the wording of the motion, I find that the motion does not call on the Hong Kong Government to directly "interfere" with the internal politics of China. It only seeks to "indirectly" reflect the opinions of the people of Hong Kong. However, no matter how deeply-rooted the WEI case is in the people's hearts and despite the fact that some people even take him for a hero, he is not a Hong Kong citizen. Had he been born in Hong Kong and were unfairly treated under the law in places outside Hong Kong, as was the case with AU Wing-cheung, then Hong Kong people should, without hesitation, proceed to urge the Hong Kong Government to take all possible actions to rescue him. However, WEI Jingsheng is a Chinese citizen, and he should of course be subjected to the judicial system of China. Therefore, however much sympathy we may feel for him and despite our view that the judicial system of China is unfair, we may, at most, reflect the strong sentiment of the public through motion debates in this Council. However, the ultimate effect of the motion should never be to request the Hong Kong Government to go beyond its ambit because that would put the Government in a very difficult position.

The jurisdiction of the Hong Kong Government is confined only to Hong

Kong and its responsibility is confined only to the administration of local affairs. As an economic society instead of an independent country, Hong Kong has absolutely no diplomatic power; neither does it have bargaining power or chips to act as political cop in respect of out-of-border business. This Council's request that our Government comment on political events outside the territory's borders will only be regarded as "foolhardy" by those with discerning eyes. From an objective point of view, the carrying of the present motion would only embarrass the Government and it would not substantially help the matter in any way. For the people of Hong Kong, these actions will only cause criticism and will do all harm and no good. Therefore, the motion is built on shaky grounds.

I agree that the spirit behind the motion is commendable but it is "only long on sentiment but short on reason". Of course, Members may debate only the aspect of reason or they may comment only on the aspect of sentiment. As a Legislative Council that respects the rule of law and is accountable to the public, a motion can only be supported if it is "fitting in terms both of sentiment and reason".

The part of the motion relating to the enactment of legislation prohibiting subversive activities is fitting in terms both of sentiment and reason. I have also said earlier that this part is worth our support but I think that it is not necessary to link the two totally different requests, namely, the request to amend laws and the request to release WEI Jingsheng. It is because that would alter the nature and effect of the earlier part of the motion through introducing unnecessary political factors. Maybe because of my professional background, I demand the best from motions in terms of the effect they will have because this is of paramount importance. Therefore, regarding the second part, that is, the part relating to the release of WEI Jingsheng, although it is fitting in terms of sentiment, it is not reasonable from a legal point of view. Therefore, I will oppose the motion on the premise that we must take into account both the aspects of reason and sentiment.

**MR CHAN WING-CHAN** (in Cantonese): Mr Deputy, the trial of a Mainland case recently held in a Beijing court was described as "unfair and unreasonable" by the Honourable Andrew CHENG and Democratic Party members. They demonstrated to protest against the ruling of the court. This is their right and they are free to do so. However, Mr CHENG is requesting this Council to call on the Hong Kong Government to interfere with the judicial system of Beijing by

asking the Chinese Government to release the convicted person. I would like to ask Mr CHENG this: What, according to him, should be the relationship between the executive authorities and the judiciary? What should be the relationship between the Hong Kong Government and the judiciary of the Mainland?

Mr CHENG even requests that Hong Kong's existing laws be amended in view of the adjudication of this Beijing case. Mr CHENG said that there was apprehension among Hong Kong people that the existing and post-1997 laws would not be adequate to protect their civil rights. He then urged the Hong Kong Government to immediately introduce amendments to existing legislation relating to the act of treason, sedition and theft of state secrets, and to enact legislation prohibiting subversive activities, in order that such laws will form the basis for formulating legislation by the Special Administrative Region (SAR) Government after 1997.

How come there is a need to amend the existing Hong Kong laws relating to the act of treason, sedition and theft of state secrets? The Democratic Party, to which Mr CHENG belongs, has argued that all these laws are draconian colonial laws and the future SARG should not adopt all these laws outright.

Of course, the above laws are colonial laws: treason is defined as killing or levying war against Her Majesty; sedition is to seduce any member of Her Majesty's forces from his duty or allegiance to Her Majesty; disclosure of state secrets refers to the secrets of the United Kingdom Government. These laws are in force in Hong Kong just because the British Government exercises colonial rule over Hong Kong.

However, as a lawyer, Mr CHENG should be well aware that these laws are also in force within the territory of the United Kingdom and the constraints imposed by these laws are no less strict than in Hong Kong. Citizens of the United Kingdom will also be subject to conviction and punishment if they commit the offence of treason, sedition or theft of state secrets. These laws are not tailor-made for colonies.

In fact, all sovereign states enact laws to ensure state security. Does Mr CHENG mean to say that Hong Kong should connive at those acts of treason, sedition, theft of state secrets and subversion? Does he mean that only in so doing would the laws become less draconian, only in so doing would "the protection of civil rights of the people of Hong Kong" be ensured and only in so doing would Mr CHENG and the Democratic Party be satisfied?



Regarding the existing restrictions upon the people of Hong Kong imposed by the existing laws, it seems that Mr CHENG and the Democratic Party are willing to accept them all outright. They only hold that the existing laws cannot be used as the basis for the future SAR Government to enact laws, and so they urge the Government to make immediate amendments. However, what leads Mr CHENG into believing that the future SAR Government will certainly use the laws hastily amended before 1997 as its legislative basis? What leads him into believing that the current Legislative Council can influence and restrict the legislative powers of the future SAR?

Mr Deputy, if we are to safeguard the judicial independence of Hong Kong, we should not ask the executive authorities or the legislature of Hong Kong to interfere with the judiciaries of other places. If we are to safeguard the future SAR's high degree of autonomy, we should not, in advance, limit the legislative powers of the future government. If we are to guarantee that Hong Kong's legal system would remain basically unchanged, we should not seek to amend the existing laws on the ground of the adjudication of a Mainland case.

Therefore we certainly cannot support Mr Andrew CHENG's motion.

Mr Deputy, I so submit.

**MR MARTIN LEE** (in Cantonese): Mr Deputy, another heavy jail term of 14 years imposed upon Chinese dissident WEI Jingsheng by the Chinese Government has aroused strong dissatisfaction among the people of Hong Kong and they are worried that political persecution such as "conviction for mere words uttered" may occur after 1997.

Looking at the situation from the angle of Hong Kong, we find Hong Kong people's worries understandable because, according to Article 23 of the Basic Law, the Hong Kong Special Administrative Region (SAR) shall enact laws on its own to prohibit any act of treason, secession, sedition, subversion, theft of state secrets and so on. If the future legislation is not properly drafted and framed, it would become a sharp weapon to clamp down on Hong Kong people's human rights and freedom of speech. Therefore, my speech will address the matter from the angle of law, explaining the enactment of laws on subversion under Article 23 of the Basic Law. I hope that both the Chinese and British

Governments can listen to our opinions and come to an agreement as early as possible through the Sino-British Joint Liaison Group (JLG), so as to allay our worries.

First of all, let us look at the concept and thinking behind Article 23 of the Basic Law. Obviously, the provision was so framed because Chinese leaders mistakenly took Hong Kong for a subversion base after the "June 4th" incident. Therefore, important amendments were made when the Basic Law was finalized, resulting in provisions that are harsher than those in the first and second drafts. Under such a circumstance, the Chinese side might have chosen to directly extend to Hong Kong Chinese national laws, but it ultimately chose to allow the SAR government to enact laws on its own. It is therefore evident that, at that time, they took into consideration the reality that the legal system in Hong Kong is different from that in China.

From this angle, in enacting laws on subversion under Article 23 of the Basic Law, we may deduce three principles:

1. the laws shall not contravene the existing common law system in Hong Kong;
2. the laws shall not contravene international covenants on human rights; and
3. the laws shall not be in breach of the Joint Declaration and the Basic Law.

Under the common law system, the offence of subversion is constituted only if illegal actions are performed to overthrow the Government. Therefore, the conviction of WEI Jingsheng for publishing articles to criticize government policy and engaging in lawful activities runs counter to the concept of the common law. To convict someone for his thoughts and speeches is a Chinese socialist legal concept.

As to international covenants, the International Covenant on Civil and Political Rights is the basis for the protection of human rights in Hong Kong. Article 39 of the Basic Law has made it clear that the provisions of the international covenant as applied to Hong Kong shall remain in force and shall be implemented through the laws of the SAR. Therefore, laws on subversion

shall be in line with this international covenant so that the concept of subversion would not be indefinitely expanded, lest it may infringe upon the civil rights and freedom of speech which Hong Kong people have been guaranteed under the Sino-British Joint Declaration and the Basic Law.

The third principle works in concert with the above two principles because Paragraph 3(3) of the Joint Declaration provides that the laws currently in force in Hong Kong will remain basically unchanged. Section II of Annex I to the Joint Declaration stipulates that the laws previously in force in Hong Kong (that is, the common law, rules of equity, ordinances, subordinate legislation and customary law) shall be maintained.

According to the Joint Declaration, the enactment of laws on subversion shall be in line with Hong Kong's existing legal system — the common law system. Paragraph two of Article 18 of the Basic Law states that "national laws shall not be applied in the Hong Kong SAR except for those listed in Annex III to this Law." The laws listed in Annex III do not include Chinese laws on subversion. That being the case, any attempt to extend to Hong Kong Chinese laws on subversion contravenes the provisions in the Basic Law.

I would like to point out here that when the Government enacts laws under Article 23 of the Basic law either before or after 1997, the court may rule the laws invalid if the laws compulsorily introduce into Hong Kong Chinese legal concepts, resulting in conflicts between the laws and the provisions in international covenants on human rights.

Lastly, I would like to raise the issue relating to the Chinese Government's recent statement asserting that it would vigorously control the dissemination of economic news. This may make it possible for cases similar to XI Yang's conviction for theft of state secrets to happen again, thereby putting Hong Kong reporters engaged in the reporting of China news in a very dangerous situation. Economic news is the life blood of the industrial and commercial sector. If Chinese officials were to enforce compulsory control, it would be tantamount to controlling how much blood was to flow into the brain of the businessmen, thereby leading them in the making of commercial decisions. This would be extremely unwise. This would hamper investment and stifle economic development while at the same time provide a chance for corruption on the part of officials because they might accept advantages for selling news. That would be a big step backward in the course of China's liberalization of its economy.

Right now, the case of WEI Jingsheng has sounded an alarm bell in the community of Hong Kong for fear that, after 1997, there would be the possibility of "conviction for mere words uttered". The Democratic Party reiterates that the British Government should take up the responsibility of discussing the issue with the Chinese side at the forum of the JLG, and immediately tabling a draft Bill to this Council for discussion. Or else, the Democratic Party will resort to introducing a Member's Bill to solve this problem.

I so submit in support of the motion.

**MISS CHRISTINE LOH:** Mr Deputy, I believe Hong Kong people would like to see WEI Jingsheng released because we do not regard what he has done to be criminal. WEI Jingsheng wants to promote a "Fifth Modernization" — he wants to see a truly democratic China. He offers different ideas from those of the communist leadership. And it is for these ideas that he has been penalized and victimized.

WEI, and others like him, are called "dissidents" in China. They are so described because they "dissent", that is, they disagree with officialdom. We do not have "dissidents" in Hong Kong. There are few countries in the world that reserve such a term for people who think differently from the government.

In Hong Kong, we encourage pluralism. We are a pluralistic society. Hong Kong will not malfunction because of a richness of ideas and opinions. It is from encouraging ideas that new ideas, better ideas, will emerge. Our Government can cope with many different interests. And, it is even beginning to openly acknowledge that giving all stakeholders in the community a say in public policy is a good thing. We have no "dissidents" in Hong Kong; and I hope we never will.

However, we have many "activists". For example, among business leaders, we have the Honourable Paul CHENG who is also a member of the Preparatory Committee. We have "activists" among the grassroots, like the Honourable LAU Chin-shek. We have the Honourable Eric LI, also a member of the Preparatory Committee, who speaks out for accountants; the Honourable Miss Margaret NG, unfortunately, not a Preparatory Committee member, who represents lawyers. And I myself have been a "green activist" for many years.

All of us disagree with the Administration frequently. We activate ourselves repeatedly to promote different ideas from theirs. Sometimes, the Administration even admits that our ideas are better than theirs, and succumb more or less graciously. None of us are "dissidents".

The Honourable Miss Emily LAU has even proposed that this Council should be directly elected. And I understand that she wants to promote a motion debate to have the Chief Executive of the future Special Administrative Region directly elected. Do we call her a "dissident"? No, instead we applaud her efforts. She is admired here. We describe her as a committed democrat.

For doing the same sort of things as many of us do, WEI Jingsheng has been locked away under the pretext that his ideas, and peaceful actions, subvert the Chinese state. If one man's ideas and actions are so powerful that they can bring down communist one-party rule in China, we can appreciate why Chinese leaders feel so insecure. Maybe Chinese leaders are right. They have read Marx, and they have read Lenin. Mr Deputy, you would remember that it was Lenin who said that there is nothing more powerful than an idea which has come of age. That idea, which so bothers Chinese leaders, is democracy.

It is that same idea which drives many of us to take up a role in political life today. We want Hong Kong to have an authentic system of representative government. Hong Kong is not yet fully democratic, and we want to push ahead. In Hong Kong, different ideas compete in open forum on the way ahead. Chinese leaders do not seem to be able to stand up to competition on ideas. How will they find us after 1997, Mr Deputy?

