

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 14 February 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 MRS SELINA CHOW LIANG SHUK-YEE, O.B.E., J.P.

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

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

THE HONOURABLE SZETO WAH

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 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

THE HONOURABLE CHAN YUEN-HAN

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE PAUL CHENG MING-FUN

DR THE HONOURABLE ANTHONY CHEUNG BING-LEUNG

THE HONOURABLE CHEUNG HON-CHUNG

THE HONOURABLE CHOY KAN-PUI, J.P.

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 LEUNG YIU-CHUNG

THE HONOURABLE BRUCE LIU SING-LEE

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

MEMBERS ABSENT:

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

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

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

THE HONOURABLE FREDERICK FUNG KIN-KEE

THE HONOURABLE CHENG YIU-TONG

THE HONOURABLE DAVID CHU YU-LIN

THE HONOURABLE LEE KAI-MING

THE HONOURABLE LO SUK-CHING

PUBLIC OFFICERS ATTENDING:

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

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 MICHAEL SUEN MING-YEUNG, C.B.E., J.P.
SECRETARY FOR HOME AFFAIRS

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

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

SECRETARY FOR TRANSPORT

MR GORDON SIU KWING-CHUE, J.P.
SECRETARY FOR ECONOMIC SERVICES

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

MR RAFAEL HUI SI-YAN, J.P.
SECRETARY FOR FINANCIAL SERVICES

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

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

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

MR LAM WOON-KWONG, J.P.
SECRETARY FOR THE CIVIL SERVICE

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

CLERKS IN ATTENDANCE:

MR RICKY FUNG CHOI-CHEUNG, SECRETARY GENERAL

MR LAW KAM-SANG, DEPUTY SECRETARY GENERAL

MISS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

PAPERS

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

Subject

Subsidiary Legislation	<i>L.N. No.</i>
Ferry Services (The "Star" Ferry Company, Limited) (Determination of Fares) (Amendment) (No. 2) Order 1996	68/96
Tramway Ordinance (Alteration of Fares) (Amendment) Notice 1996	69/96
Banking Ordinance (Amendment of Seventh Schedule) Notice 1996	70/96
Hong Kong Airport (Traffic) (Amendment) Regulation 1996	72/96
Official Languages (Alteration of Text) (Boilers and Pressure Vessels Ordinance) Order 1996	73/96
Immigration (Vietnamese Refugee Centres) (Designation) (Consolidation) (Amendment) Order 1996	74/96
Immigration (Vietnamese Refugee Centres) (Open Centre) (Amendment) Rules 1996	75/96
Administration of Justice (Miscellaneous Provisions) (No. 2) Ordinance 1995 (68 of 1995) (Commencement) Notice 1996	76/96
Human Organ Transplant Ordinance (Cap. 465) (Commencement) Notice 1996	77/96

Statutes of the Chinese University of Hong Kong (Amendment) (No. 3) Statute 1995.....	78/96
Official Languages (Authentic Chinese Text) (Boilers and Pressure Vessels Ordinance) Order.....	(C) 13/96
Official Languages (Authentic Chinese Text) (Commodity Exchanges (Prohibition) Ordinance) Order.....	(C) 14/96

Sessional Papers 1995-96

- No. 57 — Urban Council
Estimates of Revenue and Expenditure for the
Financial Year 1996-97
- No. 58 — Regional Council
Estimates of Revenue and Expenditure 1996-97
- No. 59 — Revisions of the 1995-96 Estimates approved by the
Urban Council during the third quarter of
the 1995-96 financial year
- No. 60 — The Hong Kong Academy for Performing Arts
Annual Report July 1994 to June 1995
- No. 61 — Li Po Chun Charitable Trust Fund Annual Report
for the period 1 September 1994 to 31 August 1995
- No. 62 — Trustee's Report on the Administration of the
Education Scholarships Fund
for the year ended 31 August 1995

Miscellaneous

Amendment to the Technical Memorandum on Noise from Construction Work in Designated Areas

Third Periodic Report in respect of Hong Kong under Articles 2-16 of the International Covenant on Economic, Social and Cultural Rights

PRESIDENT: Honourable Members, I have received a request from a Member of this Council that this Council should observe silence in memory of those who have been killed in the hill fire at Pat Sin Range last Saturday. I have turned down the request.

Observing silence in memory of the dead is done, in this Council, concomitantly when obituary speeches are made. There are provisions in the Standing Orders of the Council for obituary speeches to be made at the sittings of this Council but parliamentary practice dictates that such speeches are made only on the occasion of the death of a Member of the Council or a distinguished statesman.

I certainly am, and I am sure all Honourable Members are, deeply saddened by the loss of lives and the injuries suffered as a result of the hill fire at Pat Sin Range. While I have the greatest sympathy for those who have died, and the highest respect for the teachers who have sacrificed their own lives when trying to save the lives of their pupils, I am afraid I cannot order the observance of silence in their memory at a sitting of this Council.

Members of the Council who wish to send their condolences to the families of those who have been killed in the fire, and to pay tribute to the teachers for their heroic and noble act, can of course do so personally.

ORAL ANSWERS TO QUESTIONS**Entry Requirements and Salary of Assistant Hawker Control Officer**

1. **MR IP KWOK-HIM** asked (in Cantonese): *Mr President, in view of the fact that the starting salary of an Assistant Hawker Control Officer is close to that of a Police Constable and is higher than that of officers of comparable ranks in other disciplinary services, will the Government inform this Council:*

- (a) of the entry requirements and starting salary for an Assistant Hawker Control Officer;*
- (b) of the criteria adopted for setting the entry requirements and starting salary mentioned in (a) above; and*
- (c) whether consideration will be given to conducting a review of the entry requirements and starting salary for officers of both the Hawker Control Team and other disciplinary services except the Police Force in the near future?*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Mr President, the Hawker Control Force (HCF) was established — perhaps re-established would be a better word — in mid-1993, on the advice of the Standing Commission on Civil Service Salaries and Conditions of Service and with the approval of the Establishment Sub-Committee of this Council. This was done at the strong wish of the two Municipal Councils reflecting the community's desire for more effective control of hawking.

- (a) The entry requirements and starting salary for the Assistant Hawker Control Officer rank are set out in Annex A to the printed version of my reply;
- (b) The entry requirements and starting salary were set according to the needs and levels of responsibility of the job and took into account the following criteria:

- (i) the need to secure expertise for the HCF by attracting the right staff who had worked in the former General Duties Teams to join the HCF;
- (ii) the need to improve the standard of new recruits to the HCF, without upsetting the internal relativities among related grades; and
- (iii) the need to improve the morale of the officers concerned by having a dedicated hawker control team with a clear and reasonable career structure.

Details of the argument are set out in Annex B to the reply.

- (c) We have no plan to review the entry requirements and entry pays for the HCF and the other non-police disciplined services. All the disciplined services are now attracting large numbers of well qualified candidates for recruitment and they have no difficulty filling their vacancies. This is encouraging and reflects well on the high esteem in which the disciplined services are held in the community.

Annex A1

Entry requirements for an Assistant Hawker Control Officer are as follows:

- (a) In-service candidates should have either
 - (i) four years' satisfactory service in Government, preferably in law enforcement or disciplined/auxiliary service and passed Government Standard Chinese or English Examination Intermediate I, or equivalent (for example, Form 2 standard); or

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- (ii) three years' satisfactory service in Government, preferably in law enforcement or disciplined/auxiliary service and passed Government Standard Chinese or English Examination Intermediate II, or equivalent (for example, Form 4 standard).
- (b) Direct entry candidates should have:
- (i) completed secondary education (with three subjects at Grade E or above in the Hong Kong Certificate of Education Examination) and three years' post-qualification experience preferably in a disciplined/auxiliary service and experience in dealing with members of the public; or
 - (ii) Grade E or above in five subjects including English Language (Syllabus A) in the Hong Kong Certificate of Education Examination or equivalent and two years' post-qualification experience preferably in a disciplined/auxiliary service and experience in dealing with members of the public.

Annex A2

Hawker Control Officer Grade

<i>Rank</i>	<i>Pay (as at 1 April 1995)</i>
Assistant Hawker Control Officer	\$11,030 - \$15,660
Hawker Control Officer	\$16,450 - \$19,045
Senior Hawker Control Officer	\$19,990 - \$23,080
Chief Hawker Control Officer	\$24,165 - \$29,005
Principal Hawker Control Officer	\$30,365 - \$33,290

Foreman Grade

<i>Rank</i>	<i>Pay (as at 1 April 1995)</i>
Foreman	\$10,350 - \$13,230
Senior Foreman	\$14,055 - \$16,450
Overseer	\$17,270 - \$20,985
Senior Overseer	\$22,035 - \$26,460

Annex B

29 December 1992

The Right Honourable Christopher PATTEN
Governor of Hong Kong
Government House
Hong Kong

Dear Sir,

Creation of New Grade of
Hawker Control Officer

We have been invited by the Administration to advise, under clause 1(b) of our Terms of Reference, on a proposal to create a new grade of Hawker Control Officer.

Background

2. The control of hawkers is at present the responsibility of General Duties Teams in the Urban Services Department and the Regional Services Department. These teams comprise mainly members of the Foreman Grade (Technician, Supervisory and Related Grades — Group I) who are supported by a small complement of Workmen. They work under the direction of and are managed by the Health Inspectorate (Polytechnic Higher Diploma Grades).

3. The Administration has informed us that a number of deficiencies had been identified in the existing organization, including:

- (a) lack of continuity, expertise and leadership due to the fact that Foreman Grade staff are transferable between different streams, such as hawker control, cleansing and pest control, in the departments concerned;
- (b) low staff quality because of poor educational background and lack of aptitude for law enforcement duties; and
- (c) declining morale as the teams face great difficulties in their law enforcement duties, particularly in comparison with the duties performed by their counterparts in the other streams. In addition, they suffer from a poor image because in most cases public sympathy lies with hawkers.

4. In 1990, a Working Group on Hawker Control proposed that, while the most cost-effective remedy would be the creation of a civilian grade dedicated to hawker control duties, in the interim members of the General Duties Teams directly involved in hawker control work should be given a special allowance to improve their morale and effectiveness. We were asked to advise on the proposal. Having regard to the problems faced by the General Duties Teams, we supported it. The payment of the allowance started on 1 August 1990.

The Administration's proposal

5. The Administration has now formally sought our advice on the creation of a separate grade to control hawkers. It considers that the creation of a new grade of Hawker Control Officer (HCO) would have the following advantages:

- (a) members of the grade would have a better sense of belonging, since they will perform only hawker control duties. At the same time, their expertise and experience will be retained;
- (b) the pay scales of the new grade will be set having regard to job factors peculiar to hawker control work, and requirements such as shift duty and observance of a strict disciplinary code may be included in the terms of employment;

- (c) the quality of staff will improve as candidates with an aptitude for hawker control will be motivated to join the grade because of the better career structure it offers;
- (d) since senior officers in the new grade will take over hawker control and non-hygiene related market management duties from Health Inspectors I, the latter can be redeployed to perform hygiene related duties for which they are professionally trained.

6. The Administration has further proposed that the new grade should have the following structure and pay scales:

<i>Rank</i>	<i>Pay Scales</i>
Assistant Hawker Control Officer	MPS 8 - 14
Hawker Control Officer	MPS 15 - 18
Senior Hawker Control Officer	MPS 19 - 22
Chief Hawker Control Officer	MPS 23 - 27
Principal Hawker Control Officer	MPS 28 - 30

The appointment requirements for direct entry will be Grade E in five subjects in the Hong Kong Certificate of Education Examination plus two years' post-qualification experience, or completion of secondary education plus three years' post-qualification experience. However, the new grade will be placed within the "Other Grades" group since the main consideration for appointment will be aptitude, skills or experience rather than academic attainment.

7. The Administration has considered giving the proposed grade disciplined-service status, but concluded that it would not be appropriate. A disciplined service within the departments concerned would not be compatible with their management structure. Furthermore, illegal hawking is generally regarded as a nuisance rather than a crime. The nature of the enforcement duties to be performed by HCOs does not therefore justify the expense of setting up and maintaining a disciplined service.

Views of Urban Council and Regional Council

8. The Administration has advised us that Members of the Urban Council unanimously endorsed the creation of the new grade and expressed the hope that this would be done as soon as possible. The vast majority of Members of the Regional Council also supported the proposal.

Views and recommendation

9. We note that the creation of a separate grade to control hawkers has the firm support of the municipal councils. Our Terms of Reference require us to advise on the salary and structure proposed for the new grade.

Grade structure

10. The structure of the proposed grade is based on that of the Foreman grade. The latter is made up of four tiers, namely Foreman (MPS 7-11), Senior Foreman (MPS 12-15), Overseer (MPS 16-20) and Senior Overseer (MPS 21-25), which form the core of General Duties Teams. The proposed HCO grade consists of five tiers. The first four ranks, namely Assistant Hawker Control Officer, Hawker Control Officer, Senior Hawker Control Officer and Chief Hawker Control Officer, are comparable with the respective ranks of the Foreman grade in terms of duties and level of responsibility. The top rank of Principal Hawker Control Officer would, in addition to its supervisory and operational duties, take over the functions and responsibilities currently performed by Health Inspectors I. It would be accountable to Senior Health Inspectors in the overall implementation of policies and the enforcement of legislation on hawker control and non-hygiene related market duties.

11. We generally support the proposed structure. We agree that the addition of the Principal Hawker Control Officer rank properly reflects the transfer of duties and responsibilities from the Health Inspectorate to the new grade. It also provides better promotion prospects for members of the new grade which will, in turn, improve staff quality and enhance staff commitment and morale.

Pay scales

12. The Administration has advised us that like the existing General Duties Teams, members of the new grade would be required to wear uniform. They would also be subject to a strict disciplinary code and exposed to hardship elements such as shift work and unpleasant and hazardous duties associated with seizure and arrest.

13. Having regard to the entry requirements, the nature of work and the special job factors set out in paragraph 12 above, the proposed entry point of MPS 8 for Assistant Hawker Control Officer rank is appropriate.

14. We note that the proposed pay maximum of MPS 14 for Assistant Hawker Control Officer and the proposed pay scales of Hawker Control Officer (MPS 15-18), Senior Hawker Control Officer (MPS 19-22) and Chief Hawker Control Officer (MPS 23-27) are comparable to the pay scales of the respective ranks of the Foreman grade, including the interim special allowance currently payable to members of the General Duties Teams. The proposed pay scales are commensurate with the job factors involved.

15. We also agree that the pay scale of the proposed Principal Hawker Control Officer rank should be set at MPS 28-30, having regard to the level of responsibility. The Principal Hawker Control Officer in each district will be the direct supervisor of all hawker control staff. He will also assume overall responsibility for non-hygiene related market duties. Principal Hawker Control Officer is the top rank of the grade and it will take members many years to reach that level.

Classification of new grade

16. Because of the special nature of hawker control work, the main consideration for appointment will be special aptitude, skills or experience rather than academic attainment. Thus we support the classification of the new grade under the "Other Grades" group. We note the reasons put forward by the Administration in paragraph seven above for not creating a disciplined service for hawker control.

17. In conclusion, we recommend the following structure and pay scales for the proposed grade of Hawker Control Officer which should be placed in the "Other Grades" group:

<i>Rank</i>	<i>Pay Scales</i>
Assistant Hawker Control Officer	MPS 8 - 14
Hawker Control Officer	MPS 15 - 18
Senior Hawker Control Officer	MPS 19 - 22
Chief Hawker Control Officer	MPS 23 - 27
Principal Hawker Control Officer	MPS 28 - 30

Yours faithfully,

(Sidney Gordon)

Chairman

For and on behalf of

Members of the Standing Commission

MR IP KWOK-HIM (in Cantonese): *Mr President, I would like to raise a supplementary question. The Secretary for the Civil Service has noted just now that the pay structure of the grade will not affect the morale of disciplinary services. Will the Government inform this Council whether there is any indication that the morale of other disciplinary services is now affected by the pay structure of the Hawker Control Force?*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Mr President, we are convinced that the existing pay structure has no effect on the morale of members of other disciplinary services. In fact, if we look at the starting pay on the basis of equivalent academic qualifications and experience, the starting salary of the Hawker Control Team is lower than that of other disciplinary services at the same level. Mr President, a very small number of members of other disciplinary services wanted to be transferred to the newly created grade in the

last three years. Only 147 people applied for transfer from other disciplinary services to the Hawker Control Officer grade. Looking at it from all objective angles, we are convinced that the existing salary structure of the Hawker Control Force has no effect on other grades.

MR ALBERT CHAN (in Cantonese): *Mr President, I met two Chief Secretaries respectively to discuss the issue of hawker control and to express my views on the whole service. I believe the Secretary for the Civil Service, who used to be Deputy Director of Regional Services, is familiar with the issue. I have been a member of the Regional Council for nine years. In 1993*

PRESIDENT: Please state your question, Mr CHAN.

MR ALBERT CHAN (in Cantonese): *I expressed reservations about the cost-effectiveness of the new establishment when it was passed in 1993.*

PRESIDENT: Please state your question.

MR ALBERT CHAN (in Cantonese): *The Urban and Regional Councils now spend over \$900 million in this area. How does the Government assess the cost-effectiveness of the expenditure incurred by the current establishment? Is this value for money? I wish to stress that the Urban and Regional Councils spend over \$900 million in this area in 1995-96.*

PRESIDENT: It is beyond the scope of the original question which deals with starting pay.

MR ALBERT CHAN (in Cantonese): *Mr President, it is within the scope of the original question, part (b) of which deals with entry requirements and starting pay. The new establishment now costs the Urban and Regional Councils a lot of money. The Government is obliged to account for its cost-effectiveness.*

PRESIDENT: Secretary for the Civil Service, starting pay only.

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Mr President, it is explicitly stated in Report No. 23 published by the Hong Kong Standing Commission on Civil Service Salaries and Conditions of Service in 1989 that the starting salary of a Government grade is basically determined by academic qualifications and should be adjusted in light of actual working conditions such as the need to perform unpleasant and hazardous duties. We took everything into consideration when we set the starting salary for officers of the Hawker Control Team. As for the overall effectiveness of the work of the team, I believe the Urban and Regional Councils (on one of which Mr Chan sits) are in a better position to answer.

DR ANTHONY CHEUNG (in Cantonese): *Mr President, the revision of the entry requirements and starting salary of the Hawker Control Officer grade caused much controversy among many disciplinary services. Will the Secretary for the Civil Service inform this Council whether the Standing Committee on Disciplined Services Salaries and Conditions of Service was consulted on the revision in question? If not, why?*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Mr President, when we studied and determined this pay structure, we gave full consideration to comparisons with the structure of other disciplinary services. This also received special attention from the Standing Commission on Civil Service Salaries and Conditions of Service during its deliberation. So when we formulated the pay structure, we explicitly set the starting salary at a lower level than the starting pay of officers of other disciplinary services with the same experience and academic qualification. Actually it is a little lower, not higher.

PRESIDENT: Dr CHEUNG, are you claiming that your question has not been answered?

DR ANTHONY CHEUNG (in Cantonese): *I want clarification whether the Secretary for the Civil Service means that the Standing Committee on Disciplined Services Salaries and Conditions of Service was not consulted?*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): I do not have a record at hand showing whether the views of the Standing Committee on Disciplined Services Salaries and Conditions of Service were sought. I will give a written reply to Dr Cheung. (Annex I)

Overnight Parking of Buses in Southern District

2. **MR ANDREW CHENG** asked (in Cantonese): *The Traffic and Transport Committee of the Southern District Board has passed a motion urging the Government to forbid the China Motor Bus Co Ltd (CMB) and Citybus Ltd to have their buses parked overnight at the bus terminals in public and private housing estates in the Southern District in order to avoid causing nuisance to nearby residents. In this connection, will the Government inform this Council whether it will put into effect the measure mentioned above in the Southern District; and if so, whether similar measure will be implemented at the bus terminals in public and private housing estates in other districts?*

SECRETARY FOR TRANSPORT: Mr President, in response to the motion passed by the Traffic and Transport Committee of the Southern District Board in November 1995, the Transport Department has conducted a comprehensive review of the overnight parking of buses at terminals in the Southern District.

The findings were submitted to the Traffic and Transport Committee last month following which it accepted that arrangements for overnight parking of buses at three out of the four terminals can be continued. The exception is the Ap Lei Chau Bus Terminal because of its very close proximity to housing blocks. The parking of buses overnight at this terminal will cease before the end of March this year. With the agreement of the Committee, the buses so displaced will instead be parked overnight along the section of Heung Yip Road in the Wong Chuk Hang industrial area. This particular problem has therefore been solved.

The overnight parking of buses at terminals, and at some on-street locations, is a long-standing practice necessitated by operational needs. The bus companies must first obtain the specific approval from the Commissioner for Transport who in turn consults the relevant district boards and government departments concerned before granting permission. All district boards are aware of these arrangements.

MR ANDREW CHENG (in Cantonese): *Mr President, judging from paragraph two of the reply from the Secretary for Transport regarding the decision for Ap Lei Chau Bus Terminal and the decision to accept arrangements at three other Southern District terminals, I feel that the Transport Department does not have a long-term strategy to handle the situation, especially the problem of buses being parked everywhere arising from CMB's sale of its many depots. Mr President, the Government has not given any reply to the last part of my question: will the Government implement in other public and private housing estates the measure to forbid bus parking? I would like the Government to inform us whether it will formulate a long-term strategy to forbid bus companies to do so instead of tackling the question after it is raised by each district board. There is no long-term strategy at all.*

PRESIDENT: That sounds like a statement to me, Mr CHENG.

MR ANDREW CHENG (in Cantonese): *The Government has not replied to the last question: will the measure be implemented at bus terminals in public and private housing estates in other parts of Hong Kong so as not to cause nuisance to the public? This question has not been answered by the Government in its main reply.*

SECRETARY FOR TRANSPORT: Mr President, as I have explained, the Traffic and Transport Committee of the Southern District Board has been consulted and has agreed to the arrangements for three of these four bus terminals. As to the reason why parking at bus terminals is required, this is for operational reasons to enhance efficiency and to reduce dead mileage. There is also a shortage of depot sites. Buses parked at depots in the Southern District serve that area and are all deployed on routes serving residential developments in Ap Lei Chau and in the Southern District.

Insofar as the Wong Chuk Hang site is concerned to which the Honourable Member referred, that particular depot was mainly for maintenance and it provided parking for only 40 bus spaces. With the grant of 14 routes to Citybus, the requirements for CMB have been substantially reduced; in fact 76 buses no longer operate from the Southern District. So, in fact, the sale of that depot site has not aggravated the current position.

MR ANDREW CHENG (in Cantonese): *Mr President, I would like you to make a ruling in your capacity as President because the Secretary for Transport has given no reply at all as to whether in other parts of Hong Kong.....*

PRESIDENT: Mr CHENG, please resume your seat.

I do not find the exchange very desirable. Mr CHENG's supplementary has nothing to do with the preamble of the supplementary and the Secretary's answer was an answer to the preamble which was not a question. The specific question was: Will the Government implement a similar policy in the other districts?

SECRETARY FOR TRANSPORT: Mr President, on-site parking and at bus terminals are necessary for operational reasons. As far as the Administration is concerned, these arrangements will have to continue.

PRESIDENT: I will have to in future rule Members' questions out of order if the preamble has nothing to do with the question.

MRS MIRIAM LAU (in Cantonese): *Mr President, will the Secretary for Transport inform this Council whether a bus company is required to submit a bus parking proposal to the Transport Department for approval when it puts forward to the Government a development plan for acquiring more buses?*

SECRETARY FOR TRANSPORT: Mr President, when bus companies put forward proposals for route development programmes or for the expansion of their services, both the Government and of course the district boards are consulted, and as part of this exercise the requirement for parking spaces is taken into consideration.

MR TSANG KIN-SHING (in Cantonese): *Mr President, as I cannot find in the plan any development of bus parking sites, may I ask the Secretary for Transport whether parking on-site and at bus terminals is allowed under the existing policy?*

SECRETARY FOR TRANSPORT: Mr President, it must be recognized that in the urban areas, it is extremely difficult to find depot sites. Even when depot sites are available, it is essential to ensure that the buses can operate efficiently and at the lowest possible cost. If parking on-site and at bus terminals are not permitted, this would mean unnecessary dead trips.

Proportion between Air-conditioned and Non-air-conditioned Buses

3. **MR WONG WAI-YIN** asked: *Will the Government inform this Council:*

- (a) *of the number of air-conditioned buses and non air-conditioned buses of three of the franchised bus companies (that is, the Kowloon Motor Bus Company Limited, the China Motor Bus Company Limited and the Citybus Limited), as well as the proportion between these two types of buses in the fleets of each of the three franchised bus companies, in each of the past three years;*
- (b) *of a breakdown of the existing number of air-conditioned buses and non air-conditioned buses of the three franchised bus companies operating on each specified route, together with the increase in the number of air-conditioned buses in each of the three franchised bus companies in each of the past three years;*
- (c) *of the difference in fares on average between air-conditioned buses*

and non air-conditioned buses; and

- (d) *how the three bus companies determine the number of air-conditioned buses and non air-conditioned buses to be deployed on each route and the difference in fares between the two types of buses?*

SECRETARY FOR TRANSPORT: Mr President, the Honourable WONG Wai-yin has asked for a lot of facts and figures. For easy reference, I have provided these in the Annex to my reply.

Turning to the deployment of buses on each route, our feedback is that most commuters welcome air-conditioned buses since they are cleaner, more comfortable and quieter. Having said this, some commuters of course opt for non-air-conditioned buses because of the lower fares.

There are different fare scales for both air-conditioned and non-air-conditioned buses. The main reason is because the the vehicle price as well as the operating costs for air-conditioned buses are higher than those for non-air-conditioned buses. The Traffic and Transport Committees of the district boards are consulted on service proposals and recommended fares.