The case of WEI Jingsheng worries us. Article 23 of the Basic Law worries us. "Subversion" is a crime of counter-revolution. We have not had a revolution here, so there is nothing to counter. This concept of "subversion" is a particular jewel of a Marxist-Leninist legal system. China used the Basic Law Drafting Committee to import this alien concept into the Basic Law — our future constitution. Worse still, it will be the Standing Committee of the National People's Congress which will interpret the Basic Law. The National People's Congress is a political organ dominated by the Chinese Communist Party. How do you think it will interpret the crime of "subversion"?

The motion suggests that the Hong Kong Administration should enact laws now to prohibit subversion so that Hong Kong can control its definition. It is not ideal that we have to do this at all, but perhaps it is the less of two evils. We

certainly do not want China to define subversion for us because they only know one form of subversion.

How on earth are we going to define "subversion"? And even if we did it successfully, will China accept it? Mr Deputy, of course we are going to worry about these issues. I hope the Administration and Members of this Council, who are members of the Preparatory Committee, will tell China about our anxiety in no uncertain terms. I urge the 14 Honourable Members of this Council who are Preparatory Committee members to do so vigorously.

The Honourable Andrew CHENG has suggested some criteria for enacting the law of subversion in Hong Kong. They provide a good starting point for us to refine and debate. But are we going to have the courage to define and debate this sensitive issue?

Mr Deputy, the Honourable LAU Chine-shek and I will nominate WEI Jingsheng for the Nobel Peace Prize this year. Some people might say we are deliberately courting trouble because we are irking China. But for someone like me who had been fortunately enough to be born in Hong Kong, to be born and raised in freedom, I find it impossible to not say what is in my mind and what is in my heart. For me to support someone as courageous as WEI Jingsheng comes as the most natural thing. And I hope all of you will also nominate him.

THE PRESIDENT resumed the Chair.

**MR YUM SIN-LING** (in Cantonese): Mr President, I support the motion with some reservations. We have sufficient grounds to believe that the allegation of "unfair trial and unreasonable conviction of WEI Jingsheng by the Chinese authorities", as expressed in the motion, is correct. It is because we can see from the charge the court laid against WEI Jingsheng that they used the "deduction" formula instead of basing the conviction on concrete evidence. We can also see that these "deductions" are tenuous in view of the court's rejection of the requests by certain people who wished to defend WEI Jingsheng or to sit in on the proceedings. Many overseas Chinese feel that they "lose face" before foreigners. In fact, to "lose face" does not really matter because what concerns us most is that WEI Jingsheng is a real patriot who loves China. We feel

distressed because a patriot has come to grief. A survey shows that most Hong Kong people think that the conviction of WEI Jingsheng is unfair. Apart from grieving over the case, they also feel extremely worried about their own safety after 1997. This is totally understandable. As representatives responsible for reflecting the views of the public, we are committed to reflecting their worries and differentiating with wisdom who the real "patriots" are.

Part of the motion is nebulous, that is, the part concerning whether we should call on the Hong Kong Government to urge the Chinese authorities to "release WEI Jingsheng". If that is the case, then we will indeed be interfering with their judicial system. This is where we cannot lend our support. If we are just trying to reflect the wish of the Hong Kong people that WEI Jingsheng be released, then it is acceptable in principle. The crux of the matter lies in whether the Government can substantiate its claim by producing concrete data, otherwise, the claim would only be rebutted. In any event, I support the motion.

Thank you, Mr President.

**DR YEUNG SUM** (in Cantonese): Mr President, that a heavy sentence of 14 years' imprisonment has been imposed on WEI Jingsheng is indeed a cause for grief. Looking at the way the WEI case has been dealt with, from institution of prosecution to the trial and appeal outcome, one can perceive that although China has had economic liberalization for more than 10 years there has been no progress on the political reform and human rights protection front. The legal system has been wholly dominated by politics. The system of rule by person basically fails to build an independent judicial system and the requisite foundation for the rule of law. Years of economic liberalization undoubtedly has improved the material well-being of the Chinese citizens. However, it is now still impossible to build effectively the systems of human rights, freedom, democracy and the rule of law.

According to the Human Rights White Paper Review Report published by the Chinese Government, the human rights being attached importance to inside China are the right to life and the right to development. The report also emphasizes a number of times the so-called Asian culture. It holds that the conditions and national ethos of China have given rise to special human rights in Chinese society and that outside criticisms should not seek to impose on Chinese society the human rights standards of western societies.

Mr President, I disagree with the Asian culture denominated human rights theory advanced in the report. I believe that human rights know no national boundaries. Christians believe that God made man and the value and dignity of the human race is not variously determined according to nationality, colour and socio-economic backgrounds. The followers of humanism believe that there are natural rights. Every person enjoys heaven-bestowed human rights and dignity which no other person can, on arbitrary grounds, deprive him of.

Mr President, the human rights concept as expounded by the Chinese Government is open to question. First, this kind of human rights are not inborn rights but are conferred by the state. Therefore, the state can, on any grounds it thinks fit, such as national security, social order or overall social interests, deprive a person of such rights. In other words, these non heaven-bestowed and non inborn rights are dispensable.

Secondly, the dignity and rights to which a person is entitled are not limited only to living and development, nor are these rights the principal rights. "Man cannot live by bread alone". This shows that human dignity and rights are multi-faceted. Apart from living, being clothed, eating, lodging and moving about, freedom of expression, freedom of thought, freedom of association and political rights are the basic rights of a human person.

As a matter of fact, in regard to the human rights concept as emphasized by the Chinese Government, the deficiencies were made manifest by the WEI Jingsheng case where a heavy sentence was imposed.

Mr President, to stabilize the situation, the Chinese Government has implemented the so-called "stability overriding everything else policy". Therefore, the criticisms levelled by WEI Jingsheng against Chinese leaders, including articles criticizing the Chinese Government published in Hong Kong newspapers, could constitute evidence of treason, sedition and subversion. Moreover, after serving his first prison term of close to 15 years, WEI was released but was nevertheless being isolated and kept under surveillance by the authorities. So what protection is there for the civil rights conferred under the Chinese constitution?

In China, the authority of the leaders cannot be openly questioned or challenged. Therefore, numerous intellectuals in China have been convicted for



the way they expressed themselves and the way they thought; they have been divested of their human dignity and freedoms. The people's government was founded in the name of the people. But those in power cannot accept the open criticisms by the people. Is this not a supreme irony?

Mr President, to sum up, the WEI case where a heavy sentence was passed has not only reflected the "stability overriding everything else policy" as implemented by the Chinese Government, it has also manifested the way the Chinese Government attacks dissidents, deprives the people of the freedom of expression and of thought and inhibits the development of the rule of law.

Mr President, some would argue that it would be inappropriate for this Council to criticize the legal system of China because it would mean interference with China's domestic affairs by a colonial legislature.

Mr President, I would not agree with this argument. On the contrary, I am of the view that those who advance such an argument have an "ostrich" mentality and subscribe to the theory of "river water not encroaching upon well water and well water not encroaching upon river water". Mr President, I believe that this theory is self-deceiving and untenable.

As is evident to all, the "one country, two systems" policy already points to the fact that China-Hong Kong relationship is one of complementary development. From a practical angle, Chinese interference in Hong Kong on a number of fronts before 1997 will surely mean stepped up interference in Hong Kong after 1997. No wonder Hong Kong people's confidence in their future has stayed at a low level. After the WEI incident, Hong Kong people's confidence in the future has dropped a further 50% according to a survey finding by the Hong Kong University Social Research Centre.

Mr President, it is fitting and proper for us, as Chinese, to participate in and comment on the affairs of state of China. As a matter of fact, the implementation of the "Hong Kong people ruling Hong Kong and a high degree of autonomy" policy is inseparable from China's progress in the direction of democratization, openness and rationalization. If China's policies were headed for the "extreme left", it would be impossible for the "one country, two systems and a high degree of autonomy" policy to be implemented in Hong Kong after

1997. Therefore, it is only natural and indeed indispensable for Chinese people in Hong Kong who have concern for China and Hong Kong to set their eyes on China, pay attention to and comment on the social developments within China. Of course, under the present political circumstances, comments on affairs of state might bring about pressure and be regarded as an act betraying one's lack of love for China and Hong Kong. However, I firmly believe that we must strive for democracy and freedom. Therefore, Mr President, I hereby request the Chinese Government to release WEI Jingsheng.

With these remarks, I support the motion.

**MR AMBROSE LAU** (in Cantonese): Mr President, the prosperity and stability of the Hong Kong Special Administrative Region (SAR) will depend on the full implementation of the provisions of the Basic Law and the spirit and policy orientation of the "one country, two systems and Hong Kong people ruling Hong Kong".

Article 23 of the Basic Law provides: The Hong Kong SAR shall enact laws on its own to prohibit any act of treason, secession, sedition or theft of state secrets. It is clear from this Article that the relevant laws are to be enacted by the Legislative Council of the Hong Kong SAR. The present motion demands that this Council enact the relevant laws to serve as the legislative basis for the SAR to proceed. This would patently be an attempt to circumvent the powers conferred by the Basic Law on the Legislative Council of the SAR.

Article 23 of the Basic Law which confers on the SAR the power to enact laws on its own to prohibit any act of treason *et cetera* is an important provision to give effect to the "one country, two systems" principle. It is because the SAR will, having regard to Hong Kong's social conditions and needs as well as the will of the local people, enact fair and reasonable laws in relation to the acts concerned through its elected Legislative Council in order to safeguard state security and interests. I firmly believe that Hong Kong people will not wish to see any session of the Legislative Council enacting certain laws to serve as the legislative basis for related laws and thus fettering the legislative discretion or freedom of subsequent sessions. Therefore, the present motion is inconsistent with Article 23 of the Basic Law, not to mention that it is impractical.

The best safeguard for Hong Kong people's civil rights would be fair and reasonable laws enacted in accordance with the Basic Law by an elected SAR Legislative Council.

Mr President, the present motion alleges that Hong Kong people harbour misgivings with regard to Article 23 of the Basic Law. This is an unfounded allegation. A prerequisite for "Hong Kong people ruling Hong Kong" lies in Hong Kong people's confidence in being able to run Hong Kong properly and effectively in accordance with the Basic Law. When we confidently and positively participate in social affairs and elect our legislators who will enact reasonable and rational laws, what is there to worry about? There is an ancient saying that "the people of the State of Qi were worried lest the heavens should fall". There is no similar place in Hong Kong called "the State of Cheng". Therefore, none in Hong Kong need worry lest the heavens should fall.

Mr President, courts all over the world try and decide criminal cases each day according to state laws. Hong Kong courts similarly try and decide criminal cases according to the laws of Hong Kong. I firmly believe Hong Kong people will not prefer substituting the present court trial system with a system of trial by public opinion or trial by the masses. I am glad to note that up to the present no citizen or defendant who disagrees with a court judgment has ever demanded that the Government interfere with judicial independence to have the convicted person released. Nor would we want other countries to interfere with the decisions of our courts. Similarly, the basic principle of "one country, two systems" will not allow mainland compatriots to interfere with the decisions of the SAR courts.

"Never do unto others what you would not have others do unto you". This sort of logic is plain and easy to understand. Therefore there is absolutely no reason for us to urge the Hong Kong Government to interfere with the decision of a Beijing court.

Respect for the legal system and the spirit of the rule of law is the very foundation of Hong Kong's democracy and freedom. We should not undermine this basic principle merely because a handful of people have a particular way of looking at certain matters.

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

**MISS EMILY LAU** (in Cantonese): Mr President, I rise to speak in support of Mr Andrew CHENG's motion.

Recently, the Chinese Government imposed a heavy sentence on WEI Jingsheng who will have to serve another prison term of 14 years. This has caused an outcry among Hong Kong people and outrage among the international community. As a matter of fact, there are still a number of people in China, including WANG Dan and CHEN Ziming, who are paying a heavy price for human rights and freedom.

Mr President, I disagree with the argument advanced by some Members that neither the Legislative Council nor the Hong Kong Government has the right to ask the Chinese Government to release WEI Jingsheng. It is because many foreign governments and human rights organizations have recognized WEI as a "prisoner of conscience" who has been repeatedly thrown into jail by the Chinese Government for airing his own political views. If in the future there should be "prisoners of conscience" in Hong Kong, I hope Hong Kong people and the international community would plead their case. Therefore, we absolutely have a valid reason to discuss this matter today.

Mr President, some Members observed moments ago — or indeed people outside this Council have also similarly observed — that the Chinese Government has made improvements and that if people, particularly Hong Kong people, would patiently wait and refrain from confronting it at every turn or from saying anything it is loath to hear, then nothing would happen to them. But will it be as simple as that? If we do this, would we be deceiving ourselves as well as others? If we lose the free lifestyles which we in Hong Kong are accustomed to and dare not tell how we truly feel, I believe by then none of us will be able to stay out of it.

The proceedings against WEI Jingsheng, from his arrest by the public security authorities right up to his trial, were kept from the public eye. He had already been unlawfully detained for one and a half years when Beijing

announced his arrest according to law. Although the trial of WEI aroused concern among the international community, the Chinese Government persisted in its own arbitrary ways. Not only was the trial conducted in camera, the charges were also ridiculous. What would become of the world if writing articles, buying shares and stocks, and holding art exhibitions could constitute grounds on which to convict a defendant of an alleged crime? We can see from this how hard the Chinese Government comes down on dissidents. Mr President, I believe you still recall that when WEI was arrested the first time DENG Xiaoping boasted saying, "China has arrested WEI Jingsheng and yet her international reputation has been growing". This precisely is the attitude of the Chinese government. Perhaps DENG saw through those foreign governments who always touted human rights. Yet, I think that if Hong Kong people really support WEI, they should stand up and argue in his defence.

Mr President, what grieves us most is that the Chinese Government uses its citizens as pawns and political chips whereby to bargain with other countries. Members should be aware that in putting herself forward as a potential host for the 2000 Olympic Games China released WEI on parole at the end of 1993, several months before he had fully served his term. Of course, WEI continued to be under the surveillance of the public security authorities. But once WEI's value as a bargaining chip was exhausted, the Chinese Government locked him up again and deprived him of his basic human rights and freedom. In fact the Chinese Government enjoys supreme authority. Yet it is afraid of a defenceless man in the person of WEI Jingsheng. It has to lock him up. I find this a shameless act.

Mr President, as a matter of fact Hong Kong people's fear of what the future holds has never been mitigated. The WEI incident makes it clear to us that the Chinese communists may rule Hong Kong in a similar fashion in the future. Today's Legislative Councillors may be tomorrow's WEI Jingshengs. If this should happen, would we hope that the international community would speak up for us and help us?

Mr President, I have censured the Chinese and British Governments numerous times for their failure to let Hong Kong people partake in the process of determining our future. They have even barred us from participating in the discussion of matters of secondary importance. For instance, we have time and again asked the Government how it is going to amend the laws in relation to freedom of expression, freedom of information and journalistic freedom. It has

been saying to us that the matter has been passed to the Sino-British Joint Liaison Group (JLG) for discussion and that we will have no say. The Information Policy Panel of this Council has queried the Government numerous times, particularly as to how the Official Secrets Act is to be localized and how the Crimes Ordinance is to be adapted to be consistent with the Basic Law. But the Government has been refusing to discuss this with us. Eventually, it has been telling us that the matter has been passed to the JLG and that there is no need to further discuss it. Mr President, what the Government has done has angered and worried us. It is because we have no more than 500-odd days before sovereignty reversion. If discussions still fail to yield any result, that will further worry us. Secretary for Security, please do not laugh. We are indeed very worried. If you laugh like this, I really do not know how to look at this matter. We are so worried and yet you are laughing. Sometimes, one really cannot help feeling the irony.

Mr President, Article 23 of the Basic Law mentions the offences of sedition, subversion and theft of state secrets. We do not know how draconian the laws against these offences as promulgated by the future Special Administrative Region (SAR) government or Legislative Assembly will be. But having witnessed the way WEI Jingsheng and *Ming Pao* reporter XI Yang have been dealt with, Hong Kong people cannot help but worry. WEI is not a man of bionic strength nor is he capable of overthrowing the Chinese communist regime. He did no more than exercise his rights as a Chinese citizen, writing articles and expressing his views. But when an upright person speaks his own mind he is sentenced to prison for a dozen years or more, will Hong Kong people not be scared to death?

Mr President, Hong Kong people are really smart and they have their own way of looking at things and forming their judgment. Therefore they do not like holding back and ducking trouble. They do not like staying mute when they see wrongs being done. But the predicaments of WEI may force us to hold back and duck trouble. Therefore, Mr President, I call on the Government here to discuss Article 23 of the Basic Law with the Chinese Government as soon as possible and to work out a way to amend the laws with regard to the offences mentioned in the Article. There is no offence of "subversion" under common law. I hope the Hong Kong Government can successfully persuade the Chinese Government to scrap this offence under the Basic Law. When the future Court of Final Appeal invites judges from other common law jurisdictions to assist in hearing appeals, these judges will be at a loss as to how to deal with appeals involving the subversion offence. This is a very complicated problem and time is running out.

I hope the Hong Kong Government will understand the worries of the public, ask the Chinese Government to release WEI Jingsheng, and deal with the issues arising from Article 23 of the Basic Law as soon as possible.

Thank you, Mr President.

**MR CHIM PUI-CHUNG** (in Cantonese): Mr President, in today's second motion, it is mentioned that "this Council urges the Government to expeditiously reflect to the Chinese authorities the wish of Hong Kong people". In my view, the word "some" should be added to the motion, thus making it to read "the wish of some Hong Kong people". It is because not all Hong Kong people share this view. Members of the community do have different views on this issue.

Mr President, we had a debate on the XI Yang incident in the last session. We have to understand what kind of person WEI Jingsheng is in the first place. He wanted to express his wish and for the benefit of his prospects in the political arena, it is, of course, absolutely worthwhile for him to take part in this gamble, considering the fact that the South African President, Mr Nelson MANDELA, who went to jail to uphold his belief, became qualified for the presidency after he had been released from jail. No one dare say whether there will be changes in China's political system, and if there will be, his future may be promising. He may have made a right move by taking part in this gamble. However, he has to sacrifice in so doing. Why do we, legislative councillors, have to be so concerned with this issue? We might all take part in a gamble if given the chance. But most importantly, we should not mislead the public because the general public may not have a unanimous view on this issue.

Now, the Chinese Government has made a judgement from its own legal point of view. Certainly, some Hong Kong people may find it inconsistent with their perceptions or may even feel frightened. However, let us not forget that the Chinese Government has, in fact, handled the matter in accordance with its laws, even though the case may not be heard and judged in completely the same manner as ours. Yet, I strongly believe that nothing in the world is absolutely identical in every and each community. Human rights and democracy, for instance, play different roles in different places. The Chinese Government has its own laws and should there be sudden changes in its policy, we may, perhaps, give our opinions. But given that the Chinese laws and regulations have already been made from the outset, if we want to intervene forcibly at this stage, I

very much hope that Members of this Council, in particular the Democratic Party to which the Honourable Andrew CHENG, the mover of this motion, is affiliated, will think twice.

The Democratic Party has openly expressed their wish to have dialogues with the Chinese Government and to make contributions to the political system of Hong Kong or other relevant aspects, but under such circumstances, will they achieve their purposes? I am not concerned about the future of the Democratic Party. What I care about is the message that they are putting across to the public. Given different political convictions, we cannot say which side is always right and which side is not. We will have to leave this for history to judge.

I very much hope that in considering any matter, Members will ask themselves the question of whether Hong Kong is independent. Let me stress once again that Hong Kong will reunite with China and become a Special Administrative Region in 1997. Since we are looking forward to China to honour its undertaking of "one country, two systems", why do we attempt to impose our mentality on China in an effort to influence its decisions? This is nothing short of a wishful thinking. As I have said before, Hong Kong only makes up less than 1%, and to be exact 0.5%, of China. For this reason, let us not indulge in megalomania by thinking that as we now have the power to legislate on, for instance, the Cheung Chau Wong Wai Tsak Tong issue, so we may as well use our votes to influence the decision of China. This is quite misleading to members of the public. To us politicians, this might not do much great harm as at the very least we still have an allowance of more than \$90,000 and a salary of no less than \$45,000. What are we afraid of?

Many people overseas, whether they be Chinese living abroad or not, have asked me if the Honourable Martin LEE and the Honourable SZETO Wah will have to leave Hong Kong after 1997. Personally, I think the Chinese Government will tolerate differing political views, but not any attempt to bring in foreign influences to effect subversion against the Central Government. If WEI Jingsheng was simply expressing his wish or political views, I firmly believe that he could have the understanding and tolerance of the Chinese Government. But what do you think his purpose is after obtaining financial assistance from foreign countries? He was, at least, thinking to promote his personal political conviction and ideas. What is it then if it is not a systematic or strategic confrontation? Of course, from the point of view of the Chinese Government,



this is "subversion" and we, from a somewhat moderate perspective, consider this a confrontation. We must understand this point. I can tell you honestly that after the XI Yang incident, I have entreated the Chinese Government to mitigate the penalty of or even release XI Yang. I did so on the ground that I did not want to give Harry WU a chance to interpret China's leniency in his case as the result of his being an American citizen. I very much hope that the Chinese Government will mitigate the penalty of XI Yang. It is because he is a Chinese and all Chinese should be treated equally.

We must recognize that there is, of course, a particular aim to achieve in a political struggle. I sympathize with and appreciate the situation of some Members because after all, we are brought up under colonial education and training. But anyhow, we have to analyze the current situation rationally. To engage in resolute confrontation will not necessarily be fruitful. I think we should brace ourselves for, and direct our attention to, such matters as the Vietnamese boat people and the imprisonment of two Hong Kong people in the Philippines who are deprived of the chance to lodge an appeal. This is more constructive than hurling criticisms at the Chinese Government.

On the question of Article 23 of the Basic Law which has aroused anxieties in the community, it will naturally be a cause of concern if foreign influences are to be brought in to oppose the Chinese Government. Otherwise, I strongly believe that while uncertainties exist, they can be resolved later. I very much hope that friends in the media understand the situation.

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

**MR ALBERT HO** (in Cantonese): Mr President, the Democratic Party would make specific suggestions on laws governing acts of treason, sedition, secession, theft of state secrets and subversion against the state as noted in Article 23 of the Basic Law. In so doing, we seek to urge the Government to review and amend the existing laws, or enact new legislation to tie in with Article 23 of the Basic Law in order to ensure the smooth transition of these laws. In the meantime, we insist that the legislation concerned must be consistent with the Bill of Rights Ordinance and the International Covenant on Human Rights and that national security and public order are to be safeguarded while civil rights of the people are protected at the same time. These are the principles that we should strictly observe.

Now, I would elaborate in detail the views of the Democratic Party on the offences of treason, sedition and theft of state secrets. As a matter of fact, we agree that every country would formulate laws to safeguard its security or prohibit acts which jeopardize national interests. Yet, the question is what criteria should we base ourselves on in assessing and determining what kinds of acts constitute treason and sedition? In our view, there are certain principles which we must adhere to and some Members from the Democratic Party have also spoken on such principles just now.

1. The freedom of assembly, association and speech of the people of Hong Kong should continue to come under the reasonable protection of the International Covenant on Civil and Political Rights which shall remain in force in Hong Kong as stipulated in Article 39 of the Basic Law;
2. The existing legislation should be adapted or localized and any provision which is inconsistent with the Bill of Rights Ordinance and the International Covenant on Human Rights should be amended accordingly;
3. Given that the future Special Administrative Region (SAR) government shall formulate laws on its own pertaining to acts of treason and so on in accordance with Article 23 of the Basic Law, the Democratic Party holds that the Hong Kong Government should lay a sound legal foundation which is acceptable to the people of Hong Kong for the reference of the future government.

We have some initial suggestions to make in respect of the laws governing these specific areas.

1. Treason: The Democratic Party opines that "treason" generally refers to conspiracy with foreign enemies to wage a war against the government, or attempt to overthrow the home government with the assistance of enemy states. Besides, it is an offence targeting the Central Government of one's home country and violent means are employed to attain one's purpose. Under the existing Crimes Ordinance, treason is also defined as "causing bodily harm to Her Majesty". Perhaps it will be proposed in future that "Her Majesty" be replaced by such words as "Head of State" or "Leader". However, we think that since the existing laws have already

provided for punishments, the maximum of which being life imprisonment, for causing grievous bodily harm to other persons, this provision is simply one which stems from monarchy or feudalism. To China where a republican system is instituted, this is an out-dated provision. The specific intention and action are factors that we should also take into account to substantiate an act of treason. A conviction is not justified simply on account of the speeches made or views expressed by a person.

2. Sedition: The existing provisions pertaining to "sedition" need adaptation and certain out-dated provisions also need to be amended. One can be charged, by reason of his "speech", with the offence of sedition. If this provision is not appropriately applied or properly controlled, it would become a tool to suppress public opinion and carry out political persecution. In fact, the provisions were originally intended to punish persons who encourage or abet others to carry out seditious activities or acts which will put the operation of the government and public order into grave jeopardy. The Democratic Party thinks that the target of sedition should be the government or government institutions and since the *actus reus* can be in the form of speeches, scripts or publications, one may be arbitrarily convicted of such offence simply on account of one's expression of dissatisfaction with the government. In this connection, we would stress that it is an offence only if it is proved that the speeches in question will give rise to social unrest, which means causing damage to government or public order. Under the existing provisions on sedition, immunity from prosecution will be granted to the accused who criticized the government in good faith and, under such circumstance, the act is not deemed seditious. We should continue to retain and affirm this defence.
3. Theft of State Secrets: Many people have mentioned the Official Secrets Act, holding that this piece of legislation should be localized and adapted to become part of the laws of Hong Kong to dovetail with the implementation of Article 23 of the Basic Law. Given that the Official Secrets Act prohibits the disclosure of six types of information, members of the public are therefore deprived of the right to know. In order to counterbalance the Government's power to censor information, the Democratic Party thinks that a provision which grants immunity under circumstances involving "public interests" should be incorporated into the law so that the restricted

types of information can be disclosed to the public under certain circumstances provided that the disclosure is in the interests of the public. If we recognize that the people should have the right to know where national affairs are concerned, the definition of "state secrets" should thus be a narrow one so that it will be an offence only if the information disclosed will cause severe damage to national security or interest. On the question of "theft", we should adopt the definition used in common law.

4. Secession and Subversion against Government: There is no similar concept under common law. However, the Democratic Party thinks that these two offences entail acts against the whole nation or the Central Government. Secession implies "splitting up the country" and "setting up another government". As for subversion against the state, it means planning to overthrow, participating or assisting in overthrowing, the government by force. In short, these two offences must contain (a) specific intentions; (b) concrete actions; and (c) a plot involving organized violent acts. We suggest that the Government can further examine this issue along these lines.