Annex

- (a) The number of air-conditioned (A/C) buses and non-A/C buses of CMB, KMB and Citybus and the proportion between these two types of buses in their total fleets over the past three years:

CMB			
<i>End of year</i>	<i>No. of A/C buses</i>	<i>No. of Non-A/C buses</i>	<i>Proportion of A/C buses in total fleet</i>
1993	103	816	11%
1994	123	796	13%
1995	153	737	17%

KMB

<i>End of year</i>	<i>No. of A/C buses</i>	<i>No. of Non-A/C buses</i>	<i>Proportion of A/C buses in total fleet</i>
1993	618	2 579	19%
1994	796	2 602	23%
1995	1019	2 494	29%

Citybus

<i>End of year</i>	<i>No. of A/C buses</i>	<i>No. of Non-A/C buses</i>	<i>Proportion of A/C buses in total fleet</i>
1993	99	111	47%
1994	140	107	57%
1995	264	104	72%

- (b) The increase in the number of A/C buses by CMB, KMB and Citybus in each of the past three years:

Increase in the number of A/C buses

<i>Year</i>	<i>CMB</i>	<i>KMB</i>	<i>Citybus</i>
1993	20	107	90
1994	30	178	41
1995	20	223	124

- (c) The difference in fares between A/C buses and non-A/C bus services operated by CMB, KMB and Citybus:

<i>Year</i>	<i>CMB</i>	<i>KMB</i>	<i>Citybus</i>
1995	33%	39%	20%

- (b) Breakdown of the existing number of A/C buses and non-A/C buses of CMB, KMB and Citybus on each specified route:

CMB Bus Routes (as at end of December 1995)

<i>Route No.</i>	<i>No. of A/C buses</i>	<i>No. of non-A/C buses</i>	<i>Total</i>
<i>Local Routes</i>			
2	-	11	11
2A	-	9	9
2M	-	2	2
3	-	6	6
3A	-	1	1
4	-	13	13
8	6	15	21
9	-	4	4
10	-	21	21
10A	-	6	6
11A	-	3	3
13	-	5	5
14	-	4	4
15	2	5	7
15A	-	9	9
15B	-	4	4
15M	-	6	6
15X	5	-	5
18	-	10	10
19	-	6	6
20	-	8	8
21	-	7	7
22	-	8	8
23	5	10	15
23A	-	7	7
23B	-	6	6
25	-	9	9
25M	-	2	2

26	-	5	5
27	-	3	3
<i>Route No.</i>	<i>No. of A/C buses</i>	<i>No. of non-A/C buses</i>	<i>Total</i>

Local Routes

38	3	5	8
38A	-	6	6
41	-	6	6
42	*	8	8
43	-	6	6
43X	-	6	6
47	-	6	6
63	-	5	5
64	-	5	5
65	-	6	6
66	-	5	5
77	-	5	5
78	-	4	4
79	*	2	2
80	-	7	7
81	-	8	8
81A	-	3	3
82	-	14	14
83	-	5	5
84	-	8	8
84M	2	4	6
86	-	8	8
88	-	8	8
91	*	6	6
91A	-	2	2
93	2	2	4
93A	*	2	2
94	-	6	6
94A	-	6	6
45	-	5	5
95	-	5	5
95A	-	2	2
95B	1	1	2

260X	4	-	4
262	3	-	3
<i>Route No.</i>	<i>No. of A/C buses</i>	<i>No. of non-A/C buses</i>	<i>Total</i>

Local Routes

304	-	10	10
308	-	8	8
338	-	1	1
357	-	8	8
374	-	3	3
388	-	10	10
389	-	10	10
392	-	8	8
399	-	3	3
500	1	-	1
504	6	-	6
537	4	-	4
543	6	-	6
590	11	2	13
595	3	-	3
720	-	12	12
721		6	6
722	-	6	6
780	3	8	11
781	-	4	4
788	*	10	10

Cross Harbour Services

101	*	14	14
101R	-	10	10
102	5	8	13
102R	-	20	20
104	-	12	12
105	*	12	12
106	-	7	7
109	-	5	5

110	*	5	5
111	*	10	10
<i>Route No.</i>	<i>No. of A/C buses</i>	<i>No. of non-A/C buses</i>	<i>Total</i>

Cross Harbour Services

111S	-	5	5
112	*	11	11
112S	-	10	10
113	-	11	11
114	*	4	4
115	4	-	4
116	-	7	7
121	-	3	3
122	-	3	3
300	5	-	5
301	7	-	7
302	2	-	2
303	2	-	2
305	1	-	1
307	4	-	4
336	2	-	2
337	1	-	1
348	1	-	1
606	-	5	5
619	-	7	7
641	-	6	6
680	3	3	6
690	-	8	8
691	5	-	5
802	1	-	1
811	1	-	1
A20	6	-	6

* Additional A/C buses may be deployed to supplement the service

KMB Bus Routes (as at end of December 1995)

<i>Route No.</i>	<i>No. of A/C buses</i>	<i>No. of non-A/C buses</i>	<i>Total</i>
<i>Local Routes</i>			
1	7	12	19
1A	10	19	29
2	7	12	19
2A	2	16	18
2B	-	5	5
2C	-	5	5
2D	-	3	3
2E	-	10	10
2F	-	14	14
3	-	6	6
3S	-	5	5
3B	-	9	9
3C	-	12	12
3D	-	10	10
3M	-	3	3
4A	-	4	4
5	4	17	21
5A	-	4	4
5C	-	18	18
5D	-	6	6
6	3	6	9
6A	-	12	12
6B	-	7	7
6C	4	18	22
6D	-	9	9
6F	-	8	8
6S	-	8	8
7	4	8	12
7B	-	7	7
7M	-	3	3
8	-	12	12

8A	4	-	4
9	-	12	12
<i>Route No.</i>	<i>No. of A/C buses</i>	<i>No. of non-A/C buses</i>	<i>Total</i>

Local Routes

10	-	9	9
11	4	10	14
11B	-	10	10
11C	-	9	9
11D	-	6	6
11K	-	10	10
12	-	6	6
12A	-	8	8
13D	-	10	10
13E	-	7	7
13K	-	13	13
13M	-	5	5
13X	-	7	7
14	2	11	13
14B	-	9	9
14C	-	2	2
14R	4	-	4
14X	-	3	3
15	-	13	13
15A	-	12	12
16	3	21	24
16M	-	6	6
17	-	10	10
18	-	5	5
21	-	10	10
23	-	8	8
23M	-	8	8
24K	-	5	5
26	4	12	16
26M	-	5	5
26S	-	15	15
27K	-	13	13
28	-	15	15

28A	-	4	4
29M	-	9	9
<i>Route No.</i>	<i>No. of A/C buses</i>	<i>No. of non-A/C buses</i>	<i>Total</i>

Local Routes

30	-	7	7
30X	2	7	9
31	-	6	6
31B	-	9	9
31M	-	8	8
32	-	10	10
32B	-	3	3
32M	-	4	4
33A	-	13	13
34	-	5	5
34B	2	2	4
34M	-	2	2
35A	-	6	6
36	-	5	5
36A	-	7	7
36B	-	14	14
36M	-	5	5
37	-	13	13
37M	-	4	4
38	-	16	16
38A	-	5	5
38P	-	2	2
38S	-	8	8
39A	-	3	3
39M	-	5	5
39R	-	1	1
40	4	10	14
40X	-	13	13
41	-	10	10
41A	4	11	15
41M	3	8	11
42	-	12	12
42A	-	17	17

42C	-	14	14
42M	2	4	6
<i>Route No.</i>	<i>No. of A/C buses</i>	<i>No. of non-A/C buses</i>	<i>Total</i>

Local Routes

43	-	16	16
43A	-	9	9
43B	-	11	11
43C	-	18	18
43M	-	8	8
43S	-	9	9
43X	-	10	10
44	-	21	21
44M	-	12	12
44S	-	1	1
45	-	8	8
46	-	7	7
46X	-	20	20
47X	-	15	15
48X	-	13	13
49X	-	13	13
51	-	9	9
52M	-	12	12
52X	-	10	10
53	-	8	8
54	-	4	4
57M	3	12	15
58M	4	20	24
58X	4	12	16
59A	-	15	15
59M	5	19	24
59S	-	3	3
59X	6	11	17
60	-	10	10
60M	-	13	13
60P	-	6	6
60S	2	8	10
60X	3	20	23

61X	2	14	16
62X	-	11	11
<i>Route No.</i>	<i>No. of A/C buses</i>	<i>No. of non-A/C buses</i>	<i>Total</i>

Local Routes

64K	-	7	7
64M	2	6	8
65K	-	2	2
66	-	13	13
66M	1	12	13
66X	4	13	17
67M	-	14	14
67X	2	9	11
68	-	14	14
68A	-	15	15
68M	7	15	22
68S	3	5	8
68X	6	21	27
69M	6	12	18
69X	-	12	12
70	-	14	14
70K	-	7	7
70R	-	10	10
70S	-	24	24
70X	-	19	19
71A	-	4	4
71B	-	2	2
71K	-	6	6
71S	-	4	4
72	-	9	9
72A	-	6	6
72X	-	20	20
73	-	7	7
73A	-	8	8
73K	-	2	2
73X	-	23	23
74A	-	12	12
74K	-	2	2

74R	-	17	17
74X	5	19	24
<i>Route No.</i>	<i>No. of A/C buses</i>	<i>No. of non-A/C buses</i>	<i>Total</i>

Local Routes

75K	-	6	6
75X	3	13	16
76K	-	8	8
77K	-	10	10
78K	-	4	4
79K	-	3	3
80	-	22	22
80K	-	11	11
80M	-	8	8
80S	-	11	11
80X	-	8	8
81	5	13	18
81C	4	21	25
81K	-	11	11
81M	-	7	7
82K	-	6	6
82M	2	8	10
82S	-	14	14
82X	3	5	8
83K	-	8	8
83P	-	2	2
83X	-	5	5
84M	-	5	5
85	-	10	10
85A	-	12	12
85B	-	10	10
85C	3	13	16
85K	-	19	19
85M	5	15	20
85S	-	22	22
86	-	13	13
86A	-	8	8
86B	-	7	7

86C	3	13	16
86K	-	16	16
<i>Route No.</i>	<i>No. of A/C buses</i>	<i>No. of non-A/C buses</i>	<i>Total</i>

Local Routes

87	-	5	5
87A	3	10	13
87B	-	14	14
87D	6	13	19
87K	-	12	12
88K	-	10	10
88M	-	5	5
89	1	11	12
89B	2	11	13
89C	-	14	14
89D	4	9	13
89X	-	8	8
90	4	-	4
91	-	8	8
91M	-	9	9
92	-	12	12
93A	-	14	14
93K	2	22	24
93M	-	6	6
94	1	1	2
95	-	15	15
95M	-	10	10
96R	-	10	10
98A	4	15	19
98C	-	10	10
98D	8	11	19
99	-	1	1
100	10	-	10
203	8	-	8
203E	12	-	12
208	8	-	8
211	9	-	9
212	10	-	10

215X	14	-	14
216M	6	-	6
<i>Route No.</i>	<i>No. of A/C buses</i>	<i>No. of non-A/C buses</i>	<i>Total</i>

Local Routes

216S	6	-	6
219X	5	-	5
224M	3	-	3
224X	8	-	8
230X	3	-	3
234A	9	-	9
234P	2	-	2
234X	10	-	10
235	6	-	6
235M	7	-	7
235X	3	-	3
238M	4	-	4
238X	12	-	12
241S	7	-	7
242X	2	-	2
243M	7	-	7
252B	2	-	2
257B	1	-	1
258B	2	-	2
258C	1	-	1
258D	2	-	2
259B	2	-	2
259C	1	-	1
259D	2	-	2
260B	4	-	4
260C	4	-	4
261B	1	-	1
261M	4	-	4
262P	4	-	4
263R	6	-	6
267S	1	-	1
268B	3	-	3
269C	3	-	3

270	4	-	4
271	14	-	14
<i>Route No.</i>	<i>No. of A/C buses</i>	<i>No. of non-A/C buses</i>	<i>Total</i>

Local Routes

271S	8	-	8
272P	1	-	1
273	12	-	12
276	19	-	19
280P	5	-	5
281P	2	-	2
281S	7	-	7
282	5	-	5
284	10	-	10
289R	4	-	4
290	4	-	4
291R	1	-	1
292P	1	-	1
293P	2	-	2
293S	8	-	8
298	10	-	10
298R	4	-	4
299	11	-	11
848	-	10	10
868	2	-	2
872	-	8	8
885	-	5	5
886	5	-	5
887	-	17	17
888	-	5	5
889	16	-	16
891	-	10	10
A1	5	-	5
A7	4	-	4
A8	4	-	4
B1	6	-	6

<i>Route No.</i>	<i>No. of A/C buses</i>	<i>No. of non-A/C buses</i>	<i>Total</i>
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Cross Harbour Routes

101	14	4	18
101R	-	10	10
102	11	4	15
102R	-	20	20
103	7	-	7
104	8	6	14
105	11	4	15
106	7	2	9
107	6	-	6
108	6	-	6
109	-	5	5
110	5	-	5
111	13	-	13
111S	-	5	5
112	13	-	13
112S	-	3	3
113	-	11	11
114	4	-	4
115	4	-	4
116	7	1	8
117	4	-	4
118	7	-	7
121	-	3	3
122	-	3	3
170	7	-	7
171	5	-	5
182	6	-	6
300	12	-	12
301	7	-	7
302	4	-	4
303	2	-	2
305	1	-	1
307	6	-	6

334	2	-	2
336	3	-	3
<i>Route No.</i>	<i>No. of A/C buses</i>	<i>No. of non-A/C buses</i>	<i>Total</i>

Cross Harbour Routes

337	1	-	1
348	1	-	1
368	2	-	2
369	1	-	1
373	1	-	1
601	4	3	7
603	10	-	10
606	3	3	6
619	4	3	7
641	6	-	6
680	3	5	8
681	5	-	5
690	3	5	8
691	5	-	5
802	1	-	1
811	1	-	1
A2	8	-	8
A3	5	-	5
A5	5	-	5

Citybus Bus Routes (as at end of December 1995)

<i>Route No.</i>	<i>No. of A/C buses</i>	<i>No. of non-A/C buses</i>	<i>Total</i>
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Local Routes

1	6	-	6
1M	3	-	3
5	2	10	12
5A	3	5	8
5B	3	5	8
5M	*	4	4

6	6	-	6
6A	4	-	4
<i>Route No.</i>	<i>No. of A/C buses</i>	<i>No. of non-A/C buses</i>	<i>Total</i>

Local Routes

6X	2	-	2
7	9	-	9
10X	4	-	4
11	8	-	8
12	4	-	4
12A	3	-	3
12M	3	-	3
37	-	4	4
37M	6	-	6
40	9	-	9
40M	10	-	10
48	-	6	6
61	4	-	4
61M	3	-	3
70	12	-	12
70M	*	4	4
71	6	*	6
72	*	8	8
72A	*	6	6
72B	-	3	3
73	-	7	7
74	2	-	2
75	*	8	8
76	3	-	3
85	2	6	8
90	11	-	11
90A	2	-	2
90B	8	-	8
92	7	*	7
96	*	7	7
97	12	-	12
97A	-	2	2
98	*	6	6

99	7	-	7
260	8	-	8
<i>Route No.</i>	<i>No. of A/C buses</i>	<i>No. of non-A/C buses</i>	<i>Total</i>

Local Routes

511	2	-	2
592	8	-	8
N72	2	-	2
N90	2	-	2

Cross Harbour Routes

103	7	-	7
107	6	-	6
117	4	-	4
118	7	-	7
170	8	-	8
171	5	-	5
182	6	-	6
681	5	-	5

* Additional A/C or non-A/C buses may be deployed to supplement the service

MR WONG WAI-YIN (in Cantonese): *Before I raise a supplementary question, I would like the President to make a ruling as to whether the Secretary for Transport has answered my question. Apart from providing some figures, he has given no answer to parts (c) and (d) of my question. I would like the President to make a ruling as to whether the Secretary for Transport has answered my question.*

PRESIDENT: It is for the Secretary for Transport to answer your question. He has provided an answer. If you seek clarification you can ask a supplementary, Mr WONG Wai-yin.

MR WONG WAI-YIN (in Cantonese): *Mr President, the Secretary for Transport has not answered parts (c) and (d) of my question. Air-conditioned buses have been running in Hong Kong for many years. My question is focused on average fare differentials between air-conditioned buses and non-air-conditioned buses and on how to determine the number of air-conditioned buses and non-air-conditioned buses to be deployed on each route. I very much hope that the Secretary for Transport will talk about these two points in detail in his reply later on. As a monitoring body, how does the Transport Department ensure that the number of air-conditioned buses put into service by a bus company is in compliance with that approved by the Department instead of exceeding it?*

PRESIDENT: There are several supplementaries here. I will let the Secretary answer the first supplementary.

SECRETARY FOR TRANSPORT: Mr President, regarding the average fare differentials between fares of air-conditioned and non-air-conditioned buses, I have given the average figures in part (c) of the reply in the Annex. For CMB, the difference is 33%; for KMB, it is 39%; and for Citybus, it is 20%.

Insofar as monitoring is concerned, Mr President, the numbers and types of buses deployed on each route are proposed by the franchised bus companies and are subject to approval by the Commissioner of Transport. In giving this approval, the Commissioner takes into account the views expressed by District Board Traffic and Transport Committees when route development programmes are put to these committees.

Insofar as the actual deployment of buses is concerned, the Transport Department carries out surveys and spot-checks to monitor the position.

MRS MIRIAM LAU (in Cantonese): *Will the Secretary for Transport inform this Council how the Government can ensure that the ratio of air-conditioned buses to non-air-conditioned buses really meets passengers' need? As regards passengers' need, they generally feel that in summer there are not enough*

air-conditioned buses and that the buses are not cool enough, whereas in winter they find that there are too many air-conditioned buses and that the buses are too cold.

SECRETARY FOR TRANSPORT: Mr President, I do not think it is practical for the bus companies to have two fleets of buses, one for the summer and one for the winter. Having said that, as I said, the Department does monitor the actual deployment of buses. The newer generation of air-conditioned buses in fact provide for warm air as well; they have thermostat controls. And as I said, our feedback and that from the bus companies is that more and more passengers prefer the comfort and the quality provided by air-conditioned buses.

MR WONG WAI-YIN (in Cantonese): *Mr President, will the Secretary for Transport inform this Council of the percentage of profit generated by air-conditioned buses for the three bus companies in the last three years?*

PRESIDENT: I am afraid that exceeds the scope of the original question, but if the Secretary has the answer.

SECRETARY FOR TRANSPORT: Mr President, I do not have the detailed figures, but I shall try and provide those for the Honourable Member. (Annex II) Bus companies must operate both profitable and non-profitable routes. But I can give Honourable Members an assurance that the revenue from passengers who travel on non-air-conditioned buses in no way subsidizes the operating costs of air-conditioned buses.

Repatriation of Vietnamese Migrants after 1997

4. **MISS EMILY LAU** asked (in Cantonese): *With regard to the recent statement made by Chinese officials that the Hong Kong Special Administrative Region Government may repatriate all Vietnamese migrants immediately upon their entering the territory after the change in sovereignty in 1997, will the Government inform this Council:*

(a) *of the existing laws which govern the policies relating to the*

handling of refugees and illegal immigrants;

- (b) how these policies are now enforced; and*
- (c) under what circumstances will the existing policy of "repatriation upon arrest" be implemented?*

SECRETARY FOR SECURITY (in Cantonese): Mr President,

- (a) The law governing the handling of illegal immigrants in general is set out in Sections 4, 11, 18, 19 and 38 of the Immigration Ordinance (Cap. 115). The law relating to the handling of illegal entrants of Vietnamese origin is contained in Part IIIA of the Immigration Ordinance. Extracts of the relevant parts of the Ordinance are attached as Annex to the written version of this reply.
- (b) In general, our policy requires that illegal immigrants, unless there are exceptional humanitarian or compassionate grounds, be repatriated to their country of origin at the earliest opportunity. Exceptions are made in respect of certain types of illegal entrants, for example, those found in workplaces, or those who committed other crimes, where the illegal entrants are repatriated to their country of origin after they have served whatever sentences imposed by the courts. In the case of illegal entrants of Vietnamese origin, we have undertaken as part of the Comprehensive Plan of Action to examine and determine their refugee status in accordance with UNHCR's criteria (and so on whether they have a well-founded fear of persecution). Those who are determined to be non-refugees are repatriated to Vietnam as soon as they are accepted for return by the Vietnamese Government and when appropriate arrangements can be made for their repatriation. As regards those who are screened in as refugees, the UNHCR arranges for their resettlement elsewhere.
- (c) Repatriation of illegal immigrants depends not only on the powers available under the Immigration Ordinance, but also on the agreement of the receiving country to accept back persons believed to be its citizens. Normally, when the receiving country is able to verify the identity of the illegal immigrant, repatriation can then be

effected. In the case of Chinese illegal immigrants, we have an arrangement with China to immediately repatriate illegal immigrants arrested in Hong Kong without any verification of the illegal immigrants' identity by China.

PRESIDENT: As the relevant extracts from the law are published material, I will have them removed from the official record, the Hansard. So, for all intents and purposes, the printed extracts are placed at the seats of Members for their reference.

MISS EMILY LAU (in Cantonese): *Mr President, my question has not been answered by the Government in part (a) of its main reply because part (a) of my question covers two points: what existing laws govern the handling of refugees and illegal immigrants? Mr President, the Government has only answered the question on illegal immigrants in part (a) of its reply, which also mentions provisions in the Immigration Ordinance. But the Secretary for Security has only dealt with Vietnamese in part (b) of his reply, saying that Hong Kong has undertaken to determine their refugee status in accordance with UNHCR's criteria. If we look at the Immigration Ordinance attached by the Government in the Annex today, section 13 also refers specifically to Vietnamese. Mr President, I would like to ask the Government whether there is, generally speaking, no legislation in Hong Kong governing the handling of refugees. Why then has Hong Kong enacted a specific law to handle Vietnamese refugees?*

SECRETARY FOR SECURITY (in Cantonese): Mr President, I have actually given a detailed explanation in my main reply to the Honourable Miss Emily LAU's question. I have listed in part (a) of my main reply the provisions relating to the policy of handling illegal immigrants. The law in Hong Kong governing the handling of refugees has also been listed in part (a) of my main reply. Of course, after reading these provisions, you will understand that illegal entrants of Vietnamese origin are subject to a special screening procedure to determine their refugee status. I have explained clearly the reason in part (b) of my reply. As part of the Comprehensive Plan of Action, Hong Kong and other ports of asylum are required to carry out the refugee screening procedure in their own territories. As regards those Vietnamese who are screened in as refugees, UNHCR arranges for their resettlement elsewhere after other participating countries have agreed to accept them. As regards those Vietnamese who are determined to be non-refugees, we repatriate them to Vietnam.

DR HUANG CHEN-YA (in Cantonese): *Mr President, will the Government inform this Council whether no people other than Vietnamese are qualified to be refugees? If so, what is the reason for this?*

SECRETARY FOR SECURITY (in Cantonese): Mr President, with the exception of illegal entrants of Vietnamese origin, there is no other official policy or legislation in Hong Kong law governing the screening of refugees. As to why there are provisions governing the handling of illegal entrants of Vietnamese origin, I have explained twice, in my main reply and in my reply to Miss Emily LAU's question just now respectively.

PRESIDENT: Last supplementary.

MISS EMILY LAU (in Cantonese): *Mr President, as there are too many provisions for us to scrutinize, I, being as worried as Dr the Honourable HUANG Chen-ya, would like to ask the Government to tell us clearly whether there is legislation governing how to determine illegal entrants who are not of Vietnamese origin to be refugees and to tell us how we handle these people. There are people who may not be of Vietnamese origin but who come to Hong Kong to seek political asylum. Will the Government confirm how they are handled? Perhaps the Government can tell us whether because*

PRESIDENT: You can ask only one supplementary, Miss LAU.

MISS EMILY LAU (in Cantonese): *Since there are only two Members wishing to ask questions, may I ask one more supplementary?*

PRESIDENT: Would you please resume your seat. Take that first supplementary first, Secretary for Security.

SECRETARY FOR SECURITY (in Cantonese): Mr President, as it now stands, under the existing law there is a special procedure to determine the refugee status of illegal entrants of Vietnamese origin. Under the existing law there is no statutory procedure except the one for those from Vietnam. Nevertheless I have noted in my main reply that in general our policy requires that illegal immigrants be repatriated to their country of origin, unless there are exceptional humanitarian or compassionate grounds, in which case the Director of Immigration may exercise his discretionary power to allow them to stay in Hong Kong on those exceptional grounds.

PRESIDENT: I have earlier said last supplementary but since then I have one further Member who wishes to ask a question. I will allow two more supplementaries.

MR ALBERT HO (in Cantonese): *Is the policy of "immediate repatriation" applicable to people of any other nationality seeking refugee status? Are UN's convention on refugees and the rules currently adopted to screen refugees applicable to anyone seeking refugee status regardless of the person's nationality and complexion and other factors?*

SECRETARY FOR SECURITY (in Cantonese): Mr President, let me repeat once again that the law and the policy under the law governing the screening of refugees are only applicable to illegal entrants of Vietnamese origin. As regards illegal entrants who are not of Vietnamese origin, we are not required by any specific legislation to determine their refugee status. I have said very clearly how these illegal entrants are handled in part (b) of my main reply. In most cases we repatriate them to their country of origin unless there are exceptional humanitarian or compassionate grounds on which the Director of Immigration may exercise his discretionary power to allow them to stay in Hong Kong.

MISS EMILY LAU (in Cantonese): *Mr President, for the sake of fairness, will*

the Government consider enacting legislation so that anyone seeking political asylum in Hong Kong, whether of Vietnamese origin or not, is subject to screening under the law of Hong Kong?

SECRETARY FOR SECURITY (in Cantonese): Mr President, the provisions as set out in the Immigration Ordinance governing the determination of Vietnamese people's refugee status are very special provisions. It was under very special circumstances that we enacted these provisions. I believe when the Vietnamese boat people issue no longer exists in Hong Kong, those provisions will also disappear with it in the future.

Marine Accidents in Narrowed Fairways

5. **MRS MIRIAM LAU** (in Cantonese): *Mr President, a number of reclamation projects are now in progress and this has resulted in the narrowing of the fairways in the harbour. In this connection, will the Government inform this Council:*

- (a) of the number of traffic accidents which have occurred in the territory's waters over the past three years, and the number of such accidents which have resulted in injury and death; and*
- (b) what is the number of traffic accident blackspots in the territory's waters, and what measures are in place to reduce traffic accidents at these spots?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Mr President, first of all I would like to clarify that no fairways in Hong Kong waters will be narrowed as a result of reclamation projects. Of course, while construction work is being carried out in some areas, in connection, for example with the western harbour crossing and the new MTR railway tunnel, the fairways might be narrowed on a temporary basis. Once these projects are completed by the end of 1996 or early 1997, all fairways will return to their original width, that is at least 380 m. I can assure Members that no fairways will be narrowed permanently as a result of any reclamation project.