In general, the people of Hong Kong are sensitive and feel uncomfortable about these offences because draconian punishment will be imposed for these offences and the convicted person will be liable to capital punishment. Therefore, we hope that the Government can review the matter carefully to ensure that these laws would not become a tool to suppress the freedom of speech and the political rights of the people after 1997. Lastly, any democratic country will have well-established laws instituted to collect public opinions and pacify public resentment, without having to rely on draconian laws and punitive measures to suppress dissidents. Only an autocracy will have to use draconian laws and punitive measures to give a diversity of labels to persons who have different political convictions.

**MR LO SUK-CHING** (in Cantonese): Mr President, the recent trial of WEI Jingsheng in China has aroused intense concern among Hong Kong people because of extensive coverage of the case by the local media. That Hong Kong people, who are Chinese, should have concern for what is going on inside China is understandable. However, with regard to this case, we in Hong Kong can

have only a limited understanding of it and it would be difficult for us to judge it one way or the other. Moreover, because of the notably negative coverage of the case by some of the local media, the general public is even more puzzled as to the true facts of the case.

The motion tabled before this Council for debate by the Honourable Andrew CHENG today is to seek to judge the WEI Jingsheng case in another way. In respect of this case, I very much doubt how much by way of fact and evidence Mr CHENG has grasped and on what legal grounds he has sought to re-judge the case.

Honourable Members, the WEI case occurred in China. The Chinese judiciary tried and decided the case according to Chinese law. Is it proper for us today to table a motion for debate in the Legislative Council of Hong Kong in respect of a case that occurred within China? Is our Legislative Council intending to interfere with the judicial independence of China? Let us image this. Today we are putting forward in this Chamber copious reasons and arguments to attempt to justify our purported reasonable, well-founded and lawful interference in the administration of justice within China. We make impassioned addresses and advance forceful arguments to say that our interference on behalf of the people of Hong Kong is well-founded. Tomorrow, if the legislature of China, such as the National People's Congress (NPC) or the NPC Standing Committee, should by resolution demand on behalf of the 1.2 billion Chinese people that the Hong Kong courts should judge in a certain way a case that occurred in Hong Kong, how would we respond? Let us ponder on this. If Mr CHENG's motion was carried, would it be an inducement to the Chinese government organs to interfere in Hong Kong's judicial independence in like manner? This is a very serious question! The policies of "one country, two systems" and "Hong Kong people ruling Hong Kong" will be put to test.

Furthermore, if this Council proceeds to amend Hong Kong's laws having regard to a case tried and decided in China, will this mean that this Council will have to unceasingly take into consideration political, economic and social worries and unceasingly amend Hong Kong's laws having regard to the numerous cases tried and decided each day by the Chinese courts?

Hong Kong is currently under British rule. The state referred to in the territory's existing laws and statutes is the United Kingdom which is Hong Kong's sovereign state. The offences of treason and sedition referred to in the Crimes Ordinance (Chapter 200 of the Laws of Hong Kong) are in respect of acts

committed against the United Kingdom and the British Crown. If Hong Kong's current legislature is to amend the existing laws, will it mean that the offences of treason or theft of state secrets will no longer be in respect of acts committed against the United Kingdom but China?

If it is necessary to legislate specifically to prohibit acts of subversion and related concepts in order to serve as the legal basis on which the future Special Administrative Region (SAR) will rely, this should be done by the future SAR legislature, not the present legislature under British rule. If this Council proceeded to legislate, we would be assuming that the future SAR legislature would not legislate to protect the civil rights of Hong Kong people and hence this Council need to act on behalf of the future SAR legislature. This would be based on a presupposition. Would this be a fair assessment of the future SAR legislature? I hope Members will carefully handle this matter.

Finally, I must point out that according to Article 23 of the Basic Law, the SAR shall enact laws on its own to prohibit any act of treason, secession, sedition or subversion against the Central Government. Any laws in this regard enacted by any other organs, including the current Legislative Council of Hong Kong, shall amount to a breach of the Basic Law and on that account shall be invalidated after 1997 as being in breach of the Basic Law. Any amendments effected by us now would be no more than a futile gesture.

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

**MISS MARGARET NG:** Mr President, the arrest, conviction and imprisonment of WEI Jingsheng by the Chinese authorities have sent shock waves down this community. But in their compassion for him and his family, there is also much fear and worry for themselves. For, Hong Kong people cannot but wonder, if they were to write and publish the kind of articles that WEI had written and published, and do the things that he had done, which all seem innocuous enough to them, and which many people have been doing here without anyone's remark, would they be arrested, convicted, and imprisoned like WEI after 1997?

Mr President, I wish we could in conscience assure the people of Hong Kong that they need have no fear. WEI was charged with "conspiracy to subvert" the Chinese Government. Although there is no offence of "subversion" at present in Hong Kong, we do have the offence of sedition under

sections 9 and 10 of the Crimes Ordinance. Under these provisions, a person commits an offence if he does, say, write, or publish anything which is intended "to bring into hatred or contempt to excite disaffection" against the Queen or the Hong Kong Government, or to "to promote feelings of ill-will and enmity" between different classes of Hong Kong people.

These provisions have long come under criticism. The Administration have said that they are now under review, but no disclosure has been made at all as to the outcome.

This is not good enough. Hanging over all our heads is Article 23 of the Basic Law, which stipulates that the Hong Kong Special Administrative Region (SAR) "shall enact laws on its own" to prohibit any act of treason, secession, sedition, subversion against the Central People's Government, or theft of state secrets.

One could appreciate the all-important words "on its own". This makes it very clear that people in the Hong Kong SAR are not to be arrested or charged for alleged acts of treason, secession, sedition, subversion and so on under Chinese law, but only under laws enacted in Hong Kong.

But the question which looms large is, what are those laws going to be? Would they be just as draconian as those that WEI had to face? It has been pointed out already by others, secession ( 分裂國家 ) is not an offence known to the common law. As "secrets" are a kind of information, and are therefore not capable of being stolen under the common law, "theft of state secrets" is likewise an offence unknown to our legal system. This being the case, would new and serious offences have to be created?

Even where an offence is known, such as "treason", there is the question of how it may be changed; for it cannot remain the same. Treason and treasonable offences are, at present, defined under sections 2 and 3 of the Crimes Ordinance. There it is provided, among other things, that a person commits treason if he kills, wound or causes bodily harm to the Queen, levies war against her, instigates a foreign invasion of Britain or a British territory, or, having formed the intention of doing any of these things, manifests such intentions by act or by publishing any printing or writing.

Ultimately, the burning question is, would one, by doing the most ordinary

things in the exercise of one's rights and freedoms, be exposed to the risk of being arrested and convicted for the most serious crimes? These are the grave uncertainties affecting people's confidence about their liberty and their safety from government interference which must be addressed as a matter of urgency.

Mr President, it is in this context that I support, indeed welcome the motion. There is so much to be clarified, and so little clarification has been forthcoming. With only 500-odd days left before the transfer of sovereignty, can the Administration be surprised that the public is running out of patience?

As a responsible legislature, we must heed the voice of the people. We must look for, and do our best to secure, the protection to which they are entitled.

First, we need clarification with the Chinese authorities on Article 23, so as to establish to what extent new legislation is necessary in order to comply with it. Article 23 does not require laws on treason, secession, subversion and so on, but only laws to "prohibit any acts of" treason, secession, subversion and so on. There is a case that such acts, or most of such acts in the categories referred to in Article 23 are already covered in the present laws, although the offences may be called a different name.

The aim must be to minimize the enlargement of the sum of the extent of criminal offences. But, however minimal, amendments of existing legislation and enactment of new legislation are inevitable. This being so, there is every advantage in tackling that now, so that the public can be fully consulted; so that this Council may scrutinize the draft legislations and ensure that they are consistent with the Bill of Rights and the International Covenant on Civil and Political Rights. To avoid creating new offences before they are required, it may be considered that the enacted legislations come into effect only on 30 June 1997, unless their effect is to liberalize the present law.

Mr President, the people of Hong Kong should look to, for protection of their civil rights, not only provisions in Hong Kong legislation and international conventions. They are entitled to do so to an even greater extent in the common law, which I urge my colleagues to do all they can to uphold. For it is in the common sense of the courts in applying the law that such seemingly subjective and vague words as "to bring into hatred and contempt" are given clear and definite meaning based on objective facts.



May I refer to the case of *R v Collins*, an 1839 English case which I have taken the liberty of placing a copy before each of my colleagues. 1839 was a disturbing year in England. Social and political discontent broke into frequent riots and uprisings. It was in this context that one Collins was tried for seditious libel. In the judge's summing up on the last page — a speech perhaps no longer than the speech by which WEI Jingsheng was condemned — we see no appeal to emotion but only dispassionate reasoning. The alleged seditious letter was given a step-by-step analysis. The unproblematic is separated from the problematic, thus drawing a clear line between the lawful and the unlawful. I urge Honourable Members to take time to read it. It is this spirit of the common law that we need to preserve, and the strengthening of the tradition of the common law to which we turn for protection.

**MRS ELIZABETH WONG:** Mr President, I rise to support the motion and, as far as I am concerned, I support the motion with particular reference to two important aspects of the motion: first, to reflect the wishes of Hong Kong people on the need to protect civil rights, and secondly, to urge the Hong Kong Government to reflect views to amend laws in order to ensure that civil rights are adequately protected by law.

We do not need to fantasize in order to know that the surest way to prevent sedition, be it seditious word, or seditious libel or intention or conspiracy, is to guide one's speech or indeed to chop off one's head. But to do this is to, indeed, commit treason to the human life.

It stands to reason, therefore, that Hong Kong people see security-related legislation as the most threatening to civil rights. We all know that in a less-enlightened place than Hong Kong, any accusation of treason, sedition, subversion or theft of state secrets can be used as a potent weapon to silence its people. Unless we are governed by the rule of law, it is possible for any government under the light motif or the general theme of protecting state security, state secret or national interests, to impose restrictions on civil liberties at random, or to oppress its people under the pretext of invoking emergency regulations, for instance.

Many of my honourable colleagues have spoken of the need to amend the Basic Law. I shall focus on the Hong Kong side and I hope government officials do not regard me as a dissident. Of primary importance to protect the

interests of Hong Kong people and retain freedom of expression in Hong Kong, we need to focus on amending several pieces of legislation which remain on our statute books with residual flavours of anachronistic colonialism which would inhibit freedom of speech and civil rights.

Whilst our current Government is correctly described as benevolent, we are not sure of our future if these laws are inherited by a less benevolent government. And yet, should we really depend on people's benevolence? So, to cite only a few additional areas of concern, I shall briefly emphasize, with the intention of being constructive, the following areas for attention. We need to look at certain phrases in the law in order to guarantee consistency of approach and to prevent abuse of power. Controversial fury is always cited by abstract conceptions of the law, and even worse, a wanton ambiguity of the law. Our free society accepts definitions under the law exercised within the framework of the rule of law.

So, to start with, the terms for the use of the powers contained in the Emergency Regulations Ordinance need to be explicitly defined and its parameters strictly limited. Nobody is denying the fact that there is a certain place in any country for emergency regulations, but as the law stands, the Governor in Council is conferred with ill-defined powers to declare an emergency and to make regulations providing for censorship, for the control and suppression of publication. Any powers contained in the law should be qualified with an explicit recognition of the limits to be placed on both the duration and the scope for declaring any emergency, and such declaration must be precisely circumscribed.

While security-related legislation is seen as most threatening to civil liberties, there are other areas which we need to address. For example, under existing law, there are provisions which make libel a criminal offence punishable by imprisonment. Under a Draconian hand, imprisonment can conceivably be meted out for political purpose, or for interfering with political liberties, or twisted to stifle free speech. We must look at the law with a view to removing defamation as a criminal offence punishable by imprisonment, or will run the risk of having our prisons filled by aspiring writers, and I hope you do not have to visit me in Stanley. Thus I think no narrow constrictions should be placed on acts which are done in good faith, in innocence with honest view to pointing out errors for constructive correction.

Mr President, to reflect the concerns of Hong Kong people in general as called for under this motion debate, I have also drawn liberally upon the views of journalists as put to me by some members of the Hong Kong Journalists Association, which has a history of over a quarter of a century, with a laudable objective of pressing for the removal of various suppressed freedoms and freedom of expression in Hong Kong. We, in this Council, have a moral responsibility and a sacred duty to our people to tighten our law books and to speak up and to look forward to tomorrow, including proposals for amendment of the Basic Law. We look to the Government for leadership and look to our so-called executive-led Government to do just that, that is, to lead.

Mr President, as we move into the 21st century, it is important that we reflect Hong Kong people's views without fear or favour. It is imperative that we do so now. Thank you.

**MR DAVID CHU:** Mr President, I do not support the proposal of interfering in the internal affairs of China. If Hong Kong interferes with China, what about the reverse? Do we want China to meddle in our affairs, including our legal and penal systems? I also question my honourable colleague's claim that his motion "reflects the wish of Hong Kong people".

Article 23 of the Basic Law states it is for the Hong Kong Special Administrative Region (SAR) to enact laws pertaining to public security, not this Council. It is absurd to think that any incoming sovereign will accept having an outgoing sovereign and its institutions legislate laws to protect its own security.

Human rights are not threatened in Hong Kong today, and will not be threatened in the future because the Basic Law clearly states that the provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights shall remain in force and implemented through the laws of the Hong Kong SAR.

With these words, Mr President, I oppose the motion and advocate a more moderate attitude towards China. We have to have continued dialogue with China. We do not need more antagonism. Thank you.

**MR TSANG KIN-SHING** (in Cantonese): Mr President, that WEI Jingsheng is innocent is an obvious fact. Why? This has been stated by the Chinese Government itself. It is because if one would carefully assess the written verdict handed down by the Beijing Intermediate People's Court, one would arrive at this conclusion.