- (a) Turning to part (a) of the question, the number of marine traffic accidents over the last three years are:

1993 - 286

1994 - 239

1995 - 294

The majority of these accidents are minor incidents. Of these, 16 accidents led to injury or death in 1993, nine in 1994 and seven in 1995.

- (b) As regards marine traffic accident blackspots, the Director of Marine has identified three areas — near Tsing Yi, Yau Ma Tei, and Central where minor accidents have tended to be more frequent. Positive action has been taken to enhance marine safety in these particular spots as well as in other areas within Hong Kong waters. These activities include:

- (i) the realignment of fairways and anchorages to ease the movement of ocean-going vessels and reduce conflict areas;
- (ii) the implementation of marine pilotage reform which provides more training opportunities for pilots, and requires all vessels of 3 000 tonnes or above to take a pilot;
- (iii) the upgrading of our Vessels Traffic System by deployment of additional staff, new equipment and additional control centres. An example of this is the opening of a new marine traffic control station at Ma Wan to supervise the increasing marine traffic in this area;
- (iv) the expansion of the working hours of harbour patrols and the addition of more launches to patrol services. It is our target,

ultimately, to provide 24-hour patrol service; and

- (v) the amendment of vessel speed limits to take account of traffic level and operational needs.

In addition to the above marine traffic management improvements, a study on Risk Assessment and the Strategic Use of Hong Kong Waters is now in progress. This study will be completed within this year and should assist us to formulate future policies on the optimum use of Hong Kong waters.

MRS MIRIAM LAU (in Cantonese): *Mr President, the Government set up an investigation committee following the collision of two container vessels in April last year. After investigations, the committee made 16 major recommendations to enhance marine safety. Will the Secretary for Economic Services inform this Council how many of the 16 proposals have been accepted by the Government? What are the specific proposals accepted? Which proposals have been rejected and what are the reasons for rejecting them?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): *Mr President, overall, the improvement measures that I have mentioned in part (b) of my main reply today were consequent on the accident. As regards the 16 recommendations made by the committee and the Government's response to them, I will provide Mrs LAU with a written reply. (Annex III)*

MR EDWARD HO (in Cantonese): *Mr President, I would like the Secretary for Economic Services to clarify his remark that reclamation projects will not lead to narrowing of fairways. However, it cannot be denied that many parts of the harbour have been narrowed. There is no more cross-harbour swim nowadays; otherwise, I believe many people would be able to finish the race. Anyhow, the harbour is now too polluted for such a race anyway. According to the Secretary for Economic Services, there is no narrowing of fairways. However he has failed to note that small boats were able to pass through many of the places where boats used to anchor. As a matter of fact, fairways have been narrowed. What remains are fairways with no room for the anchorage of boats. As a result, both large vessels and small boats are using the same fairways.*

Will this affect safety?

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Mr President, in general, places for anchorage have now moved from the middle or northwestern part of Victoria Harbour to the large areas east of Lantau Island and south of Castle Peak Road in the New Territories, where there are stable positions for anchorage. Those slightly narrow places mentioned by the Honourable Member were chiefly parts of Central which used to provide room for anchorage, for example, the vicinity of the Yau Ma Tei Typhoon Shelter. However, owing to reclamation, those places are no longer there. So no boat should anchor at slightly narrow places. Boats should anchor at fixed anchorages and a wide enough area should remain as a fairway. The narrowest area now is over 800 m wide. I have mentioned earlier on that at least 380 m of the narrowest part of 800 m should be reserved as a fairway. Other places may be used as temporary anchorages.

MR WONG WAI-YIN (in Cantonese): *Mr President, according to some people in the engineering sector, there used to be a width of 1 600 m in Victoria Harbour, which has been reduced by several reclamation projects to 800 m. This has just been confirmed by the Secretary for Economic Services. In other words, the width has been reduced by half. But the last few years saw a considerable increase in the number of boats. I would like to ask the Secretary for Economic Services on what basis is the width of 380 m set for a fairway. How many boats can be safely accommodated in such a fairway? Now that there are so many boats, is a 380-metre fairway still applicable to such a busy Victoria Harbour? Will the authorities need to control the number of boats entering Victoria Harbour?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Mr President, the Marine Department has laid down specifically how to use a 380-metre fairway in places which are slightly narrow. A 380-metre fairway is definitely adequate for vessels because the largest ocean liner or container vessel that we usually see is generally about 40 m to 50 m wide. So a 380-metre fairway can

accommodate many of these vessels provided that they observe the rules.

MRS MIRIAM LAU (in Cantonese): *Mr President, the investigation committee I have mentioned earlier noted in its report that South Tsing Yi was a dangerous blackspot where four fairways met. Will the Secretary for Economic Services inform this Council whether special measures have been taken to deal with this blackspot specifically?*

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): *Mr President, I have mentioned this blackspot in Tsing Yi in my main reply. That is where minor collision accidents occur more frequently now. I will have to illustrate in writing to Mrs LAU how we actually exercise control and how vessels move. (Annex IV)*

Indoor Air Quality

6. **DR JOHN TSE** asked: *Will the Government inform this Council of the following:*

- (a) *what are the principal indoor air pollutants commonly found in commercial buildings, factories and residential premises in Hong Kong, and what effects these pollutants have on public health;*
- (b) *whether such buildings are designed and operated to provide sufficient outside air for each unit in the buildings; if so, whether there are guidelines specifying the minimum level of fresh air to be provided, and what action will be taken if the supply of fresh air is below the specified level;*
- (c) *whether the Government has carried out any research to gather data and information on indoor air quality and its associated health risks; if so, how many buildings are affected by indoor air pollutants, and how many occupants are put at health risk due to the presence of indoor air pollutants;*

- (d) *whether any measures, apart from the publication of educational materials, have been adopted to prevent building-related illnesses (for example, Legionnaires' Disease) occurring; and*
- (e) *whether any strategies or plans have been drawn up to improve indoor air quality; if so, what are the details?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President,

- (a) The most commonly found air pollutants in commercial and residential buildings include carbon dioxide, tobacco smoke, volatile organic compounds, microbes, radon gas, and air-borne particulates. The types of pollutants found in factories are setting-specific, depending on the chemicals and processes employed. Long-term exposure to high concentrations of indoor air pollutants may have harmful effects on health. Exposure to environmental tobacco smoke can lead to lung cancer while a microbe found in water-cooled air conditioning system could cause Legionnaires' Disease.
- (b) Buildings in Hong Kong are designed to provide sufficient fresh air for each occupant. The Building (Planning) Regulation sets out the required standards of ventilation for office and residential buildings. The Factories and Industrial Undertakings Ordinance requires adequate ventilation in factories and notifiable workplaces. The Public Health and Municipal Services Ordinance also requires owners of public places such as restaurants and cinemas to design and operate their ventilation systems to ensure adequate circulation of fresh air. Offenders are liable to penalties such as fines and suspension of business licence.
- (c) We have recently commissioned a consultancy study on indoor air pollution in offices and public places. When completed in mid-1997, the study will provide information for the assessment of the nature and extent of indoor air quality problems and the need for

prevention and mitigation measures.

- (d) An effective means to prevent building-related illnesses is to ensure adequate ventilation; this is currently effected through legislation governing buildings and workplaces. In addition, the prohibition of smoking in public places under the Smoking (Public Health) Ordinance can reduce the health impact of environmental tobacco smoke. As regards Legionnaires' Disease, preventive measures include a code of practice issued in December 1994 on the design, installation, operation and maintenance of air-monitoring and water systems, monitoring the occurrence of Legionnaire's Disease and investigating notified cases. Apart from information leaflets on the disease, a hotline has been set up by the Electrical and Mechanical Services Department to handle public enquiries. A territory-wide survey on cooling towers is also being carried out and will be completed by April this year. The data from this survey will assist in identifying the source of the disease in case of an outbreak.
- (e) The need for longer-term measures to improve indoor air quality will be assessed in the light of the findings of the consultancy study on indoor air pollution mentioned earlier. In the meantime, we propose to extend the statutory provisions governing ventilation in factories and industrial undertakings to office buildings. The proposed new legislation, which will cover matters such as ventilation and maintenance requirements, will be submitted to this Council later this year.

DR JOHN TSE: *Mr President, given the fact that most people spend over 80% of their time indoors — perhaps some of us here spend over 90% of our time indoors — together with the negative effects of indoor pollutants, will the Government establish a set of air quality standards to regulate and control air*

quality in public buildings and residences?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, as I have mentioned in my main reply, the ventilation standards of these types of buildings are already provided in law and they are enforced and monitored by the departments concerned. None of these monitoring and inspection results indicate a problem. Establishing an indoor quality standard is something we can consider later, but at the moment, we do not see any major problems arising from the standards we have set for the ventilation of mechanical air-coolers and conditioners.

MR ANDREW CHENG (in Cantonese): *The Secretary has mentioned in part (e) of his main reply a proposed new legislation. Will the Government stipulate in the new legislation that regular inspections should be carried out to monitor the maintenance of cooling systems in centrally cooled commercial buildings and factories so as to reduce indoor air pollution?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): Mr President, the design, assembly and operation of air conditioning systems installed in industrial and commercial buildings are already regulated by law. We can still consider introducing new legislation later to enhance control. We will give it consideration.

WRITTEN ANSWERS TO QUESTIONS

Use of Tear Gas

7. **MISS MARGARET NG** asked: *Will the Government inform this Council:*

- (a) *of the dates and locations when tear gas was used in Hong Kong in the last five years, together with the circumstances giving rise to such use and the quantity used on each occasion;*

- (b) *whether there are any policies and guidelines governing the use of tear gas; if so, what the details are; and*
- (c) *whether any tests have been conducted regarding possible harmful effects of tear gas on human beings, particularly when used in confined areas; if so, what the results are?*

SECRETARY FOR SECURITY: Mr President, between 1991 and 1995, the police used CS (o-chloro-benzylidenemalononitrile) gas on 25 occasions to maintain order in Vietnamese migrant detention centres (five times), to prevent smugglers escaping in "Tai Fei" or "Chung Fei" (17 times), to arrest armed or violent criminals (twice), and to deal with a civil disorder (once). From 1991 to 1995, the Correctional Services Department have used CS gas on 15 occasions in the Whitehead, High Island and Nei Ku Detention Centres to restore order during disturbances or during camp transfer operations. The quantity of CS gas used on each occasion varied from one round to over 3 800 rounds of CS cartridges and grenades.

The use of CS gas is subject to the general principle of use of minimum force in achieving specific objectives. This principle is provided in, for example, Rule 38 of the Immigration (Vietnamese Migrants) (Detention Centres) Rules, Rule 238 of the Prisons Rules and the relevant internal guidelines on the use of force of the Police Force. In essence, these provide for the following:

- (a) only the minimum level of force should be applied;
- (b) the use of force is to restore order quickly;
- (c) whenever possible, warning will be given;
- (d) force will not be used as a punitive measure;
- (e) force will cease immediately when the objective has been achieved;

- (f) the degree of force permissible is determined by the senior officer present; and
- (g) the decision to use CS gas within buildings, if required, rests with the senior officer present.

The Government does not conduct tests itself but keeps itself abreast of research conducted overseas on the effects of the use of tear gas. In the late 1970s, the Police Force replaced CN (w-chloroacetophenone) with CS smoke because the latter had been proven to be a much less toxic chemical agent. In addition, research so far has not been able to establish that tear smoke will cause prolonged or seriously harmful effect if it is used properly.

Telephone Lines for Elderly CSSA Recipients

8. **MR LAW CHI-KWONG** asked (in Chinese): *According to guidelines of the Comprehensive Social Security Assistance (CSSA) Scheme, only those elderly people who live alone or are physically handicapped or have special needs are eligible for subsidy from the Social Welfare Department for the provision of telephone lines, whereas other elderly people have to apply for subsidy from certain welfare funds for such a purpose. In this connection, will the Government inform this Council:*

- (a) *how many of the elderly people in receipt of CSSA payments are living alone and how many are not;*
- (b) *how many of the elderly people in each of the groups mentioned in (a) above receive subsidy from the Social Welfare Department for the provision of telephone lines and how many do not;*
- (c) *what criteria are adopted by the Social Welfare Department for approving applications for subsidy for the provision of telephone lines made by those elderly people who are not living alone; and*
- (d) *whether consideration has been given to allowing all elderly people in receipt of CSSA payments to be granted subsidy for the provision of telephone lines; if so, what is the outcome?*

SECRETARY FOR HEALTH AND WELFARE: Mr President,

- (a) Of the elderly persons currently in receipt of Comprehensive Social Security Assistance (CSSA), about 53 300 are living alone, about 23 900 are living in residential institutions and about 16 600 are living in a family.
- (b) We estimate that about 8 400 elderly clients living alone and about 3 700 elderly clients living in a family are receiving special grants to pay for their monthly telephone charges. We have no readily available statistics on the number of elderly CSSA clients who have received special grants for the provision of telephone lines.
- (c) Elderly CSSA clients not living alone may be provided with special grants for installing telephone lines if they can demonstrate a need for this facility to maintain contact and communication with other people. This special grant would be provided, for example, if all other members of the household were habitually not at home during the day and the elderly person thus left alone had no other easy access to a telephone.
- (d) Special grants for installing telephone lines are provided to those who need such a facility. It would not be appropriate to provide this special grant to all elderly clients regardless of whether they have such a need. For example, most elderly clients living in residential institutions already have access to communal telephones; many already have their own telephone lines installed before they join the CSSA Scheme; and some living in private tenements are able to use communal telephones provided by their landlords.

Aviation Fuel Rationing at Kai Tak before Christmas 1995

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

- (a) *of the circumstances leading to the necessity for adoption of special arrangements for the distribution of fuel to airlines at Kai Tak airport immediately before Christmas last year;*
- (b) *what is the prescribed minimum level of fuel supply at the airport and whether the level of supply will be increased upon the commissioning of a new fuel tank; and*
- (c) *what is the present progress regarding the project to construct additional fuel receiving facilities; and whether the commencement of the project has been delayed, and if so, what the reasons are?*

SECRETARY FOR ECONOMIC SERVICES: Mr President,

- (a) On 27 December 1995, the management of the Oil Companies Tank Farm at Kai Tak airport advised the Director of Civil Aviation that scheduled deliveries of aviation fuel from Singapore to the Tsing Yi oil depots would be delayed by two to three days because heavy seas on the delivery route required the oil companies' tankers to reduce speed. Consequently, the total stock of aviation fuel in Hong Kong fell below the usual level maintained by the oil companies. Fuel rationing at Kai Tai airport was put into effect on that date and lifted on 2 January 1996 upon arrival of the tankers and replenishment of stocks.
- (b) The oil companies supply aviation fuel continuously from the Tsing

Yi oil depots so as to maintain the stock at the airport close to the maximum level of about 27 000 cu m, which is equivalent to 2.7 days' consumption. A new fuel tank is expected to be commissioned in March 1996. This will increase the total storage capacity at Kai Tak to 35 000 cu m, which is equivalent to 3.5 days' consumption.

- (c) The additional fuel receiving facilities currently being constructed by the oil companies at Kai Tak comprise the new fuel tank mentioned in (b) above and a second dolphin for off-loading fuel from barges. Construction of the new dolphin was due to commence in September 1995 but has been delayed due to objections raised by a utility company, which has expressed concern that the works may affect a submarine gas pipe. Discussions are under way between the companies concerned to resolve the matter.

Payment of Premium before Resale of HOS Property

10. **MR BRUCE LIU** asked: *In the judgement in M.P. 3630 of 1994 (CHAN Chi-hung and LAW Lai-wan vs TSE Ying-piu and WONG Yiu-lai Flavia) (the "said judgement") delivered in September 1995, the judge interpreted paragraph (a) of the Schedule to the Housing Ordinance (Cap. 283) to mean that an owner of a Home Ownership Scheme property ("HOS property") shall have "first paid to the Authority the amount of the premium" before completing the sale of the property to a new purchaser. That is to say, such owner cannot use the proceeds of sale to pay the premium to the Authority. In this connection, will the Government inform this Council:*

- (a) *whether the administration accepts the reality which is that an owner of HOS property would sell his property and concurrently on completion of his sale pay the premium to the Authority from the proceeds of such sale; and*
- (b) *if so, in order to remove any doubt cast by the said judgement, whether the Administration intends to amend the Schedule to the Housing Ordinance?*

SECRETARY FOR HOUSING: Mr President, when a Home Ownership

Scheme (HOS) flat is sold, it is common practice for the purchaser's solicitor to send the assignment document and the sale proceeds to the vendor's solicitor, subject to an undertaking that the vendor will pay the premium to the Housing Authority before the completion of the sale. The assignment takes effect only after payment of the premium. In this way, the vendor can cover the required premium payment from the sale proceeds. The use of this form of transaction is subject to mutual agreement between the vendor and the purchaser.

The requirement for payment of premium under the Schedule is clear, and solicitors have generally not encountered difficulties in handling the sale of HOS flats either before or after the court case mentioned.

Expenditure Guideline Projections' Reference Date

11. **MR SIN CHUNG-KAI** asked: *It is mentioned in the "Practitioner's Guide — Management of Public Finances" published in March 1995 by the Finance Branch that the reference date for expenditure guideline projections is 1990-91 and that the expenditure ceiling for 1990-91 has been used to determine the expenditure guideline projections for subsequent years. Will the Government inform this Council:*

- (a) *of the criteria adopted for choosing 1990-91 as the "reference date" for expenditure guideline projections; and*
- (b) *whether a new reference date for the 1996-97 expenditure guideline projection will be adopted; if so, how many expenditure guideline projections will be covered by this new reference date?*

SECRETARY FOR THE TREASURY: Mr President, the Government has for many years followed the fundamental principle that government expenditure, over time, should be planned to grow at a rate no faster than the forecast trend growth rate of the economy measured in terms of the Gross Domestic Product (GDP). This broad working hypothesis was reinforced with the introduction of the Medium Range Forecast in 1986-87. From that time, the additional resources which could be made available each year to fund new/improved government services was controlled by reference to the forecast trend growth rate of GDP. However, at that time, there were no formal overall expenditure

guidelines.

In 1990, given the substantial infrastructural investment planned over a number of years, particularly in connection with the Airport Core Programme, and the need to assure ourselves that this investment could be accommodated without breaching the principle of controlling expenditure referred to above, the Financial Secretary adopted a fixed reference point for the purpose of planning future government expenditure. This fixed reference point was based on projected spending in 1990-91 and was used to determine the expenditure guidelines for 1991-92. These guidelines were published, for the first time, in the printed version of the Budget speech in March 1992.

Since that time, the expenditure guidelines have been rolled forward each year to take account of:

- (i) the forecast trend growth rate of GDP;
- (ii) the effect of price changes; and
- (iii) changes in the scope of government activities (for example, the guidelines have been reduced to reflect the creation of government trading funds, the expenditure on which ceases to be a charge on the General Revenue Account).

The expenditure guidelines for 1996-97 have been prepared on this same basis. There is no intention, at this time, to adopt a new reference date in calculating the expenditure guidelines for future years.

Withholding of Passports of Imported Workers

12. **MR LAU CHIN-SHEK** asked (in Chinese): *It was reported that on 18 December last year more than 30 imported workers employed by a construction and transportation company lodged a complaint with the police about the withholding of their Chinese passports by a labour service company. Before the police had informed the workers concerned of the results of the investigation, the labour service company intimated recently that the passports of these workers had already been delivered to Guangzhou for safekeeping. In this connection, will the Government inform this Council:*

- (a) *how the police will handle complaints from imported workers about withholding of their passports by labour service companies (including those operated by people from mainland China and those operated by Hong Kong people);*
- (b) *whether the police will institute legal proceedings against labour service companies or individuals if following investigations the labour service companies or individuals concerned are found to have withheld the passports of imported workers; and*
- (c) *what assistance does the Government provide to those imported workers whose passports are being withheld in mainland China so that they can return to their home towns as early as possible?*

SECRETARY FOR SECURITY: Mr President,

- (a) Upon receipt of complaints from imported workers about the withholding of their passports by labour service companies, irrespective of their country of origin, the police will investigate to ascertain if any criminal offence has been committed. Where necessary, the police will also liaise through established channels with the appropriate authorities in the country of origin of the workers or the companies concerned.
- (b) The fact that a person may be holding another person's passport does not necessarily mean that a criminal offence has been committed. There are, however, certain specific charges that can be considered where the circumstances justify, such as possession of unlawfully obtained travel document under section 42(2)(c)(i) of the Immigration Ordinance, or being a money lender demanding or accepting the passport as security for a loan contrary to section 29(5) of the Money Lenders Ordinance. The police will decide whether to institute legal proceedings against the labour service companies concerned depending upon the merits of the case, and may, if necessary, seek advice from the Attorney General's Chambers.

- (c) When necessary, the Immigration Department, in consultation with the Labour Department, will liaise with the relevant authorities in China through established channels to assist those imported workers who do not have valid travel documents with them, with the aim of facilitating their return to China.

"Shenzhen-Hong Kong Convergence" Concept

13. **MR ALLEN LEE** asked (in Chinese): *The economic development and people's livelihood between Hong Kong and the Shenzhen and Zhuhai Special Economic Zones in Guangdong Province in China are becoming increasingly closer, and there are reports that the officials in Shenzhen have drawn up a proposal on economic co-operation between Shenzhen and Hong Kong advocating the so-called "Shenzhen-Hong Kong convergence" concept. In this connection, will the Government inform this Council whether:*

- (a) *it is aware of the details of the above-mentioned proposal and whether it knows of the "Shenzhen-Hong Kong convergence" concept; if so, whether the Government has discussed the proposal with the Chinese officials; and*
- (b) *it has discussed the comprehensive and long-term economic co-operation between Hong Kong and Shenzhen/Zhuhai with the officials in Shenzhen and Zhuhai or other Chinese officials; if so, what are the details?*

FINANCIAL SECRETARY: Mr President, the Hong Kong Government has not received any report or proposal from the Chinese side on the subject of "Shenzhen-Hong Kong convergence", nor has the subject been raised with us by Chinese officials. No discussion of such a report has taken place between the Government and the Chinese side.

We believe it is essential to maintain a high level of economic co-operation between Hong Kong and the neighbouring regions in Guangdong Province. We pursue this fully. For example, the Hong Kong Government plays an active part in developing the border liaison network with relevant

authorities in Guangdong Province. More recently, the Infrastructure Co-ordinating Committee (ICC), brings together senior officials on both sides to co-ordinate the development of cross-border road, bridge, marine channel and railway projects, as well as air traffic control and airspace management in the Pearl River Delta. However, there has been no focused discussion on comprehensive and long-term economic co-operation between Hong Kong and Shenzhen/Zhuhai.

We remain committed to strengthening economic ties between Hong Kong and the neighbouring regions in Guangdong Province, while leaving our private sector to identify and pursue the commercial opportunities. We are always willing to consider any new proposals for improving bilateral economic links, which are consistent with the principle of "one country, two systems" and with Hong Kong's status as a separate customs territory. Given the spirit of the Sino-British Joint Declaration and the Basic Law and our international commitment to the World Trade Organization, Hong Kong's economic relationship with Shenzhen/Zhuhai, Guangdong or the rest of China should be one of mutual benefit, pursued on the basis of separate economic systems and policies.

Pre-recorded Putonghua Telephone Enquiry Service

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

- (a) *whether the "pre-recorded" telephone enquiry service currently provided by various government departments in Cantonese and English will also be provided in Putonghua, so as to facilitate members of the public, particularly the elderly and new immigrants, to use this service;*
- (b) *whether the government will consider training telephone operators or personnel responsible for answering telephone enquiries to use Putonghua; and*
- (c) *of the estimated additional costs that will be incurred annually in providing such service?*

CHIEF SECRETARY: Mr President,

- (a) Many departments have recognized the need to improve their telephone enquiry systems to meet the needs of the public, particularly the elderly and new immigrants. At present, there are eight computerized telephone enquiry systems which provide services in Putonghua. These include the Department of Health (on Aids counselling and pharmaceutical services), the Social Welfare, Regional Services, Labour, Census and Statistics and Civil Aviation Departments and the Office of the Telecommunications Authority. The Rating and Valuation and the Education Departments also plan to introduce Putonghua to their computerized telephone enquiry systems during 1996.

Other departments which have a major interface with the public such as the Immigration, Legal Aid, Water Supplies and Customs and Excise Departments are also considering introducing this service in future.

- (b) Training courses on handling telephone calls in Putonghua are being provided by the Government to personnel responsible for answering telephone enquiries.
- (c) Where a computerized telephone enquiry system exists, the additional cost of adding Putonghua as a language is not substantial, although this does vary depending on the complexity of the programming work involved.

Importation of Professionals from Mainland China

15. **MR LEUNG YIU-CHUNG** asked (in Chinese): *The Government launched a pilot scheme in March 1994 under which 1 000 employment visas are to be issued to bring in professionals from China to fill professional and managerial vacancies in non-Chinese funded firms in the territory. In this connection, will the Government inform this Council whether:*

- (a) *the Government has assessed if the scheme has impeded the training of local professionals and their career development;*
- (b) *any corresponding interim and long-term policies have been formulated since the introduction of the pilot scheme to train up local professionals with a view to abolishing the scheme at a later date; and*
- (c) *consideration will be given to reviewing the scheme as soon as the number of employment visas issued has reached a level of 50% of the quota under the Scheme?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, as regards part (a) of the question, the pilot scheme to bring in professionals from China is strictly restricted to those who possess special qualifications and experience of China which are in demand, but not readily available in Hong Kong. All employers wishing to apply for quota under the scheme are required to establish and substantiate their need for a particular professional from China and each application is carefully scrutinized by the Immigration Department before deciding whether it should be approved.

As of 31 January 1996, 688 out of the 1 000 quotas allocated have been approved for which 374 employment visas have been approved. It is not likely that the small number of such professionals who have so far entered Hong Kong for employment, will have any impact on the training and career prospect of the local professionals.

As regards parts (b) and (c) of the question, the pilot scheme is a limited extension to the existing policy on the entry of overseas professionals who possess special skill, knowledge or experience of value to but not readily available in Hong Kong. Whether the pilot scheme should continue depends on the local demand and supply of such professionals from China. In view of the slow take-up and utilization rate of the quotas under the pilot scheme, we will closely monitor the progress and conduct a review as and when a sufficiently large number, say 75%, of the visas have been approved.