The *modus operandi* employed by the oppressors of WEI Jingsheng is very simple, and very ancient into the bargain. It was regularly used by emperors of the feudal era and was known as the "method that goes for the heart". If the oppressors could prove that the way a certain person thought and expressed himself implied dissent, then all his other acts had to be ulteriorly motivated, his intention had to be treasonable and a plot had to be in the works. This had to be so even though the acts concerned were lawful and reasonable. To put it in modern terms, this means convicting a person for his thoughts and expressions.

Mr President, the written verdict stated that WEI Jingsheng had published articles in an overseas magazine for the purpose of "fabricating public opinion to prepare for the overthrow of the democratic dictatorship of the people and the socialist system and for splitting the nation". This was patently a trumped-up charge. In airing his political views and expressing his thoughts, WEI had committed no offence at all. Even the evidence set out in the written verdict betrayed an attempt to take things out of context in order to substantiate a trumped-up charge. The verdict listed four published articles by way of evidence. Two of these were letters written by WEI to DENG Xiaoping while WEI was serving his first 15-year term in prison. What was wrong with publishing them? Moreover, the contents of WEI's two letters were deliberately misinterpreted by the authorities in order to substantiate the fabricated charges. For instance, when WEI said "Tibet was undoubtedly a sovereign state", he actually was referring to Tibet at the time of the Qing Dynasty. The verdict deliberately construed WEI's historical research finding to be a concrete political conclusion. Another instance was the allegation in the verdict that WEI incited the masses by saying: "We cannot expect a saviour of the world or 'a wise judge' to relieve or save us". WEI was in fact criticizing himself that "he, during his young days, had been an admirer of MAO Zedong" and persuading people not to pin their hopes on any saviour. Whether WEI had done a correct self-examination of his own thoughts was another matter. But he certainly had the right to publish his articles. Even in the *Internationale*, is there not a line saying "There never was a saviour of the world nor do we depend on fairies and

emperors"? The Chinese communists themselves sing the *Internationale* but forbid the people to have similar thoughts. This is indeed tantamount to "letting the mandarins start a conflagration while the humble people are not allowed to light a lantern". So that was how WEI was proved to have harboured the intention to subvert the government.

Mr President, after the Beijing authorities had condemned WEI for plotting to rebel against the government, all the things he did following such condemnation — ranging from his intention to buy some newspapers or publications, holding a paintings exhibition, helping trade union development to raising relief money in favour of compatriots who died in the "June 4th" incident or who were suffering politically — were regarded as constituting the present offence and branded as subversive activities, notwithstanding that these were lawful activities under Chinese law and that these had only been contemplated but not yet done by WEI. And this became the pretext for imposing on WEI a heavy sentence of 14 years' imprisonment.

To tell the truth, WEI Jingsheng served one prison term and is now serving another term. There is but only one reason for his imprisonment and that is, WEI Jingsheng refused to be a liar, he dared to voice the aspirations of a great majority of the Chinese: a demand for democracy, and no dictatorship. The first time was in 1979 when he ran a democratic publication and took part in the Democracy Wall Movement. The publication that he ran was called *Probe* which advocated that China could only achieve the Four Modernizations if she also implemented the Fifth Modernization, namely, political democratization. WEI pointed out that the people had to be on guard against DENG Xiaoping evolving to become a new dictator. Now this has become a much talked about, or rather, a hackneyed subject. But WEI, who was then keen sighted in this regard, was tried on a trumped-up charge, convicted and imprisoned for 15 years. In 1993, China wanted to host the 2000 Olympic Games and treated WEI as a political chip. He was released six months before he fully served his prison term. It was unexpected that barely seven months had elapsed after his release when he was again convicted and sentenced to 14 years' imprisonment for continuing to engage in the democratic movement. The first time it had been "*Probe* which was guilty, not the man himself". This time, it was a repetition of the story of the "concocted charges".

Mr President, after the occurrence of the WEI Jingsheng case, the catchcry of "Today it is WEI Jingsheng, tomorrow it will be you or me" really reflects

Hong Kong people's sentiment. The Chinese Government and its sympathizers are saying that this is a misleading statement calculated to perplex people. They are saying that WEI is guilty and richly deserves punishment and that Hong Kong people need not worry because they will not and should not be like WEI. However, the worries of Hong Kong's compatriots precisely reflect the fact that WEI is innocent. He wants democracy and is opposed to one-party dictatorship. This again is precisely the sentiment of the Hong Kong compatriots. To exercise the right of free speech in order to express one's thoughts and political views and to take part in political activities through various channels, are these not the routine and regular activities the Hong Kong compatriots are accustomed to? The Chinese communists are now calling a stag a horse and forcing the people to agree that WEI is guilty. Is this not a domineering act? Therefore, the trial of WEI was in fact a trial of the freedoms of expression and thought and a trial of the democratic movement. WEI is being imprisoned, which means that we also are being imprisoned.

Mr President, I so submit.

**MR LEUNG YIU-CHUNG** (in Cantonese): Mr President, WEI Jingsheng has once again been unjustifiably sentenced to 14 years' imprisonment by the Beijing authorities. Not only has this incident enraged Chinese people inside and outside China, it has shocked the entire world. That the Beijing authorities are again persecuting a defenceless man who was already worn down to frailty by years of prison life is most shameful and outrageous! What one cannot tolerate are the multifarious ways in which the Chinese Government persecutes dissidents within China. What is even more intolerable is that the "law" has degenerated into a tool with which to ravage the people, suppress democratic movements and reinforce the dictatorial regime. The incident has once again demonstrated that the Beijing regime is timid and impotent and is scared of dissenting voices — fearing that the regime itself will topple under the weight of such dissenting voices, feeble though the voices be, and fearing that its own vested interests will be threatened. From this, we can see that the rule of the Chinese Government is ludicrous, pathetic and pitiable.

As a matter of fact, that Hong Kong people have reacted strongly to this incident is absolutely understandable. In this incident, although WEI Jingsheng and other democratic activists did no more than exercise their rights, as enshrined in the Chinese Constitution, of freedom of expression, association and assembly,

the Chinese Government nevertheless went ahead to arrest WEI and other activists and trample at will on the rights of the Chinese people in total disregard of the relevant constitutional provisions. Such an act which violates the Constitution and the civil rights of the people sends shivers down one's spine.

What angers people even more is that the strong reaction of the Hong Kong public, who are Chinese living in the same geographical region and related in blood to the Mainland compatriots, has been labelled "intervention in China's internal affairs". In 1971, the Chinese Government indicated to the United Nations that it would recognize no "unequal treaties in respect of Hong Kong signed by the Manchu Government with Britain". The 1984 Sino-British Joint Declaration also expressly states that Hong Kong will revert to China next year. All this reflects that the Chinese Government has all along regarded Hong Kong as under Chinese sovereignty and that the 6 million people living in Hong Kong are Chinese. How can it be regarded as intervention in China's domestic affairs when Chinese people express concern and state their stand on this matter? How can we refrain from censuring those who we see are trampling on human rights in China, suppressing democratic activists and persecuting dissidents? How can we refrain from protesting? We are only making a plea out of our conscience and discharging our basic obligation as a member of the community. This is the basic right and obligation of every member of society and should be performed by each and every one of us who have concern for the future of our nation. The Legislative Council is the rallying point for public opinion and an organ to carry out the popular mandate. Why cannot the Council discuss this issue? How can this be taken as intervention in China's domestic affairs?

Furthermore, in this incident, the point worth noting is that the Chinese Government charged WEI Jingsheng with "conspiracy to subvert the Chinese Government". A similar provision is to be found in Article 23 of the Basic Law. As a matter of fact, Article 23 should not have been written into the Basic Law. This article not only infringes on the citizens' basic rights of freedom of expression and of participation in international organizations, it also provides a tool in the form of legal basis from which the central government after 1997 will derive justification for exterminating views against and criticisms of the government. There are historical precedents in foreign countries. Writing this article into the Constitution is tantamount to "inviting a wolf into the homestead" or "raising a tiger to endanger the keeper". What is pathetic about this is that this wolf has already entered Hong Kong. We must catch this wolf and even

kill it so that it will not work havoc on people.

Mr President, how did this wolf enter Hong Kong? Members will recall that, throughout the drafting process of the Basic Law, it was the Chinese Government which did the script-writing, directing, and acting all on its own. An absolute majority of members of the drafting committee and consultative committee were from the industrial and commercial sector as well as pro-China factions. There was just a smattering of people on the committees who held different views from those of the Chinese Government. The position was similar to the present Special Administrative Region (SAR) Preparatory Committee appointed by the Chinese Government. All committee members were appointed by the Chinese Government which orchestrated the entire process.

Mr President, the most terrifying and fearful aspect of Article 23 of the Basic Law is, I feel, to let the future SAR government have the opportunity to suppress Hong Kong people. It is because we can see that in 1997 the SAR government will not be a popularly elected government and that it will be manipulated by the central government. This article will most probably be used to suppress dissidents. Therefore, I am of the view that, to prevent this article from being arbitrarily construed, the best way would be to destroy it, that is to say, to repeal it now.

Therefore, Mr President, I will support the Honourable Andrew CHENG's motion. The reason is that I hope to gather greater strength to strive for the release of WEI Jingsheng. However, we have reservations about pre-defining Article 23 of the Basic Law because it would be like "legislating to lay a death trap for oneself". I have to clarify this point before I cast my vote.

I so submit.

**MR CHOY KAN-PUI** (in Cantonese): Mr President, the trial of WEI Jingsheng indeed aroused widespread concern. But was the trial fair and reasonable? First, this is an issue that bears on the internal affairs of China; secondly, in Hong Kong we have basically a tripartite division of power, namely, between the executive, legislature and the judiciary and if we insist on this concept of separation of powers it would be wrong for this Council to interfere with the



administration of justice in Hong Kong, let alone in China; and, thirdly, we only have very limited knowledge of the facts of the case and insufficient information, which is one-sided into the bargain, would make it difficult for us to make an objective analysis, let alone to arrive at a conclusion, even with respect to an ordinary and routine matter!

I believe that, if the Chinese authorities had conducted an open trial and enhanced its transparency, outside people would not have been thus engaged in random speculation and cherished unnecessary worries.

Perhaps, the local delegates to the National People's Congress, Hong Kong Affairs Advisers and the Preparatory Committee members can, through the appropriate channels, reflect to the Chinese authorities the issues that Hong Kong people have concern for as a result of the WEI Jingsheng incident.

Mr President, I have reservations with regard to the argument that certain laws need to be amended because of misgivings caused to Hong Kong people by the WEI incident.

Members should be well aware that China enforces the death penalty. If we worry that the draconian penal laws of China would drive lawless elements in China to come to Hong Kong to embark on criminal activities and cause an upsurge in crime, should we seek to restore the death penalty here in order to protect Hong Kong people? I have to tell Members that I am against capital punishment because it is doubtful if the death penalty can deter crime. There are other viable methods with which to deter crime. By the same token, there should be other desirable methods with which to lessen Hong Kong people's misgivings caused by the WEI incident.

Mr President, the Basic Law may not necessarily be a perfect "mini" constitution. I personally think that there are areas where the Basic Law proves to be deficient. However, it is a political reality no matter whether Members like it or not. If amendments are to be made, they must be effected after 1997 according to Article 159 of the Basic Law.

As a matter of fact, Hong Kong citizens' civil rights after 1997 are already clearly set out under Article 20 of Chapter 3 of the Basic Law. Article 19 of the Basic Law further provides that the Hong Kong Special Administrative Region (SAR) shall be vested with independent judicial power, including that of final adjudication. Members, therefore, need not worry lest the administration of

justice in Hong Kong be interfered with.

Mr President, I am not promoting the Basic Law here. I would just like to point out that if we do not believe in the Basic Law what else should we believe in? What guarantee would we have in respect of our rights? It is obvious that there would be two different sets of standard before and after 1997 with regard to the acts of treason, sedition and theft of state secrets. The principal reason for this is that two different sovereign states are involved.

I have no intention to draw up a new set of standards after 1997. It is already laid down in Article 23 of the Basic Law that the SAR shall enact laws on its own to prohibit any act of treason, secession, sedition or theft of state secrets.

On the contrary, what I am worried about is this: Following the establishment of closer ties and contacts between Hong Kong and China, will some Hong Kong people be prosecuted by the British Hong Kong Administration for having breached, perhaps inadvertently, the existing law against sedition?

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

**DR ANTHONY CHEUNG** (in Cantonese): Mr President, the first part of the present motion has already been canvassed by many of my colleagues. I shall not recap their arguments here. I would like to focus my discussion on the second part of the motion, namely, the part relating to the question of the "subversion" offence.

*Interpretation of the offence of subversion in Chinese criminal law*

The *Compendium on Criminal Cases* published by the Chinese Procuratorate Press describes the offence of subversion as an act or acts done for the purpose of overthrowing the people's government and the perpetrator must be engaged in subversive activities. In interpreting this offence, the *Compendium* cites as precedent the trial of the Gang of Four.

The worries the subversion offence has given rise to are not only those generated by the adjudication of the Gang of Four. There is also the added misgiving, as borne out by the interpretation given in the *Compendium* compiled

by the editorial board of the Supreme People's Procuratorate of China, that the offence of subversion has a very broad coverage which will encompass not just acts. The *Compendium*, which is for internal circulation, further explains that the perpetrator, though he has not done any act, can nevertheless be charged with subversion if he harbours such intent. That one can be convicted of a criminal offence based on one's intent alone is, of course, contrary to the spirit of the English common law to which Hong Kong people have long been accustomed.

*Article 23 of the Basic Law*

Mr President, the historical background to the final version of Article 23 of the Basic Law was associated with the tightening by the Chinese Government of its policies towards Hong Kong following the "June 4th" incident in 1989. Article 23 of the Basic Law is phrased in a very "rigid" manner: the people's government of the Special Administrative Region "shall" enact laws on its own to prohibit "subversion against the Central People's Government". The "shall" connotes "must". Viewed from this perspective, some would argue that these are matters to be dealt with by the Hong Kong Special Administrative Region (HKSAR) after 1997 and that the present Government should not intervene before 1997.

As a matter of fact, the concept of the so-called "subversion offence" does not exist under common law in Hong Kong. Hong Kong, being a colony under British rule, has long been a common law jurisdiction and has effectively maintained the traditional rule of law. Article 8 of the Basic Law provides in clear terms that: The laws previously in force in Hong Kong, that is, the common law, rules of equity..... shall be maintained. This provision is meant to ensure that Hong Kong's historical tradition will be respected so as to maintain Hong Kong people's confidence. But if the law to prohibit subversion against the Central People's Government, as enjoined by Article 23 of the Basic Law, is enacted in accordance with the Chinese jurisprudential concept, it will patently be a total departure from the spirit of Hong Kong's existing rule of law.

*To give effect to "one country, two systems"; to clearly define the offence of subversion*

According to the *Annotations of the Laws of the People's Republic of China* published in 1992, Chinese jurists, in interpreting Article 23 of the Basic Law, indicate that in order to give effect to "one country, two systems" and to

eschew applying the Chinese criminal law to Hong Kong, it is explicitly provided in the said article that the SAR government shall enact laws on its own to prohibit, among others, the offence of subversion.

This statement reflects to a certain extent that in order to give effect to "one country, two systems" the HKSAR government will have the autonomy to enact such laws. Now there is slightly more than one year to go before the handover of sovereignty. And now is the right time to consider the laws concerned so as to meet Hong Kong people's demand in relation to the tradition and principle of the rule of law and to provide a basis on which the HKSAR government will proceed to legislate.

Some people are of the view that, since there is no offence of subversion on the statute books before 1997, it would not be necessary at this point in time to enact or create laws that have no jurisprudential basis under common law. They go on to argue that, since the target for subversion is the Chinese Government, it would not be necessary to enact before 1997, when Hong Kong is still under British rule, a law to prohibit subversion against a government or state other than the United Kingdom.

However, this way of thinking has neglected to take cognizance of the objective conditions Hong Kong people are now faced with, namely, the proposal by the Preliminary Working Committee to reinstate some draconian laws and the worries caused to Hong Kong people by the arrest and conviction of WEI Jingsheng. Of course, it would be best if Article 23 of the Basic Law could be amended. But if it could not be amended, we would still have to limit the impact caused by the provision as to the offence of subversion under Article 23. If and when the law against "subversion" is enacted before 1997, the following must be observed in order to ensure that the relevant law will be accepted by the community:

- (1) In drafting the relevant law, the Hong Kong Government shall not keep everything under wraps and shall not, after the Bill is ready, secretly pass it to the Chinese and British Governments who will negotiate and then give it the "green light".
- (2) In enacting the law concerned, apart from considering the relevant provisions of the Chinese criminal law, other relevant legal provisions of other jurisdictions should also be referred to. In particular, the Hong Kong Bill of Rights Ordinance must be referred

to; so must be the other provisions in the Basic Law relating to Hong Kong people's basic rights and obligations. This will ensure that the enactment will not become another tool to curb criticism of the Government and to curtail freedoms. When drafting the law, the spirit of the common law must be upheld and followed.

In enacting the law concerned, the community must be extensively consulted. Apart from listening to the views of legal practitioners and other professionals, the boards and councils and the general public must be adequately consulted so that a broad spectrum of views will be collected to ensure that the relevant law will have credibility and be soundly based on popular opinion.

Mr President, I so submit.

**MR CHEUNG MAN-KWONG** (in Cantonese): Mr President, this morning after re-reading the story of WEI Jingsheng and the articles written by him, I had a heavy heart and I was overcome with feelings. WEI's fate and what befell him reflect the fate and events that befall China's new generation of intellectuals. A particular point to note is that the subject of democracy and human rights which WEI dwelt on is precisely a taboo subject in the eyes of the Chinese Government. Yet none would have thought that a defenceless intellectual would have to forfeit 29 years of his prime life because of concocted charges laid against him twice in a row. How many 29 years does a person have throughout his life? Even the communist regime which has thrown WEI into jail has been in power for no more than 47 years. Why is WEI being dealt with so harshly? This unfounded conviction and imprisonment is an absolute shame on the Chinese Government whose guilt can never be erased.

It is because history will forever remember the face of WEI Jingsheng who looked different during each of the three stages of his life. On the first occasion when he defended himself in court 16 years ago his hair had been shaved and he looked rather handsome. On the second occasion when he was sentenced to imprisonment once again, he wore a crew cut and he looked calm and resigned. I am looking forward to the third occasion many years from now when WEI, with hoary hair and a wrinkled face, would emerge from the Chinese communist gulag. These three faces will stay in history to serve as a strong indictment against the Chinese Government. WEI spent and will continue to spend his prime years in prison. How unfortunate! But China's democratic movement has been graced

with WEI's lofty endeavour. What an honour! We are still young. History will do justice to those who faithfully sought, at the expense of their youth and life, to give effect to their democratic convictions.

I will fully support the clear and important call formally made by the Legislative Council of Hong Kong through this motion debate today: that WEI Jingsheng be released. I support it not because it is a motion moved by the Democratic Party, but because it is a motion which manifests an international outlook and concern over human rights. I have always believed firmly that human rights are not subject to national boundaries. Vaclav HAVEL of Czechoslovakia, Nelson MANDELA of South Africa, AUNG SAN Suu Kyi of Burma and WEI Jingsheng of China who have been striving for human civilization and democracy all their lives must be accorded the highest respect irrespective of whether they have succeeded or failed. Even though Hong Kong is a small place, yet it should not play the sole role of an economic animal and nothing else. It should contribute towards the development processes of human civilization and democracy. With regard to the defence of human rights, what is it about "internationalization of this issue" that we need to fear? Dictators and their minions all over the world are branding "internationalization" an offence so as to suppress and stifle their people's cry for human rights such that it will become an isolated and helpless cry. We must not fall for their ruse. We must not abide by their rules of the game.

I fully support the motion for yet another reason which is that I never believe "river water and well water" can be distinctly separated in terms of national sentiment and the common destiny of China and Hong Kong. I am a Chinese person. Chinese blood flows in my veins. Blood is thicker than water. Need we mind if it is "river water" or "well water"? I recall that during my youthful years Hong Kong people and Chinese people were opposed to colonial rule. The basic reason for my opposing colonial rule is that I love my country. I certainly hope that China will prosper and have democracy and freedom. A friend of mine once remarked: Patriotism is not about when one starts to love one's country; it is about whether one truly loves one's country. Who are the true patriots? A true patriot is one who, when the state does wrong, dares to speak up, never attempts to dodge the issue or to hold the candle to the devil. A true patriot is one who, when dictatorship, retrogression and authoritarianism hold sway within one's country, dares to resist it, to stand up and speak out for the people. Seeing that WEI has been repeatedly convicted and sentenced on the flimsiest of grounds, people within China, who are under a high-handed style of government, cannot speak up. And China, a populous nation of 1 billion people, has been gagged. But here in Hong Kong, which is a free place and also

part of China, our voice will be the only voice in an otherwise silent China. This will be a valuable voice which will serve to underline the importance of today's debate in this Council.

According to reports, on the morning when WEI Jingsheng was sentenced to 14 years' imprisonment, snow fell in Beijing — the first time since the start of this winter. Near the court building, there was heavy and deep snow. I of course understand that snowing is a natural phenomenon. But the snow that fell on that day aroused in me a train of thoughts which ran far and deep. I thought of a poem by Chinese poet AI Qing. Four lines in the poem read:

Snow falls on Chinese soil,  
China is in the grip of the intense cold,  
China's pain and suffering are as extensive and drawn-out  
As this snowy night.

This poem was written in 1939. But today, 60 years on, the pain that plagues China's democratic movement and the fate of WEI Jingsheng are still as extensive and drawn-out as that snowy night in the 1930s. This, then, is a true depiction of China's democratic movement — a movement that I grieve over, a movement that I am willing to strive for.

Mr President, with these remarks, I fully support the motion moved by the Honourable Andrew CHENG.

**MR LEE CHEUK-YAN** (in Cantonese): Mr President, since the democratic movement of 1989 and the promulgation of the Basic Law by the National People's Congress in April 1990, the public has been worrying lest civil and political rights be curtailed after 1997. This is especially so because Article 23 of the Basic Law provides that the Special Administrative Region (SAR) government shall enact laws on its own to prohibit any act of treason, secession, sedition, subversion of the central people's government or theft of state secrets..... to prohibit Hong Kong's political organizations or bodies from establishing links with foreign political organizations or bodies. Last month, the Chinese Government tried and convicted WEI Jingsheng on the flimsiest of grounds and sentenced him to 14 years' imprisonment. This has provoked strong protest from the international community. Added to this, the Chinese courts accepted certain lawful and reasonable acts as valid proof of the charge of subversion laid against WEI. What worries Hong Kong people even more is this: After 1997

will one be charged with subversion of the government if one participates in certain investment items, organizes cultural activities, or publishes articles in the newspaper to comment on mistakes made by the Chinese Government (such as economic policy errors)?

I absolutely agree with the motion moved by the Honourable Andrew CHENG urging the Government to amend immediately the existing laws on treason, sedition and theft of state secrets. As a matter of fact, after the enactment of the Bill of Rights, the Government has been saying that it will review the Crimes Ordinance and the Official Secrets Act. But up to date, no review has been carried out. Therefore, I think the Government must present to this Council as soon as possible the proposed amendments. Nevertheless, I hope that in the course of the review not only will the Government seek to adapt the laws concerned, but it will also take into account the different considerations between Hong Kong and the United Kingdom in terms of culture, political system and state security so as to ensure that the amended laws will be more consistent with Hong Kong's needs. In fact, the existing Official Secrets Act is an English statute applied to Hong Kong by Order in Council. It imposes very rigorous constraints which patently inhibit press freedom. On the other hand, the present law on sedition is even more restrictive than the English counterpart. English statutory law does not provide for the offence of sedition. Seditious acts are subject to control under common law. A law commission, in reviewing the criminal law on treason and sedition in 1977, reiterated that there was no need to introduce the offence of sedition under English law. But the colonial government of Hong Kong, based on historical factors, has given effect to the common law concept of sedition by making it part of statutory law, which fetters the discretion of the courts in taking into account social circumstances while dealing with cases of this sort. Therefore, I hope that the Government will introduce amendments to narrow down the definition of the offence concerned so that it will not be abused for the purpose of stifling Hong Kong people's freedom.

Mr CHENG's motion urges the Government to enact laws immediately to prohibit acts of subversion. I have reservations with regard to this. The reason is that the concept of subversion against the government is absent from the laws of most of the common law countries (the United States excepted). It is generally accepted that it would be difficult to give a meaningful definition in law of acts of subversion against the government. A more worrying point is that the laws concerned may be made use of by the authorities to crack down on certain reasonable and lawful political activities. As a matter of fact, the



offence of subversion against the government, which is recognized under Chinese law, precisely serves as an example to illustrate that such law has become the authorities' tool of political persecution against dissidents. Even in the United States which professes democracy and respects human rights, the law giving effect to this concept of subversion was made use of by those in power (particularly, the followers of McCarthyism) as a weapon to persecute dissidents during the 1950s when communist-phobia prevailed. Even with regard to our present sovereign, the United Kingdom, which has no law defining subversion, the policy definition given by the Home Secretary in 1978 in respect of the work of its intelligence agencies covered some lawful and non-violent activities (including political activities).

Having regard to the position of China, the United Kingdom and the United States as well as the way other common law countries address this question of subversion, I understand that this proposal by the Democratic Party is well-intentioned. Unable to secure the best deal, they are falling back on a second-best deal and are trying to protect as much as possible the post-1997 civil and political rights of Hong Kong people. Yet I hope that Members will further discuss this proposal.

Mr President, I have a wish which is that WEI Jingsheng could be released as soon as possible and that no Chinese person would ever again be subjected to persecution because of his dissenting political views. Chinese people paid a heavy price for political persecution during the past century! I hope Members will share my wish.

Lastly, I want to comment on an article written by WEI Jingsheng in 1979. The article was entitled *We Want Democracy, Not New Dictatorship*, which is the article for which WEI was convicted. I feel that the title can indeed be a fitting one for Hong Kong. The Basic Law provides for an undemocratic system and will lead to dictatorship in Hong Kong. Hong Kong therefore should want democracy, not a new dictatorship.

With these remarks, I support the motion.

**MR JAMES TO** (in Cantonese): Mr President, I would just like to clarify briefly the Democratic Party's stand because I find that some of my colleagues have misunderstood us. First, some Members are of the view that we wish to connive

at the so-called anti-government acts or even to connive at acts of sedition and theft of state secrets. If they have such thinking, I shall have to clarify specifically that the Democratic Party agrees that certain acts should be prohibited. Broadly speaking, we can use "anti-government acts" or use the wording of the Basic Law, that is to say, the series of words employed in Article 23 of the Basic Law, to describe the acts referred to in the said Article. Therefore, please do not say that we want Article 23 of the Basic Law to be devoid of content, in other words, it is incorrect to argue that we wish the Article has never existed.