Stamping of Government Department Letters

16. **MRS ELIZABETH WONG** asked: *Will the Government inform this Council:*

- (a) *whether government departments will be required to stamp all letters sent out as from 1 April this year; if so, whether the new arrangement will cause extra work to government departments; and*
- (b) *if the answer to (a) is in the affirmative, will the Government provide a breakdown by department of the estimated increase in expenditure on staff cost in the financial year 1996-97 arising from the introduction of the arrangement mentioned in (a) above?*

SECRETARY FOR ECONOMIC SERVICES: Mr President,

- (a) Government departments are required to pay individually for their own postage with effect from 1 April 1996 under the Post Office Trading Fund operation. The purpose is to reflect the true cost of the postal service used by government departments and to introduce a financial discipline on them to economize on the use of such services. This, however, does not mean that they have to affix stamps to every letter they send. Same as for the private sector, apart from using stamps to pay for postage, government departments can use franking machines to frank postage or post letters vide the Prepayment In Money or Permit Mailing systems. These arrangements, which are designed to meet the needs of business and bulk posters, obviate the need for affixing stamps.
- (b) Given the availability of alternative means for paying postage, we envisage that only a very small proportion of letters sent by government departments would need to be affixed with stamps. The workload involved would be minimal and can be coped with by existing staff of all departments.

Office Rental Allowance for District Board Members

17. **MR AMBROSE LAU** asked: *It is mentioned in the Policy Commitments published by the Government last year that an accountable office rental allowance of \$4,500 will be introduced to assist district board members to set up ward offices in their constituencies so that they could discharge their duties more effectively. Will the Administration inform this Council:*

- (a) of the effective date of the introduction of the allowance;*
- (b) whether the Administration agrees with the prevalent view of district board members that the amount of the allowance is insufficient for such purpose;*
- (c) whether the Administration will consider raising the allowance to a more realistic amount to achieve the intended purpose;*
- (d) whether maximum flexibility will be allowed in the use of the allowance so that its intended purpose can be achieved; and*
- (e) whether the procedural steps for the disbursement of the allowance will be kept to a minimum?*

SECRETARY FOR HOME AFFAIRS: Mr President,

- (a) We intend to submit a proposal for introducing a new Office Rental Allowance for district board members to the Finance Committee on 8 March 1996. Subject to the Finance Committee's approval, the allowance will be payable to district board members from 1 April 1996.
- (b) The allowance is intended to assist district board members to set up and maintain ward offices to enable them to discharge their duties in relation to district board business more effectively. The amount of \$4,500 was worked out on the basis of a survey conducted in 1995 which established that the rent for an office of 30 sq m ranged from \$5,000 for offices in public housing estates to \$9,000 for those in commercial buildings. An average rental of \$7,000 was thus

considered a reasonable ceiling. Given that a rental element equivalent to \$2,500 is already included in the existing honorarium for district board members, this new office rental allowance has been set at \$4,500 per month.

- (c) The amount is considered reasonable. Subject to the approval of the Finance Committee, the allowance will be revised annually.
- (d) We intend that recipients of the new allowance will be able to use it against rental costs as well as other office maintenance costs including rates, management charges and utilities expenses. District board members may also pool their allowance to run joint offices. We consider this approach to be one which will give district board members maximum flexibility in determining how they choose to spend their office rental allowance.
- (e) The allowance will be accountable and tax-exempted. District board members will have to provide supporting documentation when claiming reimbursement. This procedure will be simple and straightforward.

Traffic Improvement Projects for Central and Western District

18. **DR HUANG CHEN-YA** asked (in Chinese): *The Western Harbour Crossing (WHC) is scheduled to be completed and open to traffic in 1997. The increased traffic flow arising from the opening of the WHC will bring a heavy burden on the narrow roads in the Central and Western District. In view of this, will the Government inform this Council:*

- (a) *of the anticipated increase in traffic and pedestrian flow in the District after the opening of the WHC; and*
- (b) *whether there are any road and footpath improvement projects to tie in with the opening of the WHC; if so, what progress has been made to date, and whether these projects will be completed on time?*

SECRETARY FOR TRANSPORT: Mr President, whilst the opening of the Western Harbour Crossing (WHC) is not expected to result in any significant increase in traffic in Central District, there will be an increase in through traffic in Western District. At present, an average of about 55 000 vehicles a day travel through Western District with peak hourly flows of 4 000 vehicles in the morning and 4 200 in the afternoon. This is forecast to increase to 74 000 vehicles with peak hourly flows of 5 400 in the morning and 5 600 in the afternoon. We do not expect the WCH to have any adverse impact on pedestrian flow.

To cope with the increase in traffic, seven road improvement projects, with suitable pedestrian facilities, are in hand. Five will be completed in 1996 and the remaining two before mid-1997. Details are provided in the Annex.

Annex

(1) *Belcher Bay Link*

Progress remains good and the scheduled completion date is September 1996

(2) *Rock Hill Street Extension and associated traffic management measures*

Work is on schedule with completion in July 1996.

(3) *Smithfield Extension*

Work is proceeding at full speed. The scheduled completion date is June 1997.

(4) *Victoria Road Improvement Stage 2 phase 1*

Under construction with scheduled completion date in November 1997. Improvement works on carriageway will be completed by mid-1997.

(5) *Junction of Victoria Road/Cadogan Street Widening*

Upon partial termination of the tenancy affected, works will commence in August 1996. The scheduled completion date is December 1996.

(6) *Pedestrian Subway and junction improvements at Pok Fu Lam Road/Pokfield Road*

Work is in hand and the scheduled completion date is June 1996.

(7) *Pok Fu Lam Road Widening - Stage V*

Work is in hand and the scheduled completion date is September 1996.

Attendance at Hong Kong Museum of Art

19. **DR DAVID LI** asked: *In order to boost public attendance at the Hong Kong Museum of Art (the Museum) and enhance the public's appreciation of the art treasures on display in the Museum, will the Government inform this Council:*

- (a) *of the attendance record of the Museum in the past three years;*
- (b) *whether the Government will consider allowing groups to tour the Museum free of charge;*
- (c) *whether additional provision will be allocated for the launching of publicity campaigns to publicize the Museum's activities; and*
- (d) *whether the Museum will establish closer ties with its counterparts in overseas countries, such as the Metropolitan Museum of Art in New York, and arrange the loan of exhibits from these overseas organizations to add variety to its own exhibits?*

SECRETARY FOR RECREATION AND CULTURE: Mr President, I am replying on behalf of the Urban Council.

Concerning the first part of the question, the attendance record of the Hong Kong Museum of Art in the past three years is as follows:

<i>Year</i>	<i>1993</i>	<i>1994</i>	<i>1995</i>
Attendance	155 000	147 000	143 000

These figures do not include attendance at the Flagstaff House Museum of Teaware in the Hong Kong Park, where part of the Museum's collection of Chinese teawares and antiquities are on display, or attendance at educational and extension activities organized by the Museum. The attendance record of the Flagstaff House Museum of Teaware and educational and extension activities in the past three years is set out below:

Attendance

<i>Year</i>	<i>Teaware Museum</i>	<i>Educational and Extension Activities</i>
1993	224 000	16 000
1994	185 000	27 000
1995	173 000	38 000

As regards the second part of the question, the Urban Council at present charges \$10 for normal admission and \$5 for admission by the disabled, students and senior citizens aged 60 or over. To attract more visitors to the Museum, the Urban Council has implemented a number of incentive schemes. These are:

- (a) A 30% group discount for groups of 20 visitors or more, for both normal and concessionary admission.

- (b) An annual museum pass for unlimited admission to the Council's four main museums (Art, History, Space and Science) at \$100 for normal admission and \$50 for concessionary admission. A 50% discount is offered for museum pass purchased after 1 October as they are only valid for six months.
- (c) A group pass which admits four visitors but is valid for one visit only. The pass is calculated at the normal rate for the admission of two and is \$20 each.
- (d) A monthly pass, mainly targeted at tourists, at \$50 each and is valid for one month from the date of issue. A 10% discount is offered to holders of the pass at all museums' shops and the Council's publication centres.
- (e) For pre-booked group visits of 20 people or more, the group leader is admitted free and a free guided tour is given by docents trained by the Museum.

The Urban Council is currently examining ways and means to further popularize museum facilities, particularly those of the Hong Kong Museum of Art.

Regarding the third part of the question, publicity for museum activities is an ongoing effort of the Urban Council's Public Information Unit and a variety of methods are used. These include issuing press releases and feature articles to the electronic and print media, placing advertisements for major exhibitions in newspapers and magazines, advertising packages at Mass Transit Railway stations, Star Ferry Approaches, on TV stations and radios, arranging press conferences and previews of exhibitions for the media and inviting the mass media to attend opening ceremonies of exhibitions. In addition, the Museum produces posters, handouts, exhibition catalogues, and souvenirs to help publicize special events. As part of the Urban Council's current exercise to formulate a Five Year Plan for the museum services, the need for additional publicity will certainly be examined.

Finally, on the question of maintaining closer ties with overseas museums, since the opening of the Museum of Art in Tsim Sha Tsui in November 1991, the Museum has jointly organized 18 major exhibitions with museums and institutions in Canada, China, France, Germany, Italy, Japan, Spain, Switzerland, the United Kingdom and the United States. The Museum will continue to maintain an international character in its exhibition programmes.

Professional Staff Establishment of Transport Department

20. **DR SAMUEL WONG** asked: *In regard to the manpower resources required for various transport-related studies (such as the Bus Only Lane Study, the Freight Transport Study and the Parking Demand Study) being carried out by the Transport Department, will the Government inform this Council:*

- (a) whether the existing establishment of professional staff in the Transport Department is adequate to handle the extra workload arising from the above studies;*
- (b) if the answer to (a) is in the negative, whether additional staff have been or will be recruited; if so, what are the details; and*
- (c) whether a forecast has been made of the additional manpower resources required for implementing the recommendations of the studies; if so, what are the details?*

SECRETARY FOR TRANSPORT: Mr President, of the three studies mentioned, the Freight Transport Study and the Parking Demand Study have been completed with the assistance of consultants under the management of the Transport Department. These studies are being examined by the Administration.

The Bus Only Lane Study will also be assigned to consultants who will

assist in evaluating and designing bus-only lanes and implementing recommended schemes. The Transport Department is now preparing a consultancy brief and the Study is scheduled to commence in August this year. A special team comprising a Senior Engineer, an Engineer and one Senior Transport Officer, has been set up through the temporary redeployment of staff. Funds have been sought for the creation of these posts in the 1996-97 Estimates.

Two other important studies will also commence later this year. These are the Third Comprehensive Transport Study (CTS-3) and the Electronic Road Pricing Feasibility Study. While the former will be undertaken using existing departmental resources, the latter will require the creation of a dedicated project team comprising professional engineering and technical staff. Funds have also been sought in the 1996-97 Estimates for this purpose.

The longer-term manpower resources that may be required for implementing the recommendations of the various studies will be considered when specific action plans are drawn up.

MOTIONS

COMPANIES ORDINANCE

THE SECRETARY FOR FINANCIAL SERVICES to move the following motion:

"That the Companies (Fees and Percentages) (Amendment) Order 1996, made by the Chief Justice on 23 January 1996, be approved."

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

The Companies (Fees and Percentages) (Amendment) Order 1996 was made by the Chief Justice. It increases certain fees payable to the Registrar of Companies in relation to the inspection and photocopying of liquidators' statements sent to the Registrar under the Companies Ordinance.

The fees are increased, on average, by 9.2% in line with the increase in costs due to inflation as measured by the Government Consumption Expenditure Deflator (GCED). These fees were last revised in August 1994.

As a trading fund, the Companies Registry is required to provide an efficient and effective service while meeting the cost of the services that it provides from the income it receives. Since its establishment as a trading fund in August 1993, the Registry has introduced a number of measures to improve its services. These include obtaining customer's views of its present and proposed services by way of visits, questionnaires and surveys and introducing additional facilities such as on-line indexes of documents and listed company directors in refurbished and user-friendly premises. The latest service introduced last week is a facility to allow customers to have remote access to the Registry's names and document indexes and to order company searches by fax.

The Registry has budgeted for these modest fee increases to enable it to continue with its programme of developments and improvements in technology and services while ensuring that it can cover its increased costs. The revised fees, if approved, will come into operation on 1 March 1996.

Thank you, Mr President.

Question on the motion proposed, put and agreed to.

REGISTERED TRUSTEES INCORPORATION ORDINANCE

THE SECRETARY FOR FINANCIAL SERVICES to move the following motion:

"That the Registered Trustees Incorporation Ordinance (Amendment of Second Schedule) Order 1996, made by the Secretary for the Treasury on 23 January 1996, be approved."

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

The reasons for this proposal are identical to those I have just outlined in moving the first motion except that the proposed revised fees in this case are in

relation to inspection, certification and registration of documents, and related matters, under the Registered Trustees Incorporation Ordinance.

Thank you, Mr President.

Question on the motion proposed, put and agreed to.

BANKRUPTCY ORDINANCE

THE SECRETARY FOR FINANCIAL SERVICES to move the following motion:

"That the Bankruptcy (Fees and Percentages) (Amendment) Order 1996, made by the Chief Justice on 23 January 1996, be approved."

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

The Bankruptcy (Fees and Percentages) (Amendment) Order 1996, and the next three motions that I am going to move, namely, the Bankruptcy (Amendment) Rules 1996, the Companies (Fees and Percentages) (Amendment) (No. 2) Order 1996, and the Companies (Winding-up) (Amendment) Rules 1996, were all made by the Chief Justice. These are to increase the fees payable to the Official Receiver's Office in relation to proceedings in bankruptcy under the Bankruptcy Ordinance and in the winding-up of companies under the Companies Ordinance.

Most of the fees were last revised in November 1994. We propose to revise them generally in line with the increase in costs due to inflation. This is measured at 9.2% as calculated by the movement of the Government Consumption Expenditure Deflator (GCED). The actual fee revisions will sometimes differ slightly from the inflation rate due to the need to round fees up

or down so as to facilitate collection.

Where a fee has not been revised since 1988, the increase has been confined to 25% even though inflation since then has been 104.5%. This is to reduce the impact of the revision to a reasonable level. We propose to revise these fees each year by up to a maximum of 25% until they have reached the same level, in real terms, as in 1988. In relation to the costs of summoning a meeting of creditors, provision is also made for an additional charge for room hire. This is to reflect properly the extra costs that are incurred when it is necessary to hire rooms for meetings attended by numbers of creditors that are too large to be accommodated in the Official Receiver's Office.

The expected revenue from the fees being revised represents only around 11% of the Official Receiver's total revenue. This is because the majority of his revenue is derived from fees which are calculated according to fixed percentages, based on the realization of assets, dividends paid out and interest on bank deposits.

Due to the nature of insolvencies, the amount of fees and charges collected presently falls far short of the costs incurred by the Official Receiver's Office. In the current financial year, the total revenue is estimated to be \$88.3 million, representing only 52% of the total expenditure. The low cost recovery rate is due mainly to the fact that approximately 83% of insolvency cases have realizable assets of less than \$50,000, an amount insufficient to meet the Official Receiver's costs. The increases in the fees and charges being proposed in relation to personal bankruptcies and company windings-up are estimated to produce a total additional income to around \$215,000 per annum. As a consequence, the cost recovery rate would increase only marginally to 52.12%.

The level of fee increases proposed takes careful account of the ability of those who are required to pay the fees to bear additional charges. For this reason, I am not recommending more substantial revisions which might otherwise be justified.

The Bankruptcy (Fees and Percentage) (Amendment) Order 1996 deals with the 14 fees and charges under bankruptcy. The total amount of additional income from the proposed increases in bankruptcy fees and charges is estimated to be about \$105,000 per annum. This represents an average increase of just 0.8% when expressed as a percentage of the total bankruptcy income, estimated to be \$12.8 million for 1995-96.

Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

BANKRUPTCY ORDINANCE

THE SECRETARY FOR FINANCIAL SERVICES to move the following motion:

"That the Bankruptcy (Amendment) Rules 1996, made by the Chief Justice on 23 January 1996, be approved."

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

The Bankruptcy (Amendment) Rules 1996 revise the amount of deposit payable upon the presentation of a bankruptcy petition and in respect of compositions or schemes of arrangements put forward by debtors.

At present, a creditor presenting a petition for the bankruptcy of a debtor must deposit \$10,000 with the Official Receiver to cover the Official Receiver's initial costs and expenses of administration of the estate. A debtor who petitions for his own bankruptcy must also deposit \$10,000 with the Official Receiver.

We propose to reduce the amount of deposit in respect of a debtor's petition following the recommendation of the Bankruptcy Report of the Law Reform Commission published on 29 May 1995. The Report considered that people should not be discouraged from recourse to bankruptcy proceedings

because of an unnecessarily high level of deposit required.

The Report recommends that, at 1991 price levels, the level of deposit should be reduced from \$10,000 to \$5,000. Having regard to inflation since then, we now propose that the level of deposit be now reduced from \$10,000 to \$8,000.

Although the Law Reform Commission recommended a similar reduction in the deposit payable in respect of a creditor's petition, we consider a higher level of deposit is not beyond the reach of creditors, most of whom are trade creditors, financial institutions or banks. Given that the existing level of deposit of \$10,000 was set 11 years ago, we consider that a modest increase of 12.5% to \$11,250 is now justified.

The Bankruptcy (Amendment) Rules 1996 also revise the deposit payable when a bankrupt or a debtor lodges a proposal for a composition on satisfaction of his debts or a scheme of arrangement of his affairs out of monies to be provided by another person. The existing level is \$10,000 and was last revised in November 1993. The inflation rate since then has been 17.8%. We propose to increase this level only by 12.5% to \$11,250. This reflects the significant amount of work that the Official Receiver may be required to undertake in connection with such procedures.

Thank you, Mr President.

Question on the motion proposed, put and agreed to.

COMPANIES ORDINANCE

THE SECRETARY FOR FINANCIAL SERVICES to move the following motion:

"That the Companies (Fees and Percentages) (Amendment) (No. 2) Order 1996, made by the Chief Justice on 23 January 1996, be approved."

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

The Companies (Fees and Percentages) (Amendment) (No. 2) Order 1996 deals with the 13 fees and charges applicable to company windings-up. As with the related fees under the Bankruptcy (Fees and Percentages) (Amendment) Order 1996, we propose to increase these fees generally in line with inflation to cover increases in costs, except where they have not been revised for some years, where we are proposing a more gradual adjustment.

The total amount of additional fee income from the proposed increases in fees and charges for company windings-up is estimated to be \$110,000 per annum. This represents an average increase of just 0.2% when expressed as a percentage of the total income for windings-up, estimated to be \$45.6 million for 1995-96.

Thank you, Mr President.

Question on the motion proposed, put and agreed to.

COMPANIES ORDINANCE

THE SECRETARY FOR FINANCIAL SERVICES to move the following motion:

"That the Companies (Winding-up) (Amendment) Rules 1996, made by the Chief Justice on 23 January 1996, be approved."

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

The Companies (Winding-up) (Amendment) Rules 1996 revise the amount of deposit for the presentation of a petition for the winding-up of a company and rationalize the cost of summoning a meeting of creditors or contributories.

The present level of deposit of a petition is \$10,000 and we propose to increase it to \$11,250, being the same as that proposed for the deposit for a creditor's petition under the Bankruptcy (Amendment) Rules that I moved earlier.

The existing fee for all disbursements, printing, stationery and postage when the Official Receiver summons a meeting of creditors or contributories is calculated in a cumbersome and obscure manner, involving a sliding scale per creditor or contributory depending on the number of such persons attending. We propose now to update this to a fixed fee and bring it into line with the parallel fee under the Bankruptcy (Fees and Percentages) (Amendment) Order 1996, which we have proposed to increase from \$1,320 to \$1,440, with the additional charge for room hire when the numbers of creditors are too large to be accommodated in the Official Receiver's Office.

Thank you, Mr President.

Question on the motion proposed, put and agreed to.

BILLS

First Reading of Bills

LEGAL PRACTITIONERS (AMENDMENT) BILL 1996

INSURANCE COMPANIES (AMENDMENT) BILL 1996

BUILDINGS (AMENDMENT) BILL 1996

DUTIABLE COMMODITIES (AMENDMENT) BILL 1996

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

Second Reading of Bills

LEGAL PRACTITIONERS (AMENDMENT) BILL 1996

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

He said: Mr President, I move that the Legal Practitioners (Amendment) Bill 1996 be read the Second time. The Bill introduces a local appointment system for notaries public in Hong Kong. It provides a statutory basis for the existing practice whereby only solicitors admitted in Hong Kong are appointed as notaries public. It also establishes the criteria and procedures for the appointment of notaries public.

The functions of a notary public in Hong Kong, as in other common law jurisdictions, are primarily to attest, authenticate or certify the due execution of documents and to take oaths and declarations in respect of documents for use in other countries.

Under section 40 of the Legal Practitioners Ordinance, the Registrar of the Supreme Court is required to register every notary public who produces his notarial faculty and who files in the High Court an affidavit of identity and pays the enrolment fee. In practice, all notaries public in Hong Kong are solicitors who have been granted notarial faculties by the Archbishop of Canterbury in England. At present, the Archbishop does not grant notarial faculties to applicants from Hong Kong without the prior approval of the Chief Justice. The applicants also have had to sit and pass a notarial examination organized by the Master of Faculties (who is a High Court Judge) in England. These arrangements, however, have no statutory basis.

The Bill provides new arrangements for examining and appointing applicants as notaries public in Hong Kong. Firstly, it amends the Legal Practitioners Ordinance to give the Chief Justice power to appoint as notaries public solicitors admitted in Hong Kong who are of at least seven years' standing and who have passed a qualifying notarial examination. Second, it empowers the Chief Justice to set the qualifying examination and to remove from registration, suspend, restore and lift a suspension in respect of a notary public. Third, it specifies the powers of notaries public. Fourth, it provides for the

continued keeping of a Hong Kong Register of Notaries Public. Fifth, it preserves the professional position of persons who are notaries public in Hong Kong immediately before the commencement date of this Bill if enacted. Finally, I should make clear that the Bill does not affect the notarial powers of consular officers under the Consular Relations Ordinance.

Mr President, I commend this Bill to this Council.

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

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

INSURANCE COMPANIES (AMENDMENT) BILL 1996

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

He said: Mr President, I move that the Insurance Companies (Amendment) Bill 1996 be read the Second time. The Bill seeks to amend the Insurance Companies Ordinance to enhance protection for the insuring public.

The three main objectives of the Bill are:

- (a) to update the minimum capital requirements for general and long-term insurers and the minimum solvency margin requirements for general insurers;
- (b) to ensure that the solvency margin is commensurate with the level of risk covered by the insurer; and
- (c) to restrict the use of the words "insurance" and "assurance" to persons regulated under the Insurance Companies Ordinance.

A number of other relatively minor or technical amendments are proposed to improve the operation of the Ordinance.

The purpose of the minimum amount of paid-up capital is to ensure that the insurer has a minimum level of financial resources with which to pre-finance its operations and to provide a reasonable safeguard against the risk that its assets may be inadequate to meet liabilities arising from unpredictable events. These minimum requirements are important safeguards of the interests of policy holders.

The current levels of these minimum requirements have not been updated since the Insurance Companies Ordinance was enacted in 1983. Aggregate inflation since then has been about 146%. The real value of these requirements has therefore been eroded and is now inadequate to provide the level of protection for policy holders originally intended. The Administration therefore proposes a 100% increase for the two requirements. The minimum paid-up capital requirement for an insurer intending to carry on or carrying on either general or long-term business will be increased from \$5 million to \$10 million, whilst that for both general and long-term business or general business alone but including compulsory business (for instance, employees' compensation insurance business) will be raised from \$10 million to \$20 million.

Similarly, the minimum amount of solvency margin will be raised from \$5 million, or \$10 million where the general business includes compulsory business, to \$10 million or \$20 million respectively. This increase will not only compensate for the effect of inflation but will bring the solvency margin requirement more into line with equivalent requirements in Australia, Singapore and Malaysia.

As any increase higher than 100% at this stage would be considered excessive by the insurance industry, we propose to review the need for a further increase within 12 months' time.

The solvency margin required for a general business insurer is also deficient in that it is determined solely by the premium income of an insurer without regard to his claim liabilities. Hence policy holders of an insurer which has no premium income but has outstanding claims are exposed to considerable risks represented by the absence of a solvency margin commensurate with the amount of his claim liabilities. To remedy this, we propose that a general

business insurer be required to maintain a solvency margin determined on a "premium basis" or "claim liabilities basis", whichever is the higher.

The Bill also proposes to increase by 100% the level of fines set in 1983 for contraventions of the Insurance Companies Ordinance, so as to maintain their deterrent effect.

We further propose to prohibit use of the word "insurance" or "assurance" in business names without the consent of the Insurance Authority, unless the user is an authorized insurer, an appointed insurance agent or an authorized insurance broker regulated under the Insurance Companies Ordinance. The purpose is to prevent the public from being misled as to the authorized status and true nature of the business carried on by persons not regulated under the Ordinance. The proposal is in line with the Banking Ordinance, which restricts use of the word "bank" by persons other than banks.

To allow time for insurers to comply with the proposed capital and solvency margin requirements, a transitional period up to 31 October 1997 is proposed. For restriction on the use of the word "insurance" or "assurance", a transitional period of one year from enactment of the Amendment Ordinance is proposed, since some companies not engaged in the insurance business may be using these words in their business names. Other proposed provisions will apply with effect from the date of enactment.

Thank you, Mr President.

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

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

BUILDINGS (AMENDMENT) BILL 1996

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

He said: Mr President, I move the Second Reading of the Buildings (Amendment)

Bill 1996.

The Bill seeks to improve the Buildings Ordinance in three areas.

First, as shown in the Kwun Lung Lau landslip, leakage of drains and sewers may affect slope safety. It is therefore essential to ensure that investigations of drains and sewers are done regularly, so as to enable any defect or leakage to be rectified as soon as possible. For public drains, sewers and water mains, government departments have completed inspection of these buried services in 1995 and necessary follow-up repair will be completed before the wet season this year. In addition, programmes have been drawn up for periodic inspection of these buried services in future. Owners of private properties also have the duty to properly maintain the private drains and sewers serving their buildings. We therefore propose that the Building Authority should be empowered to require owners to hire an Authorized Person to investigate if there is any leakage, defect or inadequacy with the drains and sewers which serve their buildings, where such drains or sewers are laid in or in the vicinity of any slope or earth-retaining structure, and submit a report of the results to him. The Building Authority will be allowed to exercise this power only if he thinks leakage, defect or inadequacy of the drains or sewers may result in landslips or collapse of structures, and such landslip or collapse may cause a risk of injury to any person or damage to any property.

We also propose that failure to comply with the Building Authority's order or knowingly misrepresenting a material fact in the investigation report will be made offences.

Second, it is important to facilitate the recovery of costs of works carried out by the Building Authority. Under the existing Buildings Ordinance, the Building Authority may, for reasons such as ensuring public safety, serve statutory orders on building owners to carry out building works. In case of non-compliance, the Building Authority will carry out the works on behalf of the owners, and the costs of works should be recovered from the owner of the property at the time when the order is served.

In Hong Kong, properties change hands frequently. An owner served with the order may have already sold his property before the works carried out by the Building Authority are completed. Since the previous owner no longer has an interest in the property, it is often difficult to trace him and recover costs from

him.

Since the works in question will enhance the value and assure the safety of the property, we propose that a person who is the owner at the time when the works are completed should be charged for the costs instead. To protect property buyers, the Building Authority will be allowed to do so only if he has registered the order at the Land Registry upon the service of that order. A prospective buyer will therefore have notice of his potential liability before he buys the property.

Third, under the existing Buildings Ordinance, the Building Authority is empowered to apply to the court for a closure order to close a building for, say, safety reasons. When the building becomes fit for re-occupation, the Building Authority will issue a notice of expiry of the closure order and post a copy on the building. However, the building may be demolished subsequent to being served with the closure order. There is currently no provision effecting the automatic withdrawal of a closure order upon the demolition of the concerned building. We therefore propose to amend the Buildings Ordinance to dispense with the service of a notice of expiry of a closure order, when the building to which it relates is demolished or ceases to exist.

Mr President, I commend the Bill to this Council. Thank you.

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

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

DUTIABLE COMMODITIES (AMENDMENT) BILL 1996

***THE SECRETARY FOR THE TREASURY to move the Second Reading of:
"A Bill to amend the Dutiable Commodities Ordinance."***

He said (in Cantonese): Mr President, I move that the Dutiable Commodities (Amendment) Bill 1996 be read a Second time.

The Dutiable Commodities Ordinance was first enacted in 1963. It deals

with the taxation and control of dutiable commodities. With the passage of time, the Ordinance has become inadequate in meeting modern day needs in trade operation and enforcement control. It has also not kept pace with developments in other areas. A major aim of the Bill is to modernize the legislation in order to facilitate trade operation and to improve enforcement and control of dutiable commodities. Thus, the Bill includes provisions for:

- streamlining of procedures in the assessment of duty and in licence and permit control;
- improvements to ensure conformity with Bill of Rights Ordinance requirements; and
- introduction of a compounding scheme.

I should say a few words about the proposed compounding scheme. Under the Bill, if a person enters Hong Kong at an entry point carrying with him dutiable goods in excess of the duty free concession and he fails to make a declaration or makes a false declaration to Customs officers, he commits an offence. Also under the Bill, the Commissioner of Customs and Excise would be empowered to compound that offence if the duty payable in respect of the excess dutiable goods does not exceed \$10,000. The person involved will be subject to a fine equivalent to five times the duty payable. This will allow speedy settlement of the case. However, the person involved will have the right to elect not to have the offence compounded but to have it tried in court. Similar schemes operate in other countries like the United Kingdom, Australia and Singapore where they have proved successful.

Finally, we have also taken the opportunity of this exercise to propose various updating and adaptation measures.

Mr President, with these remarks, I commend the Bill to Members.

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

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

MEMBER'S MOTIONS**INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

MRS SELINA CHOW to move the following motion:

"That in relation to the -

- (a) Land Registration Fees (Amendment) Regulation 1995 published as Legal Notice No. 35 of 1996;
- (b) Land Registration (New Territories) Fees (Repeal) Regulation 1995 published as Legal Notice No. 36 of 1996;
- (c) Land Registration Fees (Amendment) Regulation 1995 (Amendment) Regulation 1996 published as Legal Notice No. 37 of 1996;
- (d) Land Registration (New Territories) Fees (Repeal) Regulation 1995 (Amendment) Regulation 1996 published as Legal Notice No. 38 of 1996;
- (e) Land Registration (Amendment) Regulation 1996 published as Legal Notice No. 39 of 1996;
- (f) Ferry Services (The "Star" Ferry Company, Limited) (Determination of Fares) (Amendment) Order 1996 published as Legal Notice No. 40 of 1996;
- (g) Aerial Ropeways (Fees) (Amendment) Regulation 1996 published as Legal Notice No. 41 of 1996; and
- (h) Lifts and Escalators (Safety) (Fees) (Amendment) Regulation 1996 published as Legal Notice No. 42 of 1996,

and laid on the table of the Legislative Council on 24 January 1996, the period referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) for amending subsidiary legislation be

extended under section 34(4) of the Ordinance until 6 March 1996."

MRS SELINA CHOW: Mr President, I move the motion standing in my name on the Order Paper.

All these eight Regulations, namely, Land Registration Fees (Amendment) Regulation 1995, Land Registration (New Territories) Fees (Repeal) Regulation 1995, Land Registration Fees (Amendment) Regulation 1995 (Amendment) Regulation 1996, Land Registration (New Territories) Fees (Repeal) Regulation 1995 (Amendment) Regulation 1996, Land Registration (Amendment) Regulation 1996, Ferry Services (The "Star" Ferry Company, Limited) (Determination of Fares) (Amendment) Order 1996, Aerial Ropeways (Fees) (Amendment) Regulation 1996 and Lifts and Escalators (Safety) (Fees) (Amendment) Regulation 1996 involve fee increase.

Members of the Subcommittee formed to study these Regulations have identified issues which require further consideration. To allow time for the Subcommittee to consider these points in depth and to seek further clarification from the Administration, it is necessary to extend the time allowed for making amendment to the subsidiary legislation until 6 March 1996.

Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MRS SELINA CHOW to move the following motion:

"That the Merchant Shipping (Seafarers) (Fees) Regulation, published as Legal Notice No. 9 of 1996 and laid on the table of the Legislative Council on 10 January 1996, be amended -

- (a) by repealing section 8;
- (b) in the Schedule -

- (i) in Part I, by repealing everything after "PART I";
- (ii) in Part II, by repealing items 1 to 5, 6(a) to (f) and (h), 7, 9, 10 and 11;
- (iii) by repealing Part III."

MRS SELINA CHOW: Mr President, I move the second motion standing in my name on the Order Paper.

A Subcommittee was formed on 12 January 1996 to study the Merchant Shipping (Seafarers) (Fees) Regulation and six other Regulations, Orders and Notices. I was elected chairman of this Subcommittee which has six members. The Subcommittee held three meetings, including two with the Administration.

Members noted that most of the fees listed in the Regulation were to be revised upwards by 10% to the current cost level effective on 1 March. Ten fees were also introduced to account for necessary charges in procedures consistent with the Ordinance. Members studied carefully the cost computation of the fees, the number, rank, and cost of staff employed for the services and the method used to calculate the rate of fees of three items. Members asked how the cost could be justified in terms of the efficiency of the Marine Department and the Administration replied that this had been ensured by way of established control mechanisms within the Government such as careful allocation of resources and auditing.

Members also asked how other parts in the region were dealing with foreigners on seafarers' qualifying examinations, and was satisfied that Hong Kong could maintain competitiveness in the region with the fee increases.

Members learned that the fee level set at full cost recovery for foreign seafarers helped to protect job opportunities for Hong Kong seafarers.

After finding all available and relevant information, the majority view of the Subcommittee was that the fees relating to local seafarers should not be increased in the light of the present economic situation. However, those fees items related to foreign seafarers should be increased as they would not affect the livelihood of the community in Hong Kong and since it would not be right for

Hong Kong to subsidize foreign seafarers. I was asked to move to repeal the fee increases as set out in the Regulation with the exception of those items related to foreign seafarers.

There was however a different view expressed which was to support the Regulation. The reasons were that the increased fees would not stimulate inflation and would not adversely affect the livelihood of the community.

Mr President, I have to report to Members the developments since the House Committee last received the report of the Subcommittee. In drafting the resolution to repeal, we have encountered some difficulties. As we had to deal with a total of 132 fees, our Legal Adviser had initially intended to separate them into different categories of existing fees which were currently charged under the Merchant Shipping (Fees) Regulation (sub. leg. of Cap. 281), the Merchant Shipping (Recruiting of Seamen) Ordinance (Cap. 135), or simply done administratively and which are being transferred to Legal Notice No. 9 before us.

Given the time constraint, I was advised by our Legal Adviser that it would not be safe for us to attempt to identify which fees are being transferred and which are being increased and by how much, without assistance from the government department concerned. As the decision of the Subcommittee is to increase only those fees applicable to foreign seafarers, and given the problem we encountered for locals as I have outlined, the only option left for us was to word the resolution to repeal to exclude the proposed increases for foreign seafarers. Taking this approach would not prevent the Government from continuing to collect existing fees under existing arrangements. The only move that would jeopardize existing arrangements is if the Administration were to proceed to appoint a date of commencement for the new Merchant Shipping (Seafarers) Ordinance and to repeal the relevant legislation which formed the legal basis of the present arrangements before we are able to effect the transfer, which would be as early as when the Administration could present them to this Council. I ask Members' forbearance and understanding with such a complex and difficult package, and urge Members to support my motion to repeal, in order that the Administration and ourselves could do this in such a way so as to be totally satisfied with the knowledge as to the exact consequence of our voting decision to every one of the 132 fees. The Administration is of course at liberty to come back at any time to ask the case to be reconsidered once the categorization is complete.

Mr President, before I close, may I, on behalf of the Liberal Party, once

again state simply and clearly that we advocate the freeze on all government increases in fees and charges because we believe in times of economic downturn as the one we are experiencing, it makes no sense for the Government to accumulate so much surplus, drawing the pockets of citizens, whatever the row in the community. The Government is certainly not practising what it preaches and is not leaving money in the taxpayers' pocket.

During the last Budget, the Financial Secretary estimated a deficit of \$2.6 billion for this financial year. Instead, we are in fact looking at a surplus of \$10 billion which brings our reserves to a total of \$158 billion which is \$13 billion more than the forecast present to this Council last year.

Why does the Government insist on soaking all this money from the community? Why does the Government insist on "users pay" and full cost recovery when the Treasury's balance sheet is so healthy? Why is the Government adopting commercial principles for services rendered to the public?

Mr President, the Liberal Party objects to the way that the Administration through its top echelon misrepresents and menaces our case to the business sector, the media and the community. We accept that a supposedly executive-led government which needs no votes in this legislature has to lobby for support. But what has been said about our position and our case is unfair and unwarranted. And so long as the biased messages continue, so will we continue to reiterate our case. We are confident our policy on government fees and charges is beneficial to enterprise, is helpful to livelihood and enjoys wide support in the business community.

Mr President, with these remarks, I move that the Merchant Shipping (Seafarers) (Fees) Regulation be amended as set out in the Order Paper.

Question on the motion proposed.

SECRETARY FOR ECONOMIC SERVICES: Mr President, first I would like to take up Mrs CHOW's points that the Administration stands ready to come back and provide any justification, any fact, any figures needed, with the hope that we will convince Members that what we have proposed is fair and reasonable.

If I may, Mr President, I would just like to make a few points on the motion. Firstly, the motion proposes to repeal several items of legislation where no increases are actually sought in the fees charged. These items concern fees for miscellaneous services set under section 8 of the Merchant Shipping (Seafarers) Fees Regulation and fees payable in relation to crew accommodation under Part I of the Schedule of this Regulation. These are existing fees presently included in regulations made under the Merchant Shipping Ordinance and they are transferred to the new Merchant Shipping (Seafarers) Ordinance.

The motion in effect asks Members to repeal fees which have already been agreed by this Council and which have been enforced for some months. Moreover, all fee items under section 8 and Part I of the Schedule are paid by shipping companies in respect of services. The livelihood of seafarers is in no way affected.

Secondly, the motion proposes to repeal the great majority of fees to be set under the Merchant Shipping (Seafarers) Ordinance and the Merchant Shipping Ordinance where fee increases are indeed proposed. The consequence of this motion would be twofold. Firstly, if Members were to vote today to repeal fees for miscellaneous services provided under the Merchant Shipping (Seafarers) Ordinance, the Director of Marine would no longer have the ability to charge any fee for any such miscellaneous service under that Ordinance. Secondly, and more importantly, the great majority of fees to be made under the Merchant Shipping (Seafarers) (Fees) Regulation falls under a new piece of primary legislation which is the Merchant Shipping (Seafarers) Ordinance. The coming into force of this Ordinance is entirely reliant on there being in place a comprehensive body of supporting regulations. These regulations, I believe, have already been agreed by Members with the exception of the fee regulations. If we are unable to set fees for the services to be provided by the Marine Department under the new Ordinance, then clearly that puts in doubt the wisdom of bringing into effect the new Ordinance. We would have then to continue rely on using an old and outdated piece of legislation. The new Ordinance the purpose of which is to regulate the welfare of seafarers then cannot come into effect, notwithstanding that it has in its entirety the support and backing of Hong Kong's maritime community. This Ordinance provides for the legal backing of various international conventions including those of the International Labour

Organization as they apply to seafarers. It cannot be, I suggest, the intention of the legislature when they actually approved the Merchant Shipping (Seafarers) Bill in June 1995 that such a circumstance could be allowed to happen.

I would also like to point out that none of the fees involve any real livelihood dimension. In dollar terms, the proposed increases are modest and will have a minimal effect, if any, on inflation. For example, the fee in relation to Engine Room Watch Rating Certificates and Navigational Watch Rating Certificates will increase from \$140 to \$155 — in percentage terms, around 10% similar to that which is proposed for the majority of the items involved. There will only be a handful of items which will have a greater rate of increase. But in respect of most of these items, there have been no increases since 1966, 30 years ago, and 1975.

Mr President, I know some Members have strong feelings on the matter of government fees. I can assure Members that the Administration has been very cautious and reasonable in proposing the fees for the Merchant Shipping (Seafarers) Ordinance. Indeed the Administration will still only recover less than 30% of the cost for this group of services, even if the fees were implemented. Let me say it again. These are not livelihood issues. Many of the fees concerned are paid by employers, not seafarers. It would be sad if Members were, in rejecting the fees, forcing us to put on the backburner a piece of modern legislation designed to protect the seafarer, his employer and the industry as a whole — a piece of legislation agreed in all aspects by the seafarers themselves.

Mr President, I am afraid I have to urge Members to reject the motion.

DR HUANG CHEN-YA (in Cantonese): Mr President, the Democratic Party has, all along this year, demanded that the Government freeze all government charges and fees that would spur inflation and affect people's livelihood. Our stand is very clear.

During our scrutiny of these Regulations, actually at first we felt that these fee-related Regulations had very little or no impact on inflation and livelihood. So we, the Democratic Party, could have given our support to the Regulations.

However, the Legislative Council Brief provided by the Government was so ambiguous that it was impossible to determine the extent of the fee increases. What was more, the Government did not tell us until the last minute that a lot of information had not been given to us. We feel that the Legislative Council can only make wise and rational decisions when it has obtained sufficient information. Hence we support the Honourable Mrs Selina CHOW's motion for freezing the fees for the time being. The Government may submit these Regulations to this Council again in the future. We will make our decision after we have obtained the details later.

The Secretary for Economic Services has just said that our freezing the fees will delay the implementation of the Merchant Shipping Ordinance. We simply cannot understand this argument of the Government because as noted by the Secretary for Economic Services, the Ordinance was actually approved by the Legislative Council last year, that is in June 1995, but the Government has never implemented it. What we propose now is to have the fees frozen until after the New Year. The increases will be approved if considered correct after we have listened to the Government's opinions and obtained the information. It is only a matter of making the decision after the New Year. However, having waited for eight months without implementing the Regulations, the Government is now blaming the Legislative Council for freezing the fees and thus delaying the implementation of the Regulations for a month. I think this logic is unacceptable.

The Democratic Party will support Mrs Selina CHOW's motion.

MR IP KWOK-HIM (in Cantonese): Mr President, the Government has been submitting to the Legislative Council one after another 471 applications for fee increases that it has planned. There are over 150 fee increase items that have to be dealt with by this Council today. This is the stand of the Democratic Alliance for Betterment of Hong Kong (DAB) on fee increases: fee increases directly relating to people's livelihood should be frozen while others should be considered on their own merits, but the criterion is that they must not exceed the rate of inflation. Also we do not object in principle to the Government collecting fees on a cost recovery basis. Nevertheless, the pace of recovering costs must be handled with care.

Take for example the fees set out in the Employment Agency (Amendment)

Regulations 1996. The Government has been revising the licence fees annually since 1992 to gradually increase the percentage of recovered cost with the aim of recovering the full cost in 1995-96, that is within a short period of four years. The increase proposed this time is even as high as 23%, which is several times the inflation. This is hard to accept. So the DAB is in favour of freezing this fee increase. As regards the Merchant Shipping (Fees) (Amendment) Regulations 1996 and Boilers and Pressure Vessels Ordinance, the DAB agrees to support the freeze because they relate to livelihood directly and actually the authorities can now recover the cost for issuing operating certificates for boilers and pressure vessels.

Amidst the current economic downturn and high inflation, the DAB agrees that the increases in charges and fees proposed by the Government will give rise to a misconception that the Government is taking the lead in fee increases. But as Members of this Council, we should look at the issue rationally and make a painstaking analysis for the public to find out how their long-term interests should best be served. There are fees which, if not paid by one party, will have to be subsidized by others. And there are fees which, if not increased now, will require a substantial increase at one time in the future, when the public may find it even harder to afford. So the DAB accepts the remaining six applications for fee increases, all of which are about 9%, just enough to catch up with the current inflation, and have no direct impact on people's livelihood. So we will vote against the motions that those fee increases be repealed.

MR RONALD ARCULLI: Mr President, firstly, I would like to congratulate our friends in the Administration for a very divisive and decisive lobbying efforts of my colleagues in this Chamber. In today's speech, Dr HAUNG, on behalf of the Democratic Party, no longer makes reference to the higher unemployment rate or to the economic slow-down. He talks about inflation and livelihood as being the factors in which the Democratic Party will consider applications for increases in fees and charges by the Government. As far as our friends in the DAB are concerned, they used the words "provided it does not have a direct impact on livelihood". I do not know any fees and charges that the Government imposes that does not have an effect on livelihood sooner or later. I hope the Government is not taking a line of dividing the community into issues which some of the members of the community may perceive to be livelihood issues whereas others would perceive to be expenses to be borne by the business sector because the business sector surely but sadly would revise their costs and indeed

pass on the cost, if they can thus assuming business survives, to the consumer. So from that point of view, we must not allow short-term arguments and the greed of the Government in terms of raking in unwanted and unnecessary dollars to go to government coffers because if the Government continues doing that, the demand for government expenditure to increase will surely rise, expectations would surely rise and that is only fair. Mr President, so, I urge my colleagues in the Council here not to be swayed by short-term arguments, certainly not arguments that they need the money to implement a new and modernized Ordinance, when we have instances of non-increase in fees by government departments upwards of 30 years.

Mr President, I think with those words, I obviously will support the Honourable Mrs Selina CHOW's motion, but I urge other Members in this Chamber to do so as well.

Thank you.

MR JAMES TIEN (in Cantonese): Mr President, the Honourable Ronald ARCULLI has said what I want to say. I only wish to note that when Dr the Honourable HUANG Chen-ya co-operated with us at the end of last year to ask the Government not to increase fees, it was based on the economic slow-down and high unemployment rate. There was no further distinction between livelihood and non-livelihood issues. If so, the Government is very successful.

If this is the case, it will be very difficult for the business sector to continue to support freezing other livelihood-related fee increases. If the Democratic Party "changes its course" first, supporting all fee increases relating to the business sector while withholding opposing only fee increases relating to livelihood in the future, the business sector or the Liberal Party will have to review their overall stand.

Thank you, Mr President.

SECRETARY FOR THE TREASURY (in Cantonese): Mr President, Members have proposed motions this afternoon to reject or amend nine pieces of subsidiary legislation regarding revised fees for government services. I have noted many times that a fee freeze would have no practical effect on easing

inflation and stimulating the economy. I do not intend to speak when each motion is debated but I wish to take this opportunity to reiterate that the Government's fee policy and the existing proposals are proper and reasonable.

Hong Kong's economic achievement is, to a large extent, attributable to our system of low taxation. To continue to implement a low taxation system, we must be allowed to continue to practise the financial principle that we have consistently adhered to. "Paying by user" and "cost recovery" are essential parts of that principle. An across-the-board fee freeze would reduce annual Government revenue by some \$1,000 to \$2,000 million. This would be a huge sum. Without this regular revenue, our ability to maintain a low taxation system would no doubt be diminished.

Most of the nine pieces of subsidiary legislation governing fee revisions being debated today are intended to collect fees for services provided to those operating relevant commercial activities. The fee increases are minimal when compared to their overall operating costs. Moreover, none of the fees involved would affect the Consumer Price Index, so there would be no impact at all on livelihood. On the contrary, if our fee revision proposals were rejected, it would bring no practical benefit to individual businesses. But it would be unfair to the average tax payer if he had to subsidize business operators. Therefore I appeal to Members again to support our fee proposals and to reject all the motions.

MRS SELINA CHOW: Mr President, I would just like to point out that what the Secretary for Economic Services said is technically correct, in that existing fees are included in the entire package before us. However, it is not correct for him to lead Members into thinking that by repealing the motion, existing fees cannot be charged. They are being collected right now. And so far the Administration has chosen not to bring into effect the new Ordinance just as Dr HUANG has said earlier, and therefore nothing prevents the Government from bringing it into effect after and only after the necessary subsidiary legislation is eventually passed.

I have to point out that the difficulty we have now is, as I pointed out earlier in my speech, in identifying the fees which are being transferred from those which are being increased, and so on, particularly given the time constraint and the legal advice we received that it would be unsafe for us to take on this exercise without the assistance from the Administration.

I would also take this opportunity to rectify the Secretary for the Treasury. We are advocating a freeze on increases of fees. We are not advocating a freeze of all fees.

Question on the motion put.

Voice vote taken.

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

Mr IP Kwok-him and Dr Philip WONG claimed a division.

PRESIDENT: Council shall now proceed to a division.

PRESIDENT: I would like to remind Members that they are now called upon to vote on the motion moved by Mrs Selina CHOW to amend the Merchant Shipping (Seafarers) (Fees) Regulation. Will Members please proceed to register their presence by pressing the top button and cast their votes by choosing one of the three buttons below?

PRESIDENT: Before I declare the result, are there any queries? The result will now be displayed.

Mrs Selina CHOW, Mr Martin LEE, Mr SZETO Wah, Mr Edward HO, Mr

Ronald ARCULLI, Mrs Miriam LAU, Dr LEONG Che-hung, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Michael HO, Dr HUANG Chen-ya, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr Henry TANG, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Mr James TIEN, Mr LEE Cheuk-yan, Mr Andrew CHENG, Mr Paul 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, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE and Mr YUM Sin-ling voted for the motion.

Mr CHIM Pui-chung, Mr Eric LI, Dr Samuel WONG, Dr Philip WONG, Miss Christine LOH, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr IP Kwok-him, Mr Ambrose LAU, Miss Margaret NG and Mr NGAN Kam-chuen voted against the motion.

Mrs Elizabeth WONG abstained.

THE PRESIDENT announced that there were 34 votes in favour of the motion and 14 votes against it. He therefore declared that the motion was carried.

Suspension of Standing Order 36(4)

DR LEONG CHE-HUNG: Mr President, I rise to seek your consent for me to move without notice a motion to enable the duration of the division bell for certain divisions to be shortened. On 9 February 1996, the House Committee unanimously agreed that I was to move such a motion to reduce to one minute the duration of the division bell in the event of further divisions being claimed in respect of the remaining motions to be moved under the Interpretation and General Clauses Ordinance at this sitting.

PRESIDENT: You have my consent.

DR LEONG CHE-HUNG: Mr President, I move that in the event of further divisions being claimed in respect of the remaining motions to be moved under the Interpretation and General Clauses Ordinance at this sitting, Standing Order 36(4) be suspended so that the President may order that the Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

Question on the motion proposed, put and agreed to.

PRESIDENT: I now order that in the event of further divisions being claimed for the remaining motions to be moved under the Interpretation and General Clauses Ordinance at this sitting, the Council do proceed to each division immediately after the division bell has been rung for one minute.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MRS SELINA CHOW to move the following motion:

"That the Merchant Shipping (Fees) (Amendment) Regulation 1996, published as Legal Notice No. 10 of 1996 and laid on the table of the Legislative Council on 10 January 1996, be repealed."

MRS SELINA CHOW: Mr President, I move the third motion standing in my name on the Order Paper.

The Merchant Shipping (Fees) (Amendment) Regulation was studied by the Subcommittee I mentioned earlier on in my second motion. I think that the deliberation and arguments are almost identical to the ones which I have presented in my last speech. I urge Members to support my motion for similar technical reasons that I have outlined when I spoke on the last motion. Thank you, Mr President.

Question on the motion proposed.

SECRETARY FOR ECONOMIC SERVICES: Mr President, in response to

Mrs CHOW's second motion, I have already explained the rationale behind the proposed fees revisions.

May I just make that point again that in fact in June 1995 this Council approved the new Ordinance. Since then we have been working on a whole set, a complete set of regulations, and I think Members have actually approved all of them with the exception of fees. Without this set of regulations on fees being approved, I am afraid we cannot bring in the new Ordinance and therefore we are still relying on the use of the outdated existing Ordinance.

I also would like to reiterate that in fact the increases proposed are very modest, 10%, and they were last revised actually in 1994. Since then, inflation has actually exceeded this level that we have now proposed. Most of the items related to Legal Notice No. 10 are for examination fees, such as fees for examination for Certificates of Competency as Trawler Masters and Trawler Engineers. These are not fees that have to be paid regularly. Clearly the proposed increases will have little impact on the livelihood of seafarers as such.

I do urge Members again to reject the motion.

Question on the motion put.

Voice vote taken.

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

Dr Philip WONG claimed a division.

PRESIDENT: Council shall now proceed to a division.