A while ago I heard the Honourable CHAN Wing-chan speak in such terms as to seem to imply that we want to connive at these acts. As a matter of fact, we only consider that, during the transition to 1997, a package of so-called "prohibited acts" can be introduced. This will be introduced anyway, if not now, then some time in the future. In any country or region, no matter how democratic it may be — by a stretch of the imagination, it may be Mr CHAN's own country — some acts are regarded as reactionary, treasonable or seditious. We cannot tolerate any of these acts, for instance, inciting people to attack a police station.

We hope that the subject can be broached as early as possible in order to let the public discuss it rationally. This is not a privilege enjoyed by the Democratic Party. I hope all political parties, social organizations and people from all walks of life, irrespective of their political orientation, will understand that the paramount objective we are pursuing is to have a smooth transition and a truly high degree of autonomy under the "one country, two systems" formula. Therefore we should express our views, however diverse or disparate they may be. Certain so-called pro-China people who enjoy the superficial trust of the Chinese authorities can at least give or whisper their views to Chinese officials at public or private gatherings as to what sort of acts should be prohibited and the extent of the prohibition.

The Democratic Party will of course put forward and make public its proposals in this regard. But I hope that after we have put forward our proposals, other political bodies will make their own proposals regardless of how they would view our proposals. For instance, a moment ago the Honourable LEE Cheuk-yan asked: Since there is no provision as to subversion in the existing law, why should we now seek to enact such a provision? Why should we seek to create it when it used not to exist? Some would think that, in doing

this, we might be limiting too much the rights of Hong Kong people. Some others would think that this might not cater to the particular needs of the country concerned having regard to the national or global situation. We would welcome such views. We would welcome such discussion.

Anyway, we hope to start discussing this matter as soon as possible before the advent of 1997. I mean rational discussion. It is because the majority of Hong Kong people will stay, will experience the transition and hope for better protection after 1997. We were in a dilemma as to whether we should make our proposals before or after 1997. If we proposed it after 1997 — Article 23 of the Basic Law provides that these laws be enacted by the Special Administrative Region (SAR) on its own — the legislative assembly then might be a provisional legislature or it might be a democratically elected legislature. In any event, according to our analysis, China probably would not directly participate in the legislative work then because it has been expressly provided that the laws are to be enacted by the SAR. But if a package of proposals is presented to the Joint Liaison Group (JLG) before 1997, China will directly participate in the discussion. Would China regard the proposals as having a wide or narrow scope? Some of our colleagues have told us that this would directly give China an opportunity to interfere in this matter before 1997 or even interfere with the legislative power of the future legislative assembly — in other words, to let a wolf into one's home — or interfere with our future high degree of autonomy. We know this is a difficult choice. We are nevertheless of the view that it would be of immense help if the subject could be broached earlier so that the public would have a chance to discuss it in a rational manner.

Some Members say what we are doing constitutes a confrontational act. We do not think so. It is because we agree with the contents of the proposals. We had referred to the case law and legislative spirit of various jurisdictions before we drew up our proposals. This will serve as the basis for rational discussion. I believe that after 1997 the legislature, be it the provisional legislature, the legislative assembly or a legislative body in whatever form or guise, will need to pay heed to the people's views as to what is correct and what are the appropriate criteria for determining the question of the width of scope of the legislation concerned. Therefore, we hope this process can be set in motion as early as possible, the sooner the better.

Lastly, I have to express my intense dissatisfaction with the Administration. Since I joined this Council, I have been repeatedly requesting the Administration

— by way of one oral question in 1992, two discussion sessions in the Security Panel, one oral question in 1993, numerous discussion sessions in the Information Policy Panel and the Security Panel in 1993 and 1994 — to discuss with us the basis for the legislative amendments concerned, their criteria, contents and orientation. But the Administration's reply has been: Now is not the opportune time; or drafting has not been completed; or there is as yet no conception as to how the amendments should be framed. But all of a sudden in July 1995 (not until then did I know) the Administration said to us, "The proposed amendments have been presented to the JLG and we cannot discuss it with you". And so the Administration has been devious. Before the event, it said the time was not ripe and, after the event, it said the matter was confidential and could not be discussed. What does the Administration take this Council for? The current Legislative Council is a fully democratically elected body. Why is the Administration still adopting an outdated attitude towards this Council to keep it in the dark and to refuse to discuss the matter with it? Is the matter to be discussed in the JLG behind closed doors? Would this be the best way to enable Hong Kong people to reach a consensus on the matter? I hope the Administration will ponder over this and make improvements as soon as possible to induce Hong Kong people to embark on rational discussion. Whatever the future holds, I hope a rational decision will be arrived at.

**MR SZETO WAH** (in Cantonese): Mr President, first of all I have to thank the Honourable CHIM Pui-chung. Though he is not in this Chamber now, I have to thank him nevertheless. I thank him for his concern over and advice to the Honourable Martin LEE and myself. He advises us never to seek to introduce into Hong Kong the influence or force of foreign powers. Unfortunately, he has not elaborated on what amounts to "introducing into Hong Kong a foreign power's influence".

I am wearing a Seiko watch. I have worn it for five to six years. It is made in Japan. I cannot do without it in the course of my daily activities. Depending on it, I am seldom late for appointments. Does this amount to "introducing into Hong Kong a foreign power's influence"? The first item of the four insistences is to insist on Marxism, not only introducing it but also insisting on it. Marxism is a form of foreign influence. Does this amount to introducing the influence of a foreign power? In the now dissolved Preliminary Working Committee and the soon to be established Preparatory Committee, there are members who hold foreign passports. They are obviously foreigners. Yet

they are entrusted with an important mission. Does this amount to introducing foreign influence? Having foreigners join a state's working organs, does this amount to introducing a foreign power's influence? As a matter of fact, any charge or offence can be limitless in scope in the eyes of some people. You cannot dodge it however hard you may try to.

I would like to turn to comment on the Honourable LO Suk-ching's arguments. He queried Hong Kong people's knowledge of the WEI Jingsheng case and wondered whether it was too limited. He questioned if the Honourable Andrew CHENG had an adequate grasp of the facts of the WEI case. In fact, this was not a query directed at Mr CHENG; it was a query directed at the Chinese Government. Why do Hong Kong people have but limited knowledge of the case? Indeed, not only Hong Kong people, but the whole world and even the people in China have only limited knowledge. Why do we have such an inadequate grasp of the facts of the case? It is because the whole judicial process lacks transparency. And so we have but limited knowledge. Would that not be querying the judicial system of China as a whole? They should not be querying us, they should query the Chinese Government.

As a matter of fact, throughout this debate, the views of those Members who are against the motion mainly boil down to one view, which is that the motion will mean meddling with China's judicial independence. Even the Honourable CHOY Kan-pui holds this view. Nevertheless, he says the whole trial process lacked transparency. Is this criticism levelled by him to be regarded as interference with China's judicial process?

By the side of the West Lake is a tomb where YUE Fei was buried. Two iron statues representing QIN Hui and his wife kneel before the tomb. A couplet inscribed on the tomb reads : The green hills are fortunate to have a loyal servant of the emperor buried in their bosom; raw iron, through no fault of its own, is cast and wrought into the statue of an evil courtier. YUE Fei was tried and convicted through due process of law and was beheaded subsequently. The charge against him was an unsubstantiated one. In the several hundred years that followed, people kept commenting on this case. Did this amount to interference with the judicial process? A while ago, the Honourable Bruce LIU quoted two lines of a poem : "Hot blood coursing in our veins should be treasured; if spilled it can still transform into green water." The author of this poem was Madam QIU Jin. QIU Jin was also convicted through due process of law and subsequently beheaded at Qiankou Pavilion. People of today laud and extols

QIU Jin. Does this amount to interference with the judicial process? Furthermore, the whole world pleaded for the release of Nelson MANDELA and AUNG SAN Suu Kyi when they were being persecuted. Were people throughout the world interfering with the judicial processes of the South African government and the Burmese government? But MANDELA and AUNG SAN won the Nobel Peace Prize! And so the people who awarded the Nobel Peace Prize were interfering with the judicial process, were they not?

Indeed, this is not a question relating to the judicial process. It is a question that bears on the conscience of mankind. It is a paramount question about what is right and what is wrong. Therefore, please do not link this question to the question of interference with the judicial process. The present question serves to put our conscience to the test to see if we can tell what is right and what is wrong with regard to matters of paramount importance. I believe all those Members who oppose this motion will agree that the trial of WEI Jingsheng lacked transparency and was held in camera. If they admit this point, they will be interfering with the judicial process, with China's judicial process, even though they will not dare say so. It is because any criticism, according to their logic, amounts to interference.

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

**MR LEE WING-TAT** (in Cantonese): Mr President, I recently read a book entitled *The Long Way to Freedom* written by South African President Nelson MANDELA. This book recounts the course of events in which MANDELA started his career as a lawyer in the early 1950s, became a human rights activist, was thrown into jail and the things that happened to him afterwards. There is one point about this narrative that I would like to share with Members. In 1962-63 when MANDELA was lawfully tried by the South African government, he was, as Mr SZETO Wah observes, so-called lawfully sentenced to imprisonment. However, I can see certain difference in the trial process. The white South African government was then implementing the apartheid policy. Yet under such a highly authoritarian government, when MANDELA stood trial in 1962-63 he was at least given sufficient time to file his defence and to engage lawyers. Most important of all, the trial was held in a big hall where the court sat. Apart from policemen and the prosecuting team, ordinary South African citizens (including black people) had the right to be present and listen to the proceedings in the public gallery. Foreign envoys and the international media

also had the right to be present. After the court adjourned for the day, there was extensive press coverage of the proceedings the following day.

I am a Chinese person. When I recall that 30 years ago a white South African government which enforced apartheid and was highly authoritarian yet permitted its own citizens, including black people without political rights, to sit in on the trial, why was our great motherland so afraid when she conducted a political trial of one of her own citizens in 1995-96 and excluded other citizens from the proceedings? Neither were foreign envoys and foreign media permitted to sit in on the proceedings. Why was she so afraid?

Mr President, I agree with what Mr SZETO Wah said. We often talk of judicial independence when we discuss this matter. In actuality, the whole trial process was kept from the public eye and breached the procedures of openness and fairness. After WEI Jingsheng was rearrested on 1 April 1994, it was not until 20 months had elapsed that he was put on trial. During these 20 months, WEI was denied the services of lawyers nor were his family allowed to visit him. His family did not know where WEI was being held in custody. When the trial got under way, only those so-called citizens as permitted by the Chinese government were able to attend. It was not an open trial in a true sense. Under such circumstances, how could we and foreign governments be persuaded into believing that the trial was indeed fair? Mr President, at the present stage, in a free place such as Hong Kong, should one maintain that this trial was the outcome of judicial independence I doubt if the one who said it had a conscience and the ability to judge right from wrong.

Mr President, secondly, it is the question of interference with domestic affairs. This argument has caused me considerable unease. I often feel that I am Chinese and I have the right to express views on issues relating to my own country, to express dissenting views if I find that the systems of my country and its administration of justice are unfair. I feel that this is a very good thing. If one avoids doing this, it may be that one fails to understand one's obligation as a Chinese citizen. Hong Kong, being a free society, still permits us, as Chinese, to voice our conscientious views. If we do not do this, we, as Chinese people, ought to be ashamed of ourselves.

Thirdly, I would like to respond to Mr Ambrose LAU's comment. He asked: Why are we so worried? After 1997 the Legislative Council of the Special Administrative Region (SAR) government will, pursuant to Article 23 of

the Basic Law, enact laws on its own in accordance with certain principles. Why need we worry unduly? Let me say this. There are good laws and bad laws. Political prisoners in a number of countries with dictatorial regimes have been tried and sentenced through due process of law. The law can empower a ruler to throw a political dissident into jail easily enough. Therefore, we have no means of knowing whether the laws enacted by the post-1997 Legislative Council of the SAR will be good laws or bad laws. I only know of one precept, which is that if the SAR Legislative Council is popularly elected we can at least prevail upon it not to enact laws in defiance of the popular will. If it acts against the popular will, we will not elect it next time. But we do not have such a system in place. We have no means of knowing if the post-1997 provisional legislature will enact such laws. Even the first SAR Legislative Council will not be fully and directly elected. I have no confidence that it will enact laws pursuant to Article 23 of the Basic Law in accordance with the popular will.

Mr President, I referred earlier in my speech to Nelson MANDELA. I am grieved to find that after 30 years' historical development our great motherland still operates a trial system which is even more backward and secretive than the judicial system of a white regime, an authoritarian government that practised apartheid which used to be a subject for criticism by the Chinese Communist Party. I am really grieved. Mr President, I feel that WEI Jingsheng represents the conscience of the Chinese people as well as the conscience of international human rights activists. I support the motion.

**MR IP KWOK-HIM** (in Cantonese): Mr President, today Mr Andrew CHENG moves a motion in relation to the arrest and conviction of WEI Jingsheng. Based on the Beijing Court's verdict in a case that happened inside China, Mr CHENG is asking the Hong Kong Government to interfere with the administration of justice in Beijing and demanding that some Hong Kong laws be amended on the ground that the precedent as set by Beijing in this case need to be circumvented. With regard to our assessment of WEI Jingsheng, some take him for a hero while others take him for a traitor. Hong Kong people have the right to express and reflect their varied views about this case through a diversity of modes, including staging processions and holding assemblies. This is permitted subject to no law being breached. This is also part and parcel of the civil rights of the public. Hong Kong people will themselves draw their own conclusion as to whether WEI is right or wrong.