PRESIDENT: I would like to remind Members that they are now called upon to vote on Mrs CHOW's third motion which is for the repeal of the Merchant Shipping (Fees) (Amendment) Regulation 1996. Will Members please register their presence and then proceed to vote by selecting one of the three buttons below the top button?

PRESIDENT: Before I declare the result, are there any queries? The result will now be displayed.

Mrs Selina CHOW, Mr Martin LEE, Mr SZETO Wah, Mr Edward HO, Mrs Miriam LAU, Dr LEONG Che-hung, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Michael HO, Dr HUANG Chen-ya, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr Henry TANG, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Mr James TIEN, Mr LEE Cheuk-yan, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Andrew CHENG, Mr Paul CHENG, Dr Anthony CHEUNG, Mr CHEUNG Hon-chung, Mr Albert HO, Mr IP Kwok-him, Mr LAU Chin-shek, Mr Ambrose LAU, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr LEUNG Yiu-chung, Mr Bruce LIU, Mr MOK Ying-fan, Mr NGAN Kam-chuen, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE and Mr YUM Sin-ling voted for the motion.

Mr CHIM Pui-chung, Mr Eric LI, Dr Samuel WONG, Dr Philip WONG, Miss Christine LOH and Miss Margaret NG voted against the motion.

Mrs Elizabeth WONG abstained.

THE PRESIDENT announced that there were 40 votes in favour of the motion and six votes against it. He therefore declared that the motion was carried.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MRS SELINA CHOW to move the following motion:

"That the Companies Ordinance (Amendment of Eighth Schedule) Order 1996, published as Legal Notice No. 11 of 1996 and laid on the table of the Legislative Council on 10 January 1996, be repealed."

MRS SELINA CHOW: Mr President, I move the fourth motion standing in my name on the Order Paper. I shall speak about the Companies Ordinance

(Amendment of Eighth Schedule) Order 1996, the Limited Partnerships Ordinance (Amendment of Schedule) Order 1996, the Companies Ordinance (Fee for Taking Affidavit, Affirmation or Declaration) (Amendment) Notice 1996 and the Trustee Ordinance (Amendment of First Schedule) Notice 1996 at the same time, since these four Orders and Notices were studied *en bloc* by the Subcommittee I mentioned early.

If increases in fees as set out in these four Orders and Notices were not allowed, the Administration said that the Company Registry would incur a deficit of about \$7 million in the financial year 1996-1997 and could not proceed with improving its customer services. Members of the Subcommittee however observed that the Registry was in fact earning money because there would be a projective surplus of \$8 million after taxation and before interest. Members also observed that the Government would be able to get from the sum of profit tax and interest payment at about 10% on its investment in the Companies Registry Trading Fund.

The majority view of this Subcommittee was that this return was high and that the fee increases should not be supported. The Subcommittee therefore asked me to give notice to repeal these four Orders and Notices. A Member of the subcommittee however expressed reservation about his stance. He said he would consult some smaller commercial and industrial establishments first before he could decide whether the increases were reasonable.

Mr President, with these remarks, I move that the Companies Ordinance (Amendment of Eighth Schedule) Order 1996 be repealed.

Question on the motion proposed.

SECRETARY FOR FINANCIAL SERVICES: Mr President, first of all, I am grateful that some Members have indicated that they are prepared to approve the various proposals put forward by the Companies Registry.

By way of response to the Honourable Mrs Selina CHOW, perhaps I will make one particular point regarding deficits and interest and loans related to the Companies Registry. The point was made that the Registry would be operating

at a deficit without the fee increases on the ground that without the repayment of interest on the loan to the Registry by the Government there would be no deficit. The point here is that the Registry is operating at arm's length from the Government and is financed partly by a loan from the Government. If it is to operate on a quasi-commercial basis as intended, then it is to be expected that it should pay interest on any loans. If the Registry were to be given free money or no-interest loans, then in financial terms, it would make no sense for the Government to establish it in the first place. I am sure we all recall that the setting up of the trading fund system for the Companies Registry was passed by this Council as recently as 1993.

The objective of funding services in this way is to enable those services to respond more effectively to the needs of their users by giving management the financial flexibility to run the services in a more commercial way.

Mr President, the last point I wish to make is this. This Order and the related legislative amendments in fact constitute part of a package of fee proposals in respect of the Companies Registry, two elements of which Members were good enough to support earlier this afternoon. And I therefore look forward to your continued support and to approve the fee revisions. Thank you, Mr President.

DR HUANG CHEN-YA (in Cantonese): Mr President, I believe the Liberal Party is unhappy to hear me speaking on behalf of the Democratic Party against the Honourable Mrs Selina CHOW's four motions.

After a careful study of these four motions and the Regulations, we feel that the Regulations concerned would really have no significant impact on inflation and livelihood. We have also considered whether they would cause unacceptable difficulty and pressure to those companies. After seeking the opinions of many people (we had reservations, as noted by Mrs Selina CHOW, because we had to seek opinions), we have concluded that these fee changes would simply cause no problem. So we think we can support these four

Regulations prepared by the Government.

MRS SELINA CHOW: Mr President, I only wish to speak in response to the Secretary for Financial Services' speech earlier on.

Why should the Government keep on operating on quasi-commercial principles while at the same time it is collecting all these taxes and building up such a huge reserve. The appeal of the trading fund concept at the time was that certain services operated by the Government should in fact be on par in terms of efficiency, so that there could be savings for people who use those services, but not for the Government to keep on justifying securing a certain return on net fixed assets, a certain percentage return plus interest plus tax. Everything goes into the Government pocket and it all comes from the private sector.

I of course regret that the Democratic Party cannot in fact support my motion as it was said earlier on by Mr Ronald ARCULLI. All businesses would in fact affect livelihood. The two are inseparable, particularly when we think of small businesses which make up the majority of business and enterprise in Hong Kong. I am quite disappointed that the Democratic Party should take this position.

Whether this motion passes successfully or not, I would really like to call on this Council to think about not just this particular case, but about the broad direction in which the Government is taking us. Why is it that the Government is making a profit from us while at the same time we are in fact contributing to taxes? Thank you.

Question on the motion put.

Voice vote taken.

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

Dr Philip WONG and Mrs Selina CHOW claimed a division.

PRESIDENT: Council shall now proceed to a division.

PRESIDENT: I would like to remind Members that they are now called upon to vote on Mrs CHOW's fourth motion which proposes to repeal the Companies Ordinance (Amendment of Eighth Schedule) Order 1996. Will Members please register their presence by pressing the top button and proceed to vote by choosing one of the three buttons below?

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

Mrs Selina CHOW, Mr Edward HO, Mrs Miriam LAU, Dr LEONG Che-hung, Miss Emily LAU, Mr Henry TANG, Mr James TIEN and Mr Paul CHENG voted for the motion.

Mr Martin LEE, Mr SZETO Wah, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr CHIM Pui-chung, Mr Michael HO, Dr HUANG Chen-ya, Mr LEE Wing-tat, Mr Eric LI, Mr Fred LI, Mr James TO, Dr Samuel WONG, Dr Philip WONG, Dr YEUNG Sum, Mr WONG Wai-yin, Miss Christine LOH, Mr LEE Cheuk-yan, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Andrew CHENG, Dr Anthony CHEUNG, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr Albert HO, Mr IP Kwok-him, Mr LAU Chin-shek, Mr Ambrose LAU, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr LEUNG Yiu-chung, Mr Bruce LIU, Mr MOK Ying-fan, Miss Margaret NG, Mr NGAN Kam-chuen, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE, Mrs Elizabeth WONG and Mr YUM Sin-ling voted against the motion.

THE PRESIDENT announced that there were eight votes in favour of the motion and 40 votes against it. He therefore declared that the motion was negatived.

Clapping from the public gallery.

PRESIDENT: Please maintain order.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MRS SELINA CHOW to move the following motion:

"That the Limited Partnerships Ordinance (Amendment of Schedule) Order 1996, published as Legal Notice No. 12 of 1996 and laid on the table of the Legislative Council on 10 January 1996, be repealed."

MRS SELINA CHOW: Mr President, I move the fifth motion standing in my name on the Order Paper.

I have set out the reasons for repealing the Limited Partnerships Ordinance (Amendment of Schedule) Order 1996 when I moved the last motion and I would not repeat them here.

Mr President, I beg to move to repeal the Order.

Question on the motion proposed.

SECRETARY FOR FINANCIAL SERVICES: Mr President, I would only make one point, and that is, again like the previous motion, the increase is needed so as to enable the Companies Registry operating under a trading fund system to continue to develop and to upgrade to meet demands from the users. Not to have the increase will of course mean that taxpayers will be subsidizing the users, although the users themselves are very keen in fact to have the new developments and the new improvements which will be quite different from what they were used to many years ago — the almost Dickensian conditions inside our Companies Registry. Therefore I will continue to urge Members to support

the fee adjustment. Thank you.

Question on the motion put.

Voice vote taken.

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

Mrs Selina CHOW and Mr James TIEN claimed a division.

PRESIDENT: Council shall now proceed to a division.

PRESIDENT: I would like to remind Members that they are now called upon to vote on Mrs CHOW's fifth motion which proposes to repeal the Limited Partnerships Ordinance (Amendment of Schedule) Order 1996. Will Members please register their presence by pressing the top button and proceed to vote by choosing one of the three buttons below?

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

Mrs Selina CHOW, Mr Edward HO, Mrs Miriam LAU, Miss Emily LAU, Mr Henry TANG, Mr James TIEN and Mr Paul CHENG voted for the motion.

Mr Martin LEE, Mr SZETO Wah, Dr LEONG Che-hung, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr CHIM Pui-chung, Dr HUANG Chen-ya, Mr LEE Wing-tat, Mr Eric LI, Mr Fred LI, Mr James TO, Dr Samuel WONG, Dr Philip WONG, Dr YEUNG Sum, Mr WONG Wai-yin, Miss Christine LOH, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Andrew CHENG, Dr Anthony CHEUNG, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr Albert HO, Mr IP Kwok-him, Mr LAU Chin-shek, Mr Ambrose LAU, Dr LAW

Cheung-kwok, Mr LAW Chi-kwong, Mr LEUNG Yiu-chung, Mr Bruce LIU, Mr MOK Ying-fan, Miss Margaret NG, Mr NGAN Kam-chuen, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE, Mrs Elizabeth WONG and Mr YUM Sin-ling voted against the motion.

THE PRESIDENT announced that there were seven votes in favour of the motion and 39 votes against it. He therefore declared that the motion was negatived.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MRS SELINA CHOW to move the following motion:

"That the Companies Ordinance (Fee for Taking Affidavit, Affirmation or Declaration) (Amendment) Notice 1996, published as Legal Notice No. 13 of 1996 and laid on the table of the Legislative Council on 10 January 1996, be repealed."

MRS SELINA CHOW: Mr President, I move the sixth motion standing in my name on the Order Paper.

I have set out the reasons for repealing the Companies Ordinance (Fee for Taking Affidavit, Affirmation or Declaration) (Amendment) Notice 1996 when I moved the last motion and I would not repeat them here.

Mr President, I beg to move to repeal the Notice.

Question on the motion proposed.

SECRETARY FOR FINANCIAL SERVICES: Mr President, I do not have anything to add except to thank Members once again for supporting the Companies Registry and its users. Thank you.

Question on the motion put.

Voice vote taken.

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

Mrs Selina CHOW claimed a division.

PRESIDENT: Council shall now proceed to a division.

PRESIDENT: I would like to remind Members that they are now called upon to vote on Mrs CHOW's sixth motion which proposes to repeal the Companies Ordinance (Fee for Taking Affidavit, Affirmation or Declaration) (Amendment) Notice 1996. Will Members please register their presence by pressing the top button and then proceed to vote by choosing one of the three buttons below?

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

Mrs Selina CHOW, Mr Edward HO, Mrs Miriam LAU, Miss Emily LAU, Mr Henry TANG, Mr James TIEN and Mr Paul CHENG voted for the motion.

Mr Martin LEE, Mr SZETO Wah, Dr LEONG Che-hung, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr CHIM Pui-chung, Mr Michael HO, Dr HUANG Chen-ya, Mr LEE Wing-tat, Mr Eric LI, Mr Fred LI, Mr James TO, Dr Samuel WONG, Dr Philip WONG, Dr YEUNG Sum, Mr WONG Wai-yin, Miss Christine LOH, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Andrew CHENG, Dr Anthony CHEUNG, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr Albert HO, Mr IP Kwok-him, Mr LAU Chin-shek, Mr Ambrose LAU, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr LEUNG Yiu-chung, Mr Bruce LIU, Mr MOK Ying-fan, Miss Margaret NG, Mr NGAN Kam-chuen, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE, Mrs Elizabeth WONG and Mr YUM Sin-ling voted against the motion.

THE PRESIDENT announced that there were seven votes in favour of the motion and 40 votes against it. He therefore declared that the motion was negatived.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MRS SELINA CHOW to move the following motion:

"That the Trustee Ordinance (Amendment of First Schedule) Notice 1996, published as Legal Notice No. 14 of 1996 and laid on the table of the Legislative Council on 10 January 1996, be repealed."

MRS SELINA CHOW: Mr President, I move the seventh motion standing in my name on the Order Paper.

I have set out the reasons for repealing the Trustee Ordinance (Amendment of First Schedule) Notice 1996 when I moved the fourth motion and I would not repeat them here.

Mr President, I beg to move.

Question on the motion proposed.

SECRETARY FOR FINANCIAL SERVICES: Mr President, I have nothing to add.

Question on the motion put.

Voice vote taken.

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

Mrs Selina CHOW claimed a division.

PRESIDENT: Council shall now proceed to a division.

PRESIDENT: I would like to remind Members that they are now called upon to vote on Mrs CHOW's seventh motion which proposes to repeal the Trustee Ordinance (Amendment of First Schedule) Notice 1996. Will Members please register their presence by pressing the top button and then proceed to vote by choosing one of the three buttons below?

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

Mrs Selina CHOW, Mr Edward HO, Mrs Miriam LAU, Miss Emily LAU, Mr Henry TANG, Mr James TIEN and Mr Paul CHENG voted for the motion.

Mr Martin LEE, Mr SZETO Wah, Dr LEONG Che-hung, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr CHIM Pui-chung, Mr Michael HO, Dr HUANG Chen-ya, Mr LEE Wing-tat, Mr Eric LI, Mr Fred LI, Mr James TO, Dr Samuel WONG, Dr Philip WONG, Dr YEUNG Sum, Mr WONG Wai-yin, Miss Christine LOH, Mr LEE Cheuk-yan, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Andrew CHENG, Dr Anthony CHEUNG, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr Albert HO, Mr IP Kwok-him, Mr Ambrose LAU, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr LEUNG Yiu-chung, Mr Bruce LIU, Mr MOK Ying-fan, Miss Margaret NG, Mr NGAN Kam-chuen, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE, Mrs Elizabeth WONG and Mr YUM Sin-ling voted against the motion.

THE PRESIDENT announced that there were seven votes in favour of the motion and 40 votes against it. He therefore declared that the motion was

negatived.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MRS SELINA CHOW to move the following motion:

"That the Clubs (Safety of Premises) (Fees) (Amendment) Regulation 1996, published as Legal Notice No. 16 of 1996 and laid on the table of the Legislative Council on 10 January 1996, be repealed."

MRS SELINA CHOW: Mr President, I move the eighth motion standing in my name on the Order Paper.

The Subcommittee concerned has studied the Clubs (Safety of Premises) (Fees) (Amendment) Regulation 1996 carefully and held an unanimous view that this Regulation should be repealed. The reason was that the Government would be making ends meet by the end of March next year when the 328 clubs which are currently operating under the Certificates of Compliance and paying \$660 per annum would be converted to operate under the Certificates of Compliance and would be paying from \$3,200 to \$49,000 per annum, depending on the floor area they occupy. Such a development renders the proposed increase totally unnecessary.

Mr President, with these remarks, I move that the Clubs (Safety of Premises) (Fees) (Amendment) Regulation 1996 be repealed.

Question on the motion proposed.

SECRETARY FOR HOME AFFAIRS (in Cantonese): Mr President, the Clubs (Safety of Premises) Ordinance came into effect in November 1991. It was intended to set up a certificate issuing system to control the fire prevention and building safety measures taken by clubs. It is stipulated in the Ordinance that a club operator obtain a certificate of exemption or compliance.

It is the Government's policy that the fees collected by the Government from service users should in general be enough to cover all the costs. Being an essential principle, it is an important part of the local tax system and the basis of

our low taxation system. Our current proposal of increasing the fees concerned by 9% is only a step towards recovering the actual cost of issuing certificates of compliance and exemption.

Members note that the estimated operating cost to be incurred by the Home Affairs Branch in implementing the certificate system in 1995-96 is \$13.8 million. However, the estimated revenue from issuing certificates of compliance and exemption this year is only \$4.6 million, 33% of the total cost.

I have to stress that this Regulation will have no impact on livelihood and inflation. I urge Members of this Council not to repeal the Clubs (Safety of Premises) (Fees) (Amendment) Regulation 1996. Otherwise, our taxpayers will have to continue to subsidize these clubs, most of which are private profit-making bodies or provide service for private members only. This is evidently unfair and unreasonable.

Thank you, Mr President.

DR HUANG CHEN-YA (in Cantonese): Mr President, this Regulation is mainly concerned with fire prevention. During our scrutiny of the Regulation, we said we would support the Honourable Mrs Selina CHOW's motion. Our main rationale was that a fire risk is actually an important issue but the fee is determined by the area rather than the fire risk. However, there is no necessary relationship between the area and the fire risk. So a club with a high fire risk actually passes some of the economic cost to a club with no fire risk. We felt that the Government should review the whole issue and should not allow this unfair situation to continue.

Nevertheless, after consideration the Democratic Party feels that since the fee increases will have no direct and great impact on inflation and livelihood, they should not be frozen because of the need to carry out such a review. So we feel that we cannot support Mrs Selina CHOW's motion. But we request that the Government review the whole fee structure because the current structure is, in our opinion, unfair.

MRS SELINA CHOW: Mr President, I would like to point out for Members' attention that in fact as far as the information that has been submitted to the Subcommittee is concerned, the amount of existing fees as proportionate to the cost per establishment in terms of gross floor area just covers the 1994-95 prices of cost per establishment. In other words, the existing fees are already recovering the cost at the moment. If we raise the fees, then we are actually paying more than what the actual figure is being outlined to us on the cost. I would just like to supplement that point for Members' attention.

Question on the motion put.

Voice vote taken.

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

Mrs Selina CHOW and Mr TSANG Kin-shing claimed a division.

PRESIDENT: Council will now proceed to a division.

PRESIDENT: I would like to remind Members that they are now called upon to vote on Mrs CHOW's eighth motion which proposes to repeal the Clubs (Safety of Premises) (Fees) (Amendment) Regulation 1996. Will Members please register their presence by pressing the top button and proceed to vote by choosing one of the three buttons below?

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

Mrs Selina CHOW, Mr Edward HO, Mrs Miriam LAU, Miss Emily LAU, Mr Henry TANG and Mr James TIEN voted for the motion.

Mr Martin LEE, Mr SZETO Wah, Dr LEONG Che-hung, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr CHIM Pui-chung, Mr Michael HO, Dr HUANG Chen-ya, Mr LEE Wing-tat, Mr Fred LI, Mr James TO, Dr Samuel WONG, Dr Philip WONG, Dr YEUNG Sum, Mr WONG Wai-yin, Miss Christine LOH, Mr LEE Cheuk-yan, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Andrew CHENG, Dr Anthony CHEUNG, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr Albert HO, Mr IP Kwok-him, Mr LAU Chin-shek, Mr Ambrose LAU, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr LEUNG Yiu-chung, Mr Bruce LIU, Mr MOK Ying-fan, Miss Margaret NG, Mr NGAN Kam-chuen, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE, Mrs Elizabeth WONG and Mr YUM Sin-ling voted against the motion.

THE PRESIDENT announced that there were six votes in favour of the motion and 40 votes against it. He therefore declared that the motion was negatived.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MRS SELINA CHOW to move the following motion:

"That the Boilers and Pressure Vessels (Amendment) Regulation 1996, published as Legal Notice No. 33 of 1996 and laid on the table of the Legislative Council on 17 January 1996, be repealed."

MRS SELINA CHOW: Mr President, I move the ninth motion standing in my name on the Order Paper.

The Subcommittee I mentioned earlier formed to study the seven Regulations, Orders and Notices took on the study of the Boilers and Pressure Vessels (Amendment) Regulation 1996 on 19 January 1996 as well. Having studied the statistical information provided by the Administration for issue of Certificates of Competency, Members of the Subcommittee held the view that the Labour Department should be able to operate the scheme within budget even without the fee increase.

Therefore I move that the Boilers and Pressure Vessels (Amendment) Regulation 1996 be repealed.

Question on the motion proposed.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, we propose, under the Boilers and Pressure Vessels (Amendment) Regulation 1996, to revise the fees payable for the issue of certificates of competence under Section 6 of the Boilers and Pressure Vessels Ordinance.

Since a certificate of competence is useful to the holder in gaining employment in relevant jobs, it is fair and reasonable to collect a fee from the applicant for a certificate of competence on a cost-recovery basis. We suggest that the two fees under consideration should be increased to \$300 and \$557 respectively. The proposed fee increase of 9% is in line with the movement in the government consumption expenditure deflator from 1994-95 to 1995-96.

I have to stress that this fee revision will have minimal impact on operators and owners of boilers and steam receivers. There will be no effect on the Consumer Price Index (A) and the general public will not be affected.

I urge Members to oppose the motion.

Thank you, Mr President.

DR HUANG CHEN-YA (in Cantonese): Mr President, the Democratic Party does not agree to what the Government has just said. Since a holder of a certificate of competence must produce the certificate to prove his ability to operate boilers and steam receivers, it is related to his work and will increase the cost of his job. So we feel that it is related to inflation and livelihood and is also related to personal service. Hence we support the Honourable Mrs Selina CHOW's motion.

Question on the motion put.

Voice vote taken.

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

Mrs Selina CHOW and Dr Philip WONG claimed a division.

PRESIDENT: Council shall now proceed to a division.

PRESIDENT: I would like to remind Members that they are called upon to vote on Mrs CHOW's ninth motion which proposes to repeal the Boilers and Pressure Vessels (Amendment) Regulation 1996. Will Members please register their presence by pressing the top button and proceed to vote by choosing one of the three buttons below?

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

Mrs Selina CHOW, Mr Martin LEE, Mr SZETO Wah, Mr Edward HO, Mrs Miriam LAU, Dr LEONG Che-hung, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Michael HO, Dr HUANG Chen-ya, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr Henry TANG, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Mr James TIEN, Mr LEE Cheuk-yan, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Andrew CHENG, Mr Paul CHENG, Dr Anthony CHEUNG, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr Albert HO, Mr IP Kwok-him, Mr LAU Chin-shek, Mr Ambrose LAU, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr LEUNG Yiu-chung, Mr Bruce LIU, Mr MOK Ying-fan, Mr NGAN Kam-chuen, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE and Mr YUM Sin-ling voted for the motion.

Mr CHIM Pui-chung, Mr Eric LI, Dr Samuel WONG, Dr Philip WONG, Miss

Christine LOH and Miss Margaret NG voted against the motion.

Mrs Elizabeth WONG abstained.

THE PRESIDENT announced that there were 41 votes in favour of the motion and six votes against it. He therefore declared that the motion was carried.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MRS SELINA CHOW to move the following motion:

"That the Employment Agency (Amendment) Regulation 1996, published as Legal Notice No. 34 of 1996 and laid on the table of the Legislative Council on 17 January 1996, be repealed."

MRS SELINA CHOW: Mr President, I move the tenth motion standing in my name on the Order Paper.

The Subcommittee formed on 12 January to study seven Regulations, Orders and Notices took on the study of the Employment Agency (Amendment) Regulation 1996 on 19 January as well. Members of the Subcommittee held the unanimous view that the current amount of licence fee at \$1,400 should not be further increased. This amount was already three times of the amount charged in October 1992 at \$500 and was a result of three counts of increases since then, first to \$800 in November 1992, then to \$1,000 in December 1993 and again to \$1,400 in December 1994. Since only three years and four months had passed for the amount to be brought upwards from \$500 to \$1,400, Members considered that a further increase would not be justified.

Mr President, with these remarks, I move that the Employment Agency (Amendment) Regulation 1996 be repealed.

Question on the motion proposed.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, under Part XII of the Employment Ordinance, any person who wishes to operate an employment agency in Hong Kong must apply to the Commissioner for Labour for a licence.

Historically, these licence fees fell much below the costs incurred in issuing the licences. As it is government policy that fees should in general be set at levels sufficient to recover the full costs of the services, we have since 1992 revised the licence fees annually to recover a progressively higher proportion of the costs with a view to achieving a full cost recovery by 1995-96.

Under the Employment Agency (Amendment) Regulation 1996, we propose to revise the fees payable for issuing a principal licence to \$1,720 and fees payable for issuing a duplicate licence to \$345 with effect from 8 March 1996. The proposed increase will enable the Government to achieve a full cost recovery.

I must stress that the proposed fee increase will only have a marginal impact on both the operating cost and profit margin of the existing some 1 000 employment agencies. As a matter of fact, employment agency representatives are not opposed to the current percentage increase. Besides, this proposal will not affect the Consumer Price Index (A) and the living standard of the general public. I urge Members to oppose the motion.

Thank you, Mr President.

MR IP KWOK-HIM (in Cantonese): Mr President, the proposed increase is 23% under this Regulation. The Democratic Alliance for Betterment of Hong Kong (DAB)'s view has always been that we do not object to the Government increasing fees to recover costs. We will determine our position after considering whether an increase is higher than inflation. Thus as far as this Regulation is concerned, we support the Honourable Mrs Selina CHOW's motion.

Since Legislative Council Members from the DAB were on a visit to Beijing on 5 February, none of us attended the meeting of the Subcommittee concerned. Thus we were unable to fully express the DAB's views in this area. This has caused us to vote against the Subcommittee's six proposals today. I wish offer my sincere apologies here.

DR HUANG CHEN-YA (in Cantonese): Mr President, the Honourable Mrs Selina CHOW has made it clear just now that the increase proposed by this Regulation would be a very abrupt one. We feel that it would cause difficulty to employment agencies in their operation. There would at least be financial pressure. We feel that there should be financial assistance especially to small companies at this time of economic difficulty. So we feel that the Government should freeze this fee increase.

Question on the motion put.

Voice vote taken.

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

Mrs Selina CHOW claimed a division.

PRESIDENT: Council shall now proceed to a division.

PRESIDENT: I would like to remind Members that they are now called upon to vote on Mrs CHOW's last motion which proposes to repeal the Employment Agency (Amendment) Regulation 1996. Will Members please register their presence by pressing the top button and proceed to vote by choosing one of the three buttons below?

PRESIDENT: We are two or three short. Before I declare the result, Members may wish to check their votes. Are there any queries? The result will now be

displayed.

Mrs Selina CHOW, Mr Martin LEE, Mr SZETO Wah, Mr Edward HO, Mrs Miriam LAU, Dr LEONG Che-hung, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Michael HO, Dr HUANG Chen-ya, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr Henry TANG, Dr YEUNG Sum, Mr WONG Wai-yin, Mr James TIEN, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Andrew CHENG, Mr Paul CHENG, Dr Anthony CHEUNG, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr Albert HO, Mr IP Kwok-him, Mr Ambrose LAU, Mr LAW Chi-kwong, Mr NGAN Kam-chuen, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE and Mr YUM Sin-ling voted for the motion.

Mr CHIM Pui-chung, Dr Samuel WONG, Dr Philip WONG, Miss Christine LOH, Mr LEE Cheuk-yan, Mr LAU Chin-shek, Dr LAW Cheung-kwok, Mr LEUNG Yiu-chung, Mr Bruce LIU, Mr MOK Ying-fan and Miss Margaret NG voted against the motion.

Mrs Elizabeth WONG abstained.

THE PRESIDENT announced that there were 34 votes in favour of the motion and 11 votes against it. He therefore declared that the motion was carried.

PRESIDENT: I have accepted the recommendations of the House Committee as to the time limits on speeches for the motion debate and Members were informed by circular on 12 February. The mover of the motion will have 15 minutes for his speech including his reply and another five minutes to speak on the proposed amendment. Other Members, including the mover of the amendment, will have seven minutes 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.

**PROPOSAL OF THE HOUSING AUTHORITY'S AD HOC COMMITTEE
ON PRIVATE DOMESTIC PROPERTY OWNERSHIP BY SITTING**

PUBLIC HOUSING RENTAL TENANTS

MR LEE WING-TAT to move the following motion:

"That this Council opposes the proposal made by the Housing Authority's Ad hoc Committee on Private Domestic Property Ownership by Public Rental Housing Tenants that public housing tenants be required to declare their assets."

MR LEE WING-TAT (in Cantonese): Mr President, I have today started a debate in the Legislative Council again on the housing subsidy policy. The last debate took place in December 1992, when this Council adopted my motion that the Housing Authority (HA)'s housing subsidy policy should be abolished. Though a different name is used this time, the policy is only a continuation of the old housing subsidy policy.

Mr President, this new housing subsidy policy is targeted on people at the grassroots level under the pretext of "safeguarding a rational allocation of public housing resources".

As a matter of fact, the emphasis of the policy is to reduce the subsidy to those public housing rental tenants whose living standard has improved, forcing them to purchase Home Ownership Scheme (HOS) flats or pay the market rent. Another evident implication of the policy is that "those members of the public who can afford it should pay more". The principle governing the policy seems to be very fair on the surface, but is it appropriate to apply it to services provided under our social welfare policy?

If we support that public rental housing tenants whose living standard has somewhat improved should pay the market rent, I wish to ask whether people whose living standard has improved should, when admitted to a public hospital, pay higher admission charges than the average person or even pay the market charges. Should children of families whose living standard has improved pay higher tuition fees or the market fees when they are enrolled at a university? This is not alarmist talk. For the last few years the Government has been advocating determining medical charges on a cost basis and itemizing medical charges. This, together with the recent substantial rise in university tuition fees, is actually a manifestation of the Government's intention to further diminish its commitments in social welfare services.

Mr President, of all the present public rental housing tenants, 58% (more than half) did not undergo any assets review when they moved into public housing. Many of the tenants were resettled in public housing because of their squatter huts, cottages or private housing being demolished. It was possible that they were in possession of certain assets when they moved into public housing. They did not undergo any means test when they moved in but are required to do so now after a long period of occupancy. Moreover, they are threatened with the possibility of paying the market rents. This is no different from "settling the accounts after the autumn harvest".

Mr President, during the implementation of the former housing subsidy policy, many incidents of family disharmony were caused. To put down the required information, the head of household had to force the spouse and children to disclose their personal incomes. Now everyone is even required to disclose their personal assets. This would cause even more and greater conflicts between family members. The policy would cause family disharmony to take place more easily. It is stipulated in the Housing Ordinance that the head of household shall be held criminally responsible for false representation. The declaration of assets information would be extremely complicated. The estimated values of properties, stocks, gold and vehicle licences would change with the market and the head of household would not be a hundred percent sure that accurate information would be obtained from family members. Just like the former housing subsidy policy, the new policy would force the head of household to delete their children from registration in order to reduce the income or assets level. The policy would break up families and would even turn old public housing estates into estates for the elderly. It would go against the policy advocated by the community and the HA that children should be encouraged to live with their families.

Mr President, during the time when the HA sought views on the policy, many people on the Waiting List as well as those living in private housing complained about public housing being forcibly occupied by the so-called "well-off tenants". The community was also filled with resentment against these well-off tenants. Such resentment was caused consciously or unconsciously by the Government. Resentment between classes has emerged, which would bring about social instability. Actually the local community and political parties have never liked or advocated debates on social policy or allocation of social resources on the basis of opposition between classes or differences between the haves and the have-nots. Is this what the Government wants if the HA or the Housing Branch likes to take the initiative in stirring up class conflicts and conflicts between people with different incomes and then

social anger and instability arise as a result?

Mr President, since the beginning of the consultation period for this new housing subsidy policy, the Government so far has not put forward the specific objectives it wants to achieve. The two-month consultation period is over now. What we have been hearing continually are marketing slogans repeated by high-ranking government officials such as "a rational allocation of resources" and "those who can afford it should pay more". Even at the two special meetings of the Housing Panel of the Legislative Council, officials present still could not put forward any specific objectives. What actually is the estimated number of rental units to be taken back annually through this policy to help those in need? What would be the extra amount of rents to be collected annually? Government officials have been evasive. The whole process of reviewing the tenants' assets would involve huge administrative costs. The Housing Department has arrived at an estimated administrative cost which is fallacious and on the low side just because it has kept in complete darkness the costs to be incurred by the many professionals such as surveyors, lawyers and district Departmental staff in handling the applications as well as the administrative costs that would arise from appeals caused by different opinions on the estimated value. It is believed that in the face of this policy, many tenants would remove their children from registration as an evasive measure just as what was done during the implementation of the former housing subsidy policy. It is indeed doubtful how many units would be taken back and how much more rents would be collected. This is a policy with low cost-effectiveness, but the Government still goes for it without regard for the consequences. It makes one suspect whether the policy is intended to achieve other hidden purposes.

Mr President, the HA has been continually increasing the number of new HOS flats substantially in recent years. The number of rental units brought about by redevelopment aside, the total number of rental units only rose slightly from 667 700 in 1990 to 684 000 in 1995. I repeat, the total number of rental units was 667 700 in 1990 and 684 000 in 1995. There was a net growth of only some 10 000 units in five years. The annual net growth of rental units was only 3 400 units on average in the last five years whereas the annual net growth of HOS flats was 14 800 within the same period. The HA estimates that nearly 100 000 HOS flats will be sold in the three years between 1998 and 2000. The surge in the supply in the three-year period, coupled with the high prices of HOS flats, will continue to diminish their attractiveness, especially to green form applicants. To enforce the requirement to pay the market rents means forcing public housing tenants to purchase expensive HOS flats by means of a punitive policy.

Mr President, we consider it adequate to encourage those public rental housing tenants whose living standard has improved to purchase HOS flats by means of an incentive-based policy. As a matter of fact, rental tenants in public housing responded very enthusiastically in the last six years by submitting green application forms for HOS flats. There was a 400% to 1 200% over-subscription. As for the special HOS quota for double rent tenants, there was also a 400% over-subscription. So it is not that they do not want to leave but that their applications have been turned down again and again. Mr President, why should the Government make such an unnecessary move when rental tenants still leave public housing of their own accord in the absence of a punitive policy, unless there are other ulterior purposes?

Mr President, it is the opinion of the Democratic Party that the question of public housing tenants whose living standard has improved can be dealt with by providing incentives to encourage public housing tenants to purchase HOS flats and reconsidering the plan to sell public housing. There is no need to advocate a new housing subsidy policy of a punitive nature.

Mr President, with these remarks I beg to move.

Question on the motion proposed.

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

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

MR EDWARD HO's amendment to MR LEE WING-TAT's motion:

"To delete "opposes" and substitute with "supports that the allocation of public housing resources should be based on needs, and urges the Housing Authority to amend"; to delete "the Housing Authority's" and substitute

with "its"; and to delete "that public housing tenants be required to declare their assets" and substitute with "in order to enhance cost effectiveness and minimize the extent of disturbance to tenants".

MR EDWARD HO (in Cantonese): Mr President, I move that the Honourable LEE Wing-tat's motion be amended as set out under my name on the Order Paper.

The Housing Authority (HA) conducted a survey in connection with the Long Term Housing Strategy Interim Review in November 1992. According to the findings, about 13% of public housing tenants owned private domestic properties. Once this was brought to light, there was strong public opinion that it was unfair for property owners to enjoy public housing resources. A public opinion poll was also conducted in March 1993. Of all the public housing tenants interviewed, 65% said they found property ownership by public housing tenants unacceptable. The same view was shared by 68% of private housing residents. Moreover, 88% of those interviewed said that public housing tenants with property ownership should move out of public housing.

During the consultation period for "Safeguarding a Rational Allocation of Public Housing Resources", we should listen to public views. Moreover, it is logical that the Legislative Council, during its debate, should consider the principle put forward by the Ad Hoc Committee on Private Domestic Property Ownership by Sitting Public Housing Rental Tenants after two years of discussion. The Council should also state clearly whether it supports or opposes that principle.

The Ad Hoc Committee's principle is that a rational allocation of public housing resources should be safeguarded. So there is a need to stop subsidizing tenants who have the financial ability to meet their own housing needs. If they choose to stay in public housing, they must pay the market rents.

To determine public housing tenants' level of financial ability, they must be required to declare their assets. This is the key to a fair solution to the problem. Mr LEE Wing-tat's motion makes use of this technical key to prevent the implementation of the principle. If his motion is opposed to the principle, there is no need at all for me to propose an amendment because Members may support or oppose it by voting.

I support the principle of safeguarding a rational allocation of public housing resources. This is also the Liberal Party's stand despite the fact that some of my fellow Party members may be unable to attend today's meeting.

Hong Kong has little land but a large population. To solve the housing problem has always been the Government's top priority. The Government has also put in a large amount of social resources in this connection. As at 31 March 1995, government land grants had exceeded 1 000 hectares and total subsidies had reached about \$142,000 million. In principle the public housing scheme is intended to take care of people who lack the financial ability to meet their housing needs rather than tenants who can afford to own properties.

I wish to note here that Mr LEE Wing-tat said the Ad Hoc Committee's proposal is targeted on the grassroots level. I wish to tell him that the currently set income and assets limit already falls within the top 10% of people with the highest income. I think they may not be called the "grassroots level".

Objectively speaking, we must stop subsidizing tenants who own properties and considerable assets. I think there are many in our community who are in real need of subsidies but do not get them. According to the HA's figures, there are 150 000 people on the Waiting List. Moreover, there is a continuous influx of new immigrants into the territory. There is an urgent need for a large number of new immigrants to move into public housing. So even over a very long period of time, the housing problem may not be solved.

Hong Kong has limited land resources and infrastructure. The pace cannot be increased simply according to our wish. Actually the rate of building public housing units has recently slowed down because of land shortage. In the years to come, probably 80 000 units will have to be built annually in 1997 and 1998 in order that the long-term plan may be realized in 2001. This is no easy task because we need to break our past record of housing construction.

As regards the so-called question of "a declaration of assets being a nuisance to the people", the Ad Hoc Committee had held in-depth discussions on a number of occasions on how to reduce the extent of nuisance to the people. The Committee suggested that only tenants paying double rent (about 30 000 of

them) should be required to declare their assets. That would mean only 5% of all tenants. Moreover, these well-off tenants may choose not to make a declaration because they can always pay the market rents if they do not make a declaration. First of all, a declaration of assets is necessary. And there are precedents. Other public bodies such as the Legal Aid Department and the Housing Society, which is implementing the Sandwich Class Housing Scheme, require people to make a declaration. To ensure that "the subsidy enjoyed by tenants is allocated on a needs basis so that resources may be used effectively and fairly", the HA has all along required public housing applicants to declare their incomes. Such reasonable requirements have never met with reproach. In agreement with the major principle, the Liberal Party suggests enhancing the cost-effectiveness and minimizing the extent of nuisance to the people. As for the specifics, I will let my colleague Mrs Selina CHOW put forward suggestions. I have heard the opinions of many members of the public recently. They say that public housing tenants with property ownership may be required to surrender their public housing. I think we should adopt an open attitude at this stage and listen to the views of more people.

Mr President, with these remarks, I beg to amend Mr LEE Wing-tat's motion.

Question on the amendment proposed.

MRS ELIZABETH WONG: Mr President, I rise to make several points in support of the original motion. First of all, to introduce a system where a lot of the people have to undergo consciously a declaration of assets will create, in my opinion, administrative chaos.

Secondly, if the asset declaration is not checked, then it will probably introduce abuse. If checked, it will again be a nightmare of administrative control.

Thirdly, in Hong Kong where social mobility is lauded as characteristic of success, I think it is very uncharacteristic of Hong Kong people to actually be envious of those people in public housing who have become wealthier than

before. We should be happy for them. We should not penalize them.

Fourthly, we all need a roof over our head, but I really do not, for the life of me, see how this asset declaration scheme will help to create more housing for those people who are not housed. How do you create units?

So let us have a system where we must build and build more units for people without housing and let us have a new, innovative housing policy where people have a roof over their head and feel they belong. Until we have that, let us not muck about with the policy and create problems, for not only residents but for those people who are in control of the policy. Let us not tinker with the policy.

With those remarks, I support the Honourable LEE Wing-tat's original motion. Thank you.

MR CHOY KAN-PUI (in Cantonese): Mr President, two major principles are emphasized in the consultation document "Safeguarding a Rational Allocation of Public Housing Resources" published recently by the Housing Authority's Ad Hoc Committee on Private Domestic Property Ownership by Sitting Public Housing Rental Tenants:

1. Public housing is not private property. Public housing is public property of the community. It is a dwelling place provided for the needy. So public housing residents do not necessarily have the right to enjoy lifelong, or even "hereditary", public housing subsidies.
2. Public housing subsidies should be provided on a needs basis so that the limited public housing resources may be effectively and fairly used.

Under these two major principles, the Ad Hoc Committee proposes that about 30 000 "double rent payers", who are required by the subsidy policy to pay double rents, should declare their assets and incomes. If the net asset value

and income exceed a certain limit, there will be two options: (1) They may no longer enjoy housing subsidies. In other words, they should pay the market rents or move out of public housing. (2) They may purchase Home Ownership Scheme flats on favourable terms. The purpose is for them to vacate more public housing units for families who are in greater need. The spirit of a rational allocation of public housing resources as proposed by the Ad Hoc Committee deserves our support. But the policy will have widespread and far-reaching effects and there could be complicated technical problems during its implementation, so we cannot but examine it carefully.

This policy is originally targeted on well-off tenants to prevent them from steadfastly occupying public housing forever. That is why their assets have to be subject to a comprehensive review. However, if these assets reviews are not conducted properly, they will become a nuisance to the people and may even be criticized for infringing on privacy. Moreover, it is still questionable whether the Housing Department should invest huge resources to conduct the series of assets reviews. There is also much controversy in the community as to how the criteria for assets reviews should be determined.

Of the many controversial questions, a few deserve our attention. For example, should a taxi licence, which is a means of making a living, be included in the assets? Look at another example. In the face of consistently high inflation and rising property prices and rents in the territory, many Hong Kong people, including those in the middle and lower strata, would rather economize on their food and clothing to purchase a flat on a mortgage as a hedge or for the purpose of providing for themselves when they grow old or even covering their funeral expenses. Should this asset be exempted? Look at yet another example. While stocks, cars and properties will be subject to review, some property of high value such as gold, jewellery and even antiques will not be included. Is it appropriate? But if such property of value is also included, how will it be assessed? How can this list of items to be assessed be formulated? Moreover, much controversy has also arisen in the community regarding the income and assets limit proposed by the Ad Hoc Committee.

Some of the "double rent payers", who will be subject to an assets review according to the Ad Hoc Committee's proposal, were accommodated in public housing as a result of land resumption by the Government or demolition. These people moved into public housing then without undergoing any means test. Was their resettlement in public housing then compensatory in nature? At

present the Government and the public differ in opinions on this question. Should these public housing tenants be subject to an assets review?

According to the Ad Hoc Committee's estimate, the implementation of this policy will incur administrative costs as high as \$3 million annually. If we implement the review, how many well-off tenants after all will be compelled to surrender their public housing units? Will it be a waste of manpower and money to conduct assets reviews on 30 000 tenants because of a small number of well-off tenants?

Mr President, I am in favour of ensuring a rational allocation of public housing resources. On the one hand, we see a very large number of people in the lower stratum living in temporary housing areas and squatter areas, where hygiene conditions are extremely poor and living space is extremely narrow. There are also caged residents and households in overcrowded accommodation. On the other hand, we see well-off tenants with considerable financial viability still occupying public assets of the community — public housing. Could we turn a blind eye to it? Are we so cruel as to let these poor people in overcrowded accommodation remain in such a sad plight in order to protect the small number of well-off tenants? According to a recent press report, there is a well-off tenant who owns two private domestic properties with a present value of \$30 million. Though his children had grown up and he had emigrated, he still occupied a public housing unit steadfastly. The Housing Department could only terminate his lease on the ground that he let other people live in his public housing unit. But he sued the Government for doing so. Now the question is that under the existing policy and regulation, a public housing tenant's lease cannot be terminated on the ground that the tenant has already acquired a certain level of income and wealth. This is extremely unfair to people in the lower stratum who have a genuine need.

Of course, the solution to the housing problem confronting the lower stratum lies mainly in building more public housing. But it is also essential to ensure a rational allocation of public housing resources. Thus I am in favour of formulating a policy and establishing a mechanism whereby public housing resources may be rationally allocated on a needs basis. But it does not necessarily follow that all "double rent payers" should be required to declare their assets. We can enact legislation or regulations to authorize the Housing Department to, based on specific conditions, request some well-off tenants whose estimated income and net asset value have exceeded a certain limit to declare their assets. As regards the income and net asset value, what should be considered a reasonable limit? Take for example a family of four. I think the

income limit of about \$40,000 as proposed by the Ad Hoc Committee is reasonable. But for the proposed net asset value, it should be appropriately raised to over \$1.5 million.

Mr President, these are my remarks. Thank you.

MISS CHAN YUEN-HAN (in Cantonese): Mr President, the proposal put forward by the Housing Authority's Ad Hoc Committee on Private Domestic Property Ownership by Sitting Public Housing Rental Tenants that public housing tenants should be required to declare their assets is based on two principles. First, public housing resources are public rather than private property. Second, the allocation of public housing resources should be based on needs. Over 150 000 people are waiting earnestly for public housing and supply has fallen short of demand. So it is proposed that some tenants whose economic conditions have improved should be required, after a review of their assets, to vacate their units for the needy. Otherwise, they should be required to pay the market rents to reduce the Government's subsidy to them.

These grand principles appeal to the ear and seem very reasonable. But when we look through the surface, we find many unreasonable areas. Look at this analogy about going to a restaurant for tea. The restaurant has limited seating and it is with difficulty that a seat has been found. But then the waiter asks patrons to take out their wallets to show how rich they are on the ground that there are too many people waiting while seating is limited and demand has exceeded supply. Of course, the restaurant is very democratic and will not force patrons to observe its rule. But those who do not observe the rule and want to stay on for tea must pay what is charged by a five-star hotel.

Similarly there are two major principles in this example. The restaurant is a public place and no individual should have the sole right to enjoy it. The allocation of resources is also based on needs. Mr President, you may say that this analogy is no good and that the two situations are not exactly the same. I admit that there are differences. The operators are different. If the operator of the restaurant acted in the same way as the Housing Authority (HA) does now, the restaurant would close down very soon. But since the HA is now controlled by the Government, it is difficult to resist authority. But I also see a similarity: both deal with the grassroots people. The difference is that public housing

tenants have a more limited choice than the restaurant patrons. The latter can still choose to go to another restaurant if they are unhappy. But the choice that is left for the former is extremely limited. Is this fair and reasonable?

When relevant district resident rallies were held in the past, there were many cries of discontent from public housing tenants. Recently when I attended resident rallies at some Home Ownership Scheme (HOS) and public housing estates, I heard the opinions of HOS residents. It can be said that there is much popular indignation. The residents are right in asking why "the magistrate is free to burn down houses while the common people are forbidden even to light lamps"?

The requirement by the HA that public housing tenants should declare their assets is no doubt a continuation and extension of the housing subsidy policy. It is targeted on a large number people living in public housing. There are 150 000 families waiting for public housing against some 10 000 affected households in public housing. It is like trying to put out a burning cartload of faggots with a cup of water. Not only will it fail to solve the problem of public housing demand and supply, it will also be a waste of manpower and money. What is more, it will draw a line between "well-off tenants" and "non-well-off tenants" and even between public housing residents and non-public housing residents. Mr President, I think this move by the Government is as good as putting the blame for the existing problem of Hong Kong's public housing resources on the so-called "well-off tenants". Public housing tenants have become a scapegoat. This is very unfair to them.

If we review the history of public housing, we know that the Government applied a double standard in allocating housing units in the past. Over half of public housing tenants were resettled without a means test in public housing as a result of demolition or land resumption plans. Besides, it was not stated then that they could not own private properties. Nor were they required to declare their assets. It is true that all public housing tenants were allocated public housing units through legal channels. The alleged "steadfast occupation" is not true whatsoever. Public housing tenants' dwelling right actually deserves protection. We do not say this is "hereditary".

Nevertheless, among some public housing tenants who own private domestic properties, 80% are live-in residents. There are only a small number of super well-off tenants. There are many reasons behind the fact that some

public housing tenants own private domestic properties. Mr President, 80% of people live in public housing in where I was brought up. I have seen many residents being forced to buy second-hand flats and third-hand flats because of their overcrowded living condition. People of one generation, two generations and three generations are accommodated in a medium-size unit. They are forced by long-term overcrowding to economize on their food and clothing to buy second-hand flats so as to remedy the prevailing overcrowding condition in public housing. Mr President, you may ask me why the Government is not asked to solve the overcrowding problem. I can tell you, Mr President, that if the Government is asked to solve the problem, it will still be there for a very long time without a solution.

Over the years I have seen time and again many households still living in the same units with the same household members. This tells us that the Government does not have what is needed or has not done a good job as far as overcrowding is concerned. As a result, people have been forced to buy private properties.

Moreover, we can see that there is actually inadequate social security in Hong Kong. So there are now many old people who have retired but who cannot stop working. This makes our young generation very sad. Since the Government does not provide retirement protection, in order to safeguard their livelihood in the future, they are forced to buy some cheap second-hand and third-hand flats to prepare for their retirement later.

So the so-called "well-off tenants" are actually not well off. The so-called "public housing tenants who own private domestic properties" are confronted with great difficulties themselves. So we think that the Government's prevailing policy is not correct.

We think that the so-called "reallocation of resources" will only drive some poor people to abject poverty.

So we are by no means in favour of the Government's policy. We support the Honourable LEE Wing-tat's original motion and object to the HA's requirement that public housing tenants should make a new declaration of their assets. As for the Honourable Edward HO's amendment, it is too general.

Moreover, its original intention was to support the Government's move. So we do not support his amendment. It is on these grounds that I have spoken today for the original motion and against the amendment.

Thank you.

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

MR LEUNG YIU-CHUNG (in Cantonese): Mr Deputy, the Housing Authority (HA) has always been criticized by the public for being inadequately representative. The policy it formulates cannot reflect the wishes of the general public, thus throwing Hong Kong's overall housing issue into chaos. Meanwhile, many unfair and unreasonable situations have arisen. In the end this has left property developers and bankers with full pockets while an ordinary man has to give his whole life in exchange for a modest dwelling place.

The Hong Kong Government started building public rental housing for people at the grassroots level in 1953 to solve the housing problem confronting victims of a big fire in Shek Kip Mei. It has since provided housing for nearly half of the population, thus making it possible for the whole community to develop fairly steadily despite low wages and a lack of social security. But it is for this reason that the Government should persevere in its efforts and continue to work for this goal. It is a pity that because of the composition of the HA and the fact that the Government itself is a representative of those with vested interests, they think hard to find a way to put an end to this ever going public housing building plan, seeing that the increasing population of public rental housing has posed a serious threat to the interests of property developers and bankers. Actually the HA's recent successive plans have made it all too clear. Look at the following examples.

Well-off tenants as defined by the new housing subsidy policy will have to pay the market rent. Home Ownership Scheme (HOS) flats may be sold to public housing tenants after being owned for three years. Similarly HOS flats may also be partly bought and partly rented. It is very clear from the foregoing that the Government intends to sell rather than rent a large number of public

housing units. Under these circumstances, how can public housing tenants benefit? What good will it do to the 150 000 people on the Waiting List?

The new housing subsidy policy will actually affect only some 30 000 well-off tenants. But many people will be dragged in. All the members of a family, young or old, will be required to declare their assets. It is estimated that in the end only about several thousand people will have to pay the market rents. But if they would rather pay the market rents than move out, would the Government succeed in its plan? Would any good be done to the 150 000 people on the Waiting List? So as a matter of fact the Government merely aims to sell rather than rent the housing units.

It seems now certain that the Government will not develop public housing to solve the housing problem confronting people in the lower stratum. Look at the following examples.