There are vast numbers of countries in the world with different social systems and ideologies. However, they differ little in terms of laws enacted to deal with subversion and treason. The reason for this is simple. All countries behave alike when it comes to protecting sovereignty and state security. We are now, by a contrived stretch of the imagination, seeking to link the adjudication of a case that happened inside China with Hong Kong's post-1997 human rights and freedom of expression issues in order to arouse Hong Kong people's resentment against the social and judicial systems of China or, as some Members observed moments ago, to provoke fear of a white terror in this regard. Is it necessary to do so? Moreover, the Legislative Council is only a legislative body under British rule. Does it have the appropriate capacity to request that a verdict passed by the Chinese judiciary be overturned?

According to the provisions of the Basic Law, the post-1997 Hong Kong Special Administrative Region (SAR) government shall enact laws on its own to define the offences of "treason, secession, sedition and subversion against the central people's government". And the enactment of such laws will not be subject to intervention from the central people's government. Now Mr Andrew CHENG is asking the Hong Kong Government to amend forthwith the existing laws and to enact new laws to serve as the basis on which the post-1997 SAR government will legislate. I think Mr CHENG does not mind one way or the other if the existing laws are reasonable. He is taking the view that the existing laws should not be used as the legislative basis for the SAR government. Therefore, he holds that the existing laws must be amended. However, we have to assess if the relevant laws are indeed improper or if certain social problems have arisen which make it necessary to amend the laws concerned. Of course, the existing laws are colonial laws. But we have to see clearly that these are English laws, that is to say, laws of a democratic country of which Mr CHENG's Democratic Party is so proud.

After 1997, the SAR will have been set up and the principle of Hong Kong people ruling Hong Kong, a high degree of autonomy and one country, two systems implemented. The basic spirit is that Hong Kong will continue to practise its capitalist system and mainland China will continue to practise its socialist system. We do not want Beijing to interfere in advance with the affairs of Hong Kong nor do we want a shadow government. At the same time, we

should not seek to interfere with China's domestic affairs through the Hong Kong government machinery or our power base as Councillors. The Standing Orders of the Legislative Council, as Mr Allen LEE observed a while ago, also preclude any discussion of individual cases dealt with by the courts. Then why is it that we can discuss a case decided by the Chinese judiciary? Why is it that we are seeking to interfere in the name of the Legislative Council?

A number of Members observed a while ago that the social systems of Hong Kong and China differ and there should be mutual respect for each other's system. The Democratic Alliance for Betterment of Hong Kong (DAB) holds the same view as the majority of Members. After 1997 when laws are enacted pursuant to Article 23 of the Basic Law, the laws so enacted must be consistent with the Basic Law and with the principles enshrined in the two international covenants on human rights.

If we want to maintain Hong Kong's judicial independence, we must not ask the executive authorities of Hong Kong to interfere with the administration of justice in other jurisdictions. If we want to maintain a high degree of autonomy promised to the SAR, we must not fetter in advance the legislative powers of the future government. If we want to ensure that Hong Kong's legal system will remain basically unchanged, we must not seek to change the existing laws on the ground that a certain case has been decided in a particular way inside China.

Therefore, the DAB opposes Mr Andrew CHENG's motion. I so submit.

**SECRETARY FOR SECURITY:** Mr President, the views expressed by many Honourable Members in this debate have clearly reflected the strong feelings in the community about the situation of Mr WEI Jingsheng. The British Foreign Secretary, Mr RIFKIND, has made representations to the Chinese Government several times with senior Chinese officials during his recent visit to Beijing.

Honourable Members have also expressed concern about the possible implications arising from Mr WEI Jingsheng's case and inferences that might be drawn on the application and interpretation of Basic Law, Article 23 concepts after 1997. I should like to stress at the outset that under the "one country, two systems" arrangements provided for in the Joint Declaration and the Basic Law, the Hong Kong Special Administrative Region (SAR) will have laws and a legal

system based on the common law that will be different to the rest of the China. This is a most important point which should not be forgotten when we talk about the application of the concepts in Basic Law, Article 23.

It is, of course, obviously in Hong Kong's interests to be able to have certainty and clarity on how these various concepts will be defined and interpreted as soon as possible. I believe this objective is shared by many Honourable Members and by the Administration. We believe that the legislation relating to these various concepts should, first, balance the need to protect freedom of expression by the individual with the need to protect public order and security; secondly, that it should be consistent with the Joint Declaration, the Basic Law, the Bill of Rights and the International Covenant on Civil and Political Rights as applied to Hong Kong; and finally, that it should be capable of continuing in force after 1997.

We have informed the Legislative Council Information Panel last July that we had submitted proposals to the Chinese side through the Joint Liaison Group (JLG) on how to localize the Official Secrets Acts and to adapt the Crimes Ordinance in a manner consistent with these requirements. The proposals we have made are entirely consistent with the Joint Declaration, the International Covenant on Civil and Political Rights, the Bill of Rights and the Basic Law.

Some Honourable Members have criticized us for not revealing the content of our proposals and for the lack of visible progress in the JLG discussion. I wish to remind Honourable Members that it is a fact that our ability to reveal the details of our proposals is constrained by the JLG confidentiality rule, but I shall explain the background to our proposals and how we intend to take matters forward.

We now have legislation, both in the form of United Kingdom acts of Parliament extended to Hong Kong and in local laws, that expressly cover the offences of treason and sedition, and which in effect cover the theft of official secrets. These provisions in their present form are obviously not going to be applicable to acts of treason or sedition against the Central People's Government of the People's Republic of China. United Kingdom Acts of Parliament will, of course, lapse in relation to Hong Kong on 1 July 1997 if nothing is done about them. So these laws need to be localized or adapted as appropriate.

The concepts of secession and subversion mentioned in Article 23 of the Basic Law are not expressly referred to in existing legislation and there is clearly a good deal of public interest, both as reflected in the media and in the speeches of Honourable Members today, in precisely what they mean. The relationship between these concepts and the offences covered in existing legislation is, therefore, one of the important subjects to be covered in consultations with the Chinese side.

We share Honourable Members' concerns that we should make progress on these issues. The proposals have been with the JLG now for six months. Given the importance and complexity of the issues addressed, it is not unreasonable to give the Chinese side sufficient time to consider them fully. Nevertheless, we believe the time has come for us to press for an early response as we hope to reach a satisfactory agreement with the Chinese side as soon as possible.

Some Honourable Members have suggested that the Government should take action to put forward the relevant legislative proposals to this Council without waiting for the outcome of the JLG discussions. We believe that our objectives will be better served if we continue to discuss with the Chinese side through the established channels for the localization and adaption of the relevant laws. We strongly believe that it would be counter-productive, as some have even suggested, if Honourable Members were to introduce Member's Bills while these issues are under discussion in the JLG. Nor is it helpful in this context for us to be talking about specific deadlines. At the same time, we fully appreciate the community's concern that these discussions should not be allowed to go on indefinitely, and that the community would wish to see early action. Continued lack of progress through discussions in the established channels could have damaging effects on confidence in Hong Kong, and we will not wish to see this happen. We will, therefore, vigorously seek an early agreement with the Chinese side on the basis of the proposals we have put to them.

Mr President, as I said at the beginning of my speech, the concerns expressed today by many Honourable Members are shared by the Administration. We are taking steps to address these concerns, but a suggestion of immediate legislative action, as proposed in the motion, is simply not conducive to the success of our efforts. We do not, therefore, agree with such a suggestion for precipitate action. Clearly, it would be the best outcome if we can go forward on these important issues with the co-operation and agreement of the Chinese

side. That is a goal worth striving for and a little more patience is a price worth paying.

Thank you, Mr President.

**PRESIDENT:** Mr Andrew CHENG, you are now entitled to reply and you have five minutes 30 seconds out of your original 15 minutes.

**MR ANDREW CHENG** (in Cantonese): Thank you, Mr President. I must first of all thank Members for participating in the debate. The WEI Jingsheng incident together with the slogans shouted in the streets have been brought into this Chamber by way of rational debate. The inspiration WEI has given us is that we cannot run away from it. After hearing the arguments debated by Members, I would like to attempt the following analysis.

First, Mr CHIM Pui-chung has applied a gambling analogy to WEI Jingsheng. I think this is an affront to WEI's patriotic sentiment. The Democratic Party (DP) does not seek to clash head-on with the Chinese side at every turn. We only adhere steadfastly to our stance. We never draw back or compromise or go against our conscience when paramount principles are at stake. Even with regard to decided cases in other jurisdictions, if we think that they breach the Bill of Rights we will stand up and point out what is wrong with them, let alone our China and the case of WEI Jingsheng, who is an internationally recognized human rights activist.

Some Members are of the view that to take the WEI case and the Basic Law as related issues is tantamount to stretching the logic of association to a fanciful extent and succumbing to totally unfounded worries. They argue that the offences of treason, sedition *et cetera* should be left to the future Legislative Assembly and the Special Administrative Region (SAR) government to deal with. We are of the opinion that this way of thinking is over-optimistic and wishful. The facts that have unfolded before our eyes are real and iron-clad facts. The WEI incident has told us that after 1997 if we want to continue to enjoy human rights and freedom, to continue to have the right to criticize our government, to disavow one-party dictatorship and to be free from arbitrary imprisonment, we must stand up now and voice our views.

As a matter of fact, during the drafting stage of the Basic Law, members of the Basic Law Consultative Committee (BLCC) expressed worries in the course of discussing the question of sedition and treason. They pointed out that China's interpretation of the offences of treason and secession and her way of dealing with them were radically different from those of Hong Kong. They feared that there would be contradictions between China and Hong Kong in the future in terms of interpretation of the wording concerned and that China would impose the criteria as adopted in the mainland on Hong Kong. Some members suggested that the Basic Law should expressly provide that a Hong Kong resident who is alleged to have committed the offence of treason must be tried and convicted according to Hong Kong law. This was meant to stabilize confidence in Hong Kong.

The worries and misgivings of members of the BLCC were not alarmist talk. They clearly reflected their worries that the rule by person as practised by the Chinese Government would override the rule of law. And so they hoped that the Basic Law would lay down clear and unequivocal provisions with regard to the offences concerned so that the future civil rights of Hong Kong people would be protected to as great an extent as possible. What we are proposing and discussing today constitutes the first step taken in this direction. It is not that we have no faith in the Basic Law, it is only that we want to have the concept and definition of the relevant offences clearly spelt out in our existing laws to serve as the basis for related legislation to be enacted by the future SAR.

Mr President, in respect of the criticism that our motion seeks to interfere with the domestic affairs of China, I have to reiterate that civil rights, basic human rights and freedom of expression know no national or regional boundaries. We request that post-1997 Hong Kong maintain its existing open and free politico-economic environment. We also hope that one day our China will take the road that will lead to democracy, openness and freedom so that whatever we own or possess will be reinforced. We and the Chinese body polity are related by blood. However, our concern for China, our expectation of her and our patriotic sentiment have been labelled "interference with Chinese domestic affairs". I consider this to be grossly insulting to myself and the DP.

Mr President, some have argued that laws should be formulated by legal experts and law officers. The legal system should not be decided by public opinion. Nor does this Council have the competence to decide. I think that this argument breaches two basic concepts. First, it breaches the concept of

democracy. It is because the basic principle of democracy is that the people are the masters. From the point of view of the individual, the family and the state, the people should have the right to choose subject to the overall interest of society not being jeopardized. This should include the people's right to express their wishes as to what they want the law to provide and then it would be the experts' and the law officers' turn to implement it or to amend the laws concerned which have been pronounced as deficient by the courts. Secondly, the argument misconstrues the role of the Legislative Council. This Council is a base of the popular mandate and a rallying point for public opinion. Therefore, the only fitting and effective way is to have popularly elected Members collect and express public opinion to serve as the basis for the enactment of laws. We very much hope that the future provisional legislature and the future SAR Legislative Council will proceed in this direction.

Mr President, lastly, I would like to quote WEI Jingsheng's argument on the rule of law to conclude my speech. WEI said: "We want the rule of law. But the rule of law that we want is one that will give effect to the human right of equality. In the process of enacting laws, the people must keep their eyes open and focus their attention on whether the system is giving us democratic laws which are useful and maintain the human right of equality". Honourable Members, I hope you will focus your attention and enact laws for the future SAR and our next generation, which will give effect to equality and human rights.

Mr President, I so submit.

*Question on the motion put.*

*Voice vote taken.*

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

Mr Andrew CHENG claimed a division.

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

**PRESIDENT:** I would like to remind Members that they are now called upon to vote on the question that the motion moved by Mr Andrew CHENG be approved. Will Members please register their presence by pressing the top button and then proceed to vote by selecting one of the three buttons below?

**PRESIDENT:** One short of the head count. 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, Dr LEONG Che-hung, 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 James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Miss Christine LOH, Mr LEE Cheuk-yan, Mr Andrew CHENG, Dr Anthony CHEUNG, Mr Albert HO, Mr LAU Chin-shek, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, 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 Allen LEE, Mrs Selina CHOW, Mr LAU Wong-fat, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr CHIM Pui-chung, Mr Eric LI, Dr Samuel WONG, Dr Philip WONG, Mr Howard YOUNG, Mr James TIEN, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Paul CHENG, Mr CHENG Yiu-tong, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr David CHU, Mr IP Kwok-him, Mr Ambrose LAU, Mr LEE Kai-ming, Mr LO Suk-ching and Mr NGAN Kam-chuen voted against the motion.

THE PRESIDENT announced that there were 31 votes in favour of the motion and 23 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 Wednesday, 24 January 1996.



*Adjourned accordingly at six minutes past Ten o'clock.*