1. According to the public housing building plan, more HOS flats will be built than public housing units. It is the Government's assumption that people's demand for HOS flats is greater. But this assumption is not backed by actual figures.
2. The Government has adopted a new policy which allows HOS flat owners to sell their flats to public housing tenants after three years' occupation. The Government thinks this will enable public housing tenants to buy their own flats so that they may live and work in peace and contentment and at the same time vacate some public housing units for people who have been waiting. In view of the prevailing high prices of private properties, does the Government really think a large number of HOS residents will hastily sell their flats? Does the Government believe that a large number of HOS residents will become so rich within three years that they want to sell their flats in order to buy private domestic flats?
3. Under the HA's new housing subsidy policy, new well-off tenants will be accorded second priority in buying HOS flats. I have just criticized that this policy is not going to be effective.
4. Everyone knows that two Legislative Council Members who sit on the Housing Panel have confirmed to the media that high-ranking people from the Government and HA had revealed the idea of

building no more public housing after 2001 and sought their views. It is evident that the Government is giving up public housing step by step and wants public housing tenants to buy HOS flats.

The Government is determined to force people to move into HOS flats or private properties while gradually stop building any public housing. The Government tells us that is all for the so-called aim of letting people live peacefully but its real intention is only trying to shirk its responsibility of providing public rental housing. Actually I have found several motives which can prove the Government's intention:

1. The Government thinks that the building of public housing, coupled with the expenses for the never-ending maintenance and management, is a huge financial burden to the HA. The Government does not want to bear this burden any more.
2. The HOS community can create a more secure and stable social environment than the public housing community because HOS residents generally value the places they own more. To put it simply, the Government thinks it can be managed easily.
3. In order to protect the interests of property developers and bankers, the Government forces some public housing tenants to buy private properties so as to protect private property prices. This is clear evidence that the Government does not intend to continue with the public rental housing plan.

Mr President, as a matter of fact, Hong Kong has a population of over 6 million. Apart from a small fraction of well-off people, undoubtedly the last 10 years or so saw the birth of a group of middle-class people who want to enjoy better quality of life. On the other hand, we can see that there are still several million people with income below the middle level in Hong Kong. They have standard of living below the middle level. There are also a lot of poor people, with 110 000 of them receiving Comprehensive Social Security Assistance. I can also see that Hong Kong's economy has been going downhill in recent years while land and property prices have continued to rise. Under these circumstances, it is actually extremely difficult for the man in the street to buy a private property. A stable dwelling place cannot be provided.

Today's debate is on the question of private domestic property ownership

by public rental housing tenants. I am strongly in favour of the original motion, which opposes the Ad Hoc Committee's requirement that public housing tenants should declare their assets. In addition to the principle that public housing tenants should not be penalized for their improved living standard, there are the following reasons:

1. This is disturbing and unreasonable. Actually the so-called "assets", which are means of making a living, should by no means be considered part of the tenants' wealth.
2. The proposal is unfair because the head of household does not have complete control over the family members' incomes. For example, the working children of the head of household may not give all their assets and incomes to the family for personal reasons. Then the head of household will not be able to afford it.

With these remarks, I support the original motion.

MR SIN CHUNG-KAI (in Cantonese): Mr Deputy, I started living in public housing when I was five. I had lived there for over 20 years until I got married to have my own family, when I had to move out of this small public housing unit. Thanks to public housing, many small families have managed to step into a stable life. When members of these small families have grown up and their situation has improved, many would take the initiative in seeking better dwelling places.

But the Government has now presented this document, which is actually a document of punitive nature. It is punitive in that it makes people aware that if their living standard has improved, they have to pay a little more tax. Actually, the Government should change this system of getting more for harder work by means of the tax system rather than public housing rentals. Mr President, my colleague the Honourable LEE Wing-tat will elaborate these views to you.

There is one point I wish to make. There are many redevelopment estates in my constituency, including Kwai Chung, Tai Wo Hau, Lei Muk Shue and Shek Lei Estates. They will not be demolished until after 1998. As proposed in this document, the tenants of these estates will no longer enjoy the 10-year exemption from paying double rents.

Since the implementation of the housing subsidy policy in 1987, the Government has granted public housing tenants a 10-year exemption from paying double rents. This exemption has enabled some tenants whose condition was very poor at first but has since improved to have a fairly stable life within the first 10 years. Here is a simple example. A tenant occupying a 100-odd sq ft unit in Kwai Chung Estate only needs to pay several hundred dollars in rent now. But if he moves into a Harmony estate, the rent he needs to pay is already \$2,400, which is six times his old rent. If he has to pay the market rent, which is five times \$2,400, it will be \$12,000. The increase from \$500 to \$12,000 is several dozen times.

I think this rent will deal a heavy blow at redevelopment estate tenants' zeal for redevelopment. It will also prevent redevelopment from being carried out smoothly. I hope the Housing Department or Housing Society will think thrice before implementing this policy.

As a matter of fact, I am in principle against the whole housing subsidy policy. But I feel that I have to stress more that this policy as proposed by the Housing Authority will create social conflicts, not only conflicts between public housing residents and non-public housing residents but also conflicts among public housing residents themselves.

Mrs Fanny LAW, Deputy Director of Housing, has mentioned a "push and pull policy". This "push and pull policy" will force some public housing tenants to leave public housing on the one hand while tempting some public housing tenants to buy Home Ownership Scheme flats by means of an incentive policy on the other. Actually this measure will eventually lead to an increased demand for private properties, which will in turn cause property prices to rise again. In the end not only public housing tenants but also the whole population will become victims.

I hope that the Government and those critical of or supporting this policy all realize that this policy is not merely targeted on public housing tenants. Actually all the people in Hong Kong may become victims with the exception of those who have "gone ashore". Having bought many properties, they need not

be tortured by properties any more.

Actually during the discussion of this subject, the Government has often said that a minor policy will not be carried out until after a major review. I agree to this point. Mr Dominic WONG, Secretary for Housing, is currently studying a paper on the long-term housing strategy, which will be submitted for discussion in the middle of this year. The Government should thus tell us first what the overall housing strategy is before this assets review proposal is considered.

I stress that I am opposed to this assets review proposal in principle. If there is a real need to implement the proposal, it should be the objective of one of the items under the long-term housing strategy. It should not be hastily raised for discussion now. To take the question out of a package and bring it up for discussion before explaining the long-term housing strategy clearly to the public is, in my jargon, "sharpening a pencil". Sharpen it as much as possible. Exploit the public housing tenants as much as possible.

I think this policy will deal a heavy blow at public housing tenants and those who will be in need of housing. I stress that those in need of housing include many young people. When these young people get married in the future, they will either move into public housing or buy private properties. The current housing policy aims to encourage most people, public housing tenants or prospective public housing tenants, to get into the private property market. I hope Mr Dominic WONG, Secretary for Housing, will review this policy before submitting this document for discussion.

MRS SELINA CHOW (in Cantonese): Mr Deputy, the Legislative Council unanimously adopted a motion to sell public housing last week, just in time to lay a good foundation for today's debate — that public housing resources may be better allocated to those with the greatest need.

Last week's motion can satisfy public housing tenants' desire for home ownership. Today's debate is aimed at allocating public housing resources rationally to those who need housing but cannot afford it. Some time ago the Liberal Party expressed support for the principle laid down in the consultation

document but some doubts about the effectiveness of the proposed measure in vacating more public housing units. The Liberal Party thinks that the document is in the right direction in considering how to adjust public housing resources according to changes in the times and social circumstances. However, the specifics must be properly revised to effect an even more appropriate allocation of resources with less nuisance to existing public housing tenants.

I believe the Honourable LEE Wing-tat, who made the original motion, would not ask those who work as employees to pay tax to subsidize families with a monthly income of \$50,000 to \$60,000 so that they may stay in their public housing units while their own families, which earn as much as the tenants' families, have to pay four to five times the public housing rent for their private flats because they do not meet the requirements for public housing.

After careful and in-depth consultation with the public, the Liberal Party has come to a conclusion similar to the Housing Authority's statistical findings, that is, a majority of people think that public funds — government revenue derived partly from taxes paid by workers with a monthly income of some \$4,000 — should not be used to continue to provide a monthly housing subsidy of \$3,000 to \$4,000 for those public housing tenants who have become rich.

The Liberal Party has carried out different activities such as resident rallies, public hearings and questionnaire surveys in Tai Po, Sha Tin, Kwai Chung, Yuen Long, Chai Wan and Central and Western Districts to collect public opinions on the consultation document as the basis for the Party's final proposal.

We have found that most of the people who spoke out, whether they are public housing residents, accept that public housing resources should be provided for the needy. The question is how well-off tenants should be defined, whether it is fair and whether the market rents are reasonable. After considering the opinions of different parties, the Liberal Party actually already announced our final proposal yesterday, which includes the following major areas:

Firstly, we think that a family required to pay the market rent should have:

- (1) an income four times the income limit for applicants on the Waiting List. That means a family of four should have a family income of \$54,400.

Based on this income, it is estimated that fewer than 7 000 public housing families will be affected. These families are roughly among the top 6% of families with the highest income in Hong Kong. Besides, the annual per capita gross national product of Hong Kong is currently \$168,000, or \$14,000 per month. It is exactly about \$56,000 for a family of four.

- (2) assets 220 times the assets limit for applicants on the Waiting List. That means \$2,992,000 for a family of four.

Before we arrived at this figure, we had considered, say, a case in which a family of four wants to buy a private property. The price will almost be twice that of a Home Ownership Scheme (HOS) flat for which the family is eligible. This is exactly 100% more than what was proposed by the Committee in its report. Moreover, the children in the family of four may not give all their incomes to the family. We also took into consideration the strong views on assets such as vehicle licences which are means of making a living. So the figure determined should allow some leeway.

Secondly, the market rent should be specifically fixed at three times the current rent rather than about three to five and a half times as proposed in the report. It is because if the set scale worries the affected tenants, it will cause many conflicts or even strong complaints in the future.

Thirdly, the "three-lane options" advocated by the Liberal Party last week must be implemented at the same time so that tenants who can afford it may, depending on their ability, buy the unit they currently occupy, a new public housing unit or an HOS flat.

Fourthly, there should be a cumulative contribution scheme to encourage better-off public housing tenants to apply for HOS flats during the three years when they pay the market rent. The difference between the market rent and double rent should be regarded as a cumulative contribution. We believe that this will prove an effective incentive for them to apply for HOS flats.

Fifthly, it takes too long to go through the prevailing appeal system. We suggest that a special appeal channel should be set up to handle appeals as soon

as possible.

The consultation document gives tenants the choice to decide whether to declare their assets. Actually we consider it a desirable measure. We think that if the family income they declare has not reached the limit, there should be no need for them to declare their assets. In other words, there is also no need for them to pay the market rent.

The Honourable Edward HO has said just now it is proposed that "super well-off tenants" should be evicted. The Liberal Party has carefully studied this proposal and has even considered a \$10 million limit. But if we accept this proposal, all public housing tenants must declare their assets before it can be implemented. In principle we are not in favour of it. So we do not support this proposal.

Mr Deputy, I urge my Honourable colleagues to support Mr Edward HO's amendment on the foregoing grounds.

MR CHAN KAM-LAM (in Cantonese): Mr Deputy, public housing resources are limited. I believe no one will object that we must use public housing resources carefully to achieve an effective and rational allocation. But it is indeed doubtful whether the Housing Authority's proposed policy this time will effect a rational allocation of resources.

According to the published policy consultation document, a family whose net asset value is over 110 times the income limit for the public housing Waiting List and whose monthly household income is over three times the income limit for the Waiting List should have the financial ability to purchase an Home Ownership Scheme (HOS) flat. So the family need not live in public rental housing. We cannot but ask whether the several months' consultation and the mind-raking efforts are intended to find out, among the 600 000 public housing tenants, several thousand people whose financial situation has improved so that they may be penalized!

Moreover, what is the Administration's rationale for making the household

income a reasonable assessment criterion? If this proposal were implemented, we suspect that it would only drive even more young family members away from their original public housing estates, thus speeding up family breakup and leaving the elderly family members with inadequate care. This is contrary to the idea mentioned in the consultation document that every family "is a whole entity". It also goes against the objective that families should give the elderly adequate care, which is often advocated by the Government.

The original intention of an assets review was that the so-called "super well-off tenants" would purchase their own properties. But under the proposed policy, they could choose to pay about three to five times the current public housing rents. Evidently this would not be the way to achieve the objective. Moreover, up to now the Administration has been unable to tell us exactly what would be achieved specifically if the policy were implemented. For example, how many public housing units would be vacated as a result? If most of the tenants preferred to pay higher rents, what would be the significance of implementing this policy?

We think the proposed policy would not contribute significantly towards solving the Waiting List problem. The proposal would cost the Housing Department several million dollars in administrative fees, but probably only a small number of units could be taken back. The proposal itself is not one which practises a rational allocation of resources. If the Administration acted wilfully, it would only give people the impression that the Housing Authority is trying to find a pretext to collect higher rents on the one hand while diverting people's attention to "super well-off tenants" on the other to avoid being condemned for building insufficient public housing units. Such "review of family assets" would really cause a great nuisance.

The Democratic Alliance for Betterment of Hong Kong (DAB) consistently holds that public housing has a function of social stabilization and that public housing should mainly be rental units. Actually the existing housing subsidy policy has already reduced the subsidy for residents whose financial situation has improved. It is indeed improper to further review tenants' assets in another step away from the objective that houses are built to enable people to live

in peace. The proposed policy, which is targeted on "super well-off tenants", is a manifestation of the "users pay" and "the rich pay more" principle. This is an unfair and unreasonable principle for social service charges.

Public housing policy has been implemented for nearly 40 years. Has the allocation of resources been fair? The answer is in the negative. Under the prevailing housing allocation policy, families that have been put on the public housing Waiting List basically belong to the social stratum in the greatest need of help to solve their housing problem. But the assets review is intended to pick out, among tenants who have lived there for over 10 years, a few "super well-off tenants" whose financial situation has somewhat improved and hold them fully responsible for the unfair allocation of resources. This is absolutely unfair to them. It would be more appropriately called "settling the accounts after the autumn harvest" than an "asset review".

To ease the pressure in respect of the Waiting List, we think the ultimate solution lies in building more public housing while raising the proportion of public rental housing. The Housing Authority should step up management and inspection targeted on those who have really abused public housing. The Housing Department's investigation team has focused its attention on nearly 3 000 cases in housing estates in the past 15 months and succeeded in taking back 500 units. We think once the Housing Authority and the Housing Department step up their estate management, the problem of abuse of public housing by some tenants can be solved. Meanwhile, the Administration should formulate more policies which give incentives to tenants to encourage those who can afford it to choose home ownership. The DAB suggests that the "replacement cost" should be used instead as a parameter in setting the selling prices of public housing units and HOS flats. Consideration should also be given to "counting rents as mortgage payments" so that tenants may purchase their own units.

The Housing Authority should review the housing policy from time to time. But a new policy should adhere to a principle of fairness so that each tenant is protected by the policy in effect prior to occupation. Rental conditions should not be changed frequently to deprive tenants of their right. Public housing policy affects the housing problem confronting over half of the local population. We think the Government should handle it with care. Actually the existing Government was successful in handling HOS and housing problems in the past.

MR ALBERT CHAN (in Cantonese): Mr Deputy, the Housing Authority (HA) submitted the consultation document "Safeguarding a Rational Allocation of Public Housing Resources" in December last year and said the policy proposal was intended to change people's concept that "public housing is lifelong welfare". The HA claimed that the objective of the policy was to "safeguard a rational allocation of public housing resources and that public housing tenants who have attained such a financial ability as to look after their housing needs should cease to receive public housing subsidies. If they choose to remain in public housing, they should pay the market rents."

The Democratic Party does not favour the HA's new proposal because it would not result in a more rational allocation of housing resources. In this debate I will focus my discussion on how unfair the new policy would be to those tenants whose resettlement in public housing was due to demolition.

The Government forcibly demolished seven buildings and the adjacent stone cottages in Sai Lau Kok, Tsuen Wan in 1976 to make way for the development of the Tsuen Wan Mass Transit Railway Station. There was then a massive confrontation between the Government and the residents. It was not until riot police units were called in that the residents were forced to move out. In the end the residents had no choice but to be resettled in Cheung Shan Estate. When the Government tried to persuade the residents to move into public housing at that time, they were neither required to apply nor asked to declare their incomes. Moreover, the Government made a pledge to the landlords of the seven Sai Lau Kok buildings that if they purchased properties, they would be given a maximum of \$100,000 as *ex-gratia* housing allowance in compensation. The residents also regarded their resettlement in Cheung Shan Estate as one of the compensation terms. As the residents did not make an application of their own accord and there was neither a requirement to declare incomes nor even any income limit, they were treated as a special group of tenants moving into public housing.

When the residents were being forced to move out, they received both threats and inducements from government officials, who tried their best to persuade the residents to move into public housing, claiming that it would bring a lot of benefits. The benefits would include paying lower rents and living in a stable and more comfortable environment. Moreover, the residents would not be subject to an income and assets review. Even if they owned other properties (for they would get financial assistance from the Government to buy new private

properties), they could still continue to live in public housing if they wanted. These pledges were given to these residents by the Government personally during its persuasion in the latter part of the 1970s. The above remarks were repeatedly uttered by government officials during their persuasive attempts. When many residents actually heard government officials make these pledges to them, they finally accepted the resettlement and compensation arrangements because they believed what the government officials said. But it is a great pity that the residents, who were of a simple character, did not ask the Government to make a written undertaking. Thus officials of the HA and the Housing Department can now deny that the Government has made the aforesaid pledges.

Since the Government went back on its own word and removed the bridge after crossing the river, this group of residents responded especially strongly when the Housing Department implemented the "well-off tenants policy" several years ago. The residents had a strong feeling that they had been cheated by the Government then. Now the Housing Department has once again come up with the "assets review policy" and required that residents should pay the market rents, turning a blind eye to the special reason for their moving into public housing. This way of handling things is extremely unfair to the residents.

As a matter of fact, many of those living in public housing now were not allocated public housing through the Waiting List. Some of them were resettled because their homes were demolished by the Government. There were also some who were allocated housing units by the Government for special reasons. So I think before the Housing Department revises any policy affecting the tenants, it must consider whether the policy is fair and reasonable. It should not have focused the review simply on residents' ability to pay the rents with no regard for the historical background and reasons why they moved into public housing and why they accepted the resettlement offer. I stress that it is "the historical background and reasons at that time". Mr Deputy, the Government cannot deny history.

Mr Deputy, I think the Housing Department has failed to look at the whole picture during its current review of the policy. I do not see any objective or even adequate rationale. Actually history is denied by the Housing Department's new policy. The Department has also turned a blind eye to the unfair and unreasonable things that would come with the new policy.

For the foregoing reasons, I strongly object to the Housing Department implementing the "public housing tenants' assets review policy" and demand that the HA review the existing "well-off tenants policy" as soon as possible. Particular attention should be given to whether this is fair to tenants who were resettled in public housing as a result of their homes being demolished so that the Government may soon get rid of its bad reputation for "going back on its own word".

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

MISS EMILY LAU (in Cantonese): Mr Deputy, the Housing Department conducted a sample survey among some 30 000 double rent payers in the middle of last year. It was found that over 40% of the tenants owned private properties and that some "super well-off tenants" even owned more than one property. After these figures were published, many people were surprised. Some public housing tenants even told me that these "super well-off tenants" should not continue to live in public housing.

Mr Deputy, I believe people who think like this are not jealous of other people's wealth. They only feel that rich people or those who have the ability should not continue to enjoy public housing resources because there are still many people who have a greater need waiting for public housing.

However, the public housing policy consistently implemented in Hong Kong has left people with the impression that one could live in public housing for one's entire life. Thus it would be very difficult for the Government to ask people to move out. It is also for this reason that when the Housing Authority (HA) proposed last year that double rent payers should declare their assets, many residents found the proposal even more unacceptable.

I understand that to require residents to declare assets will cause a huge controversy. Though several dozen thousand or even fewer tenants are directly affected now, as has been pointed out by many Members earlier on, residents are worried that some two million public housing residents will be affected in the future.

Mr Deputy, after the HA made this proposal, I held three consultative meetings in Shatin with Legislative Council Members from the Democratic Party, two being organized jointly with the Democratic Party and the other organized by myself. Residents did not speak out enthusiastically. But some of those who spoke supported a rational allocation of public housing resources. They even opined that those who were able to buy a property should move out of public housing.

However, some residents are also aware of the rising unemployment and closures of or layoffs by many companies in recent years. So they are worried that even if they have the money to buy a property now, they would not have money for the mortgage payments if unfortunately they lose their jobs in the future. So they are worried that they might lose the hard-to-get qualification for living in public housing in the future. They might have to wait another seven years before they can be resettled again. So they think that the loss would outweigh the gain.

Mr Deputy, the residents' worries are understandable because even such a serious housing problem lies hidden in a place like Hong Kong, where the economy is so flourishing. At present the man in the street still has to wait seven or more years before he is entitled to live in public housing. So people hope that even if this policy is implemented and they move out of public housing to buy a property, the HA should consider their situation and let them have priority in reallocation of public housing in case their income drops substantially in the future.

Mr Deputy, public housing rents are determined on the basis of people's ability. So they are far below the market rents. Public housing is indeed a great help to people with low incomes. It enables them to maintain or even improve their living standard. To the community as a whole, public housing helps to ease the poverty problem. If a large number of people who have ability and who have the ability to buy properties still live in public housing, those who want to enjoy them will be denied the resources.

To public housing tenants, to declare assets may be something rather

unusual. They might find it unacceptable because all along they had the impression, mainly after they "passed the barrier" when they first applied for public housing, that they had got it once and for all. They think they can continue to live in public housing unconditionally and even pass it to the next generation. But actually the requirement to declare assets is not an uncommon one. The Honourable Edward HO has just said that such an arrangement is used in other situations such as when applying for legal aid, university grants and social welfare.

For those who have been living in public housing for 10 years, if they wish to continue to enjoy public housing resources, I do not think such a requirement is very harsh for them. Besides, information about the assets to be disclosed according to the proposal is all open and registered information. So I think it is acceptable. But the problem lies in the limit. I believe the Government has to deliberate it because some tenants may feel that they are a borderline case and might become victims in a "messed up" situation.

However, now the Housing Department also admits that there are loopholes in the arrangements for declaring assets because tenants may transfer their assets to avoid paying the market rents. Some people also query that assets are not listed in the proposal, meaning that not all assets are covered. But when there are loopholes, it does not follow that the whole proposal should be rejected. I hope that when the Government discusses this policy, it will think harder whether there is a way to plug the loopholes. If there is, it should try its best to plug them.

Furthermore, Mr Deputy, on the question of charging market rents, some tenants think that there is a vast difference between private and public housing, especially the old estates with very poor management and quality. So they think the Government should consider these factors when setting the level of the market rents. Otherwise, it would be unfair to those who live in undesirable conditions in the old estates.

To sum up, Mr Deputy, I am in favour of the principle as proposed by the

HA. I hope tenants who can afford it will vacate more public housing units for those waiting. But I hope even more that the Government will eradicate the major problem of an inadequate supply of housing when it formulates its housing policy because if there are tenants who cannot buy a property and are forced to live in public housing and pay the market rents, they will think that the HA's proposal is intended to increase revenue only and that there is no intention to solve the serious housing problem, which is Hong Kong's "number one enemy".

Mr Deputy, with these remarks, I support Mr Edward HO's amendment.

THE PRESIDENT resumed the Chair.

MR MOK YING-FAN (in Cantonese) : Mr President, I am speaking on behalf of the Hong Kong Association for Democracy and People's Livelihood (ADPL). However, I believe I have to make a declaration of interest because I am living in public housing now. The ADPL supports the Honourable LEE Wing-tat's motion and does not approve of the Housing Authority (HA) reviewing public housing tenants' assets. I very much agreed to what the Honourable Mrs Elizabeth WONG said just now. I hope that high-ranking officials of the HA or my colleagues will have originality and will not get into a dead end. Think of some original solutions instead of some alienating methods which are not cost-effective. I want to ask how you will solve the housing problem confronting the 100 000 people who are now in the queue after you have used this method. Even if you could remove all the some 30 000 people, how would you deal with those 100 000 people? I do not think these methods are intended to safeguard the so-called "rational allocation of resources". The HA has not dealt with the question of a rational allocation of resources in a down-to-earth manner over the years. When council members at different tiers from the ADPL sought public housing residents' views on these so-called "methods of safeguard", they heard mostly opposing voices. The residents do not feel that the HA is safeguarding a rational allocation. Instead, they think it is "robbing the poor to feed the paupers".

The proposed policy is intended to review all the assets of a public housing tenant. As a result, tenants who are now paying double rent and those who will

be affected by the HA's rehousing plans in the future will have to submit detailed records of their financial situation. This move by the Housing Department to force residents to reveal all their family property will naturally arouse their strong resistant sentiments. The Government needs to consider very carefully whether such annoying measure is appropriate.

Moreover, despite ownership of assets by some tenants, if those assets which are also means of making a living (for example, a taxi) are included too, it is really a double penalty. As is noted in the consultation document, the proposed net asset value limit is only sufficient for the purchase of a Home Ownership Scheme (HOS) flat similar to the unit where the tenant is now living. But HOS flats are only priced at 55% of their market value. So a tenant who has such a net asset value does not necessarily have the ability to find a flat in the private property market. How can the Government determine whether people who cannot even own a private flat meet the requirements for public housing? This is completely illogical. Moreover, many Members have also said just now that there are individual and historical reasons behind the property ownership by existing public housing tenants. For example, perhaps they had previously applied to the Housing Department for transfer because of their extremely overcrowded living condition was but found they had no hope of succeeding in the application. So they had to be industrious and frugal and bought a second- or third-hand flat on a mortgage, some jointly with their sons and some by themselves. Luckily, however, the high land price policy practised by the Government in the last decade or so has caused property prices to rise suddenly. So they have got more money in their pockets. But this has indeed arisen from their actual need. They are completely different from the so-called "well-off public housing tenants" who own many private housing units. If ownership of one private housing unit is used as a demarcation line, as is now set by the HA, this is truly a very harsh line.

After seeking the residents' opinions, the ADPL has tried to find another way out on the basis of a rational allocation of resources. A counter-proposal is hereby put forward.

First of all, the Association does not agree to taking all assets into account. Since public housing is a housing resource, only housing value should be considered. At present, members of the public may go to the Land Registry to

find out the ownership of residential properties by heads of households and other registered residents in public housing. The Housing Department should find out who own properties through this channel.

The property asset value we have set is based on the value of private housing owned by a tenant. We have considered three factors in our calculation:

- (1) The income limit for a family waiting for public housing is based on, among others, the flat size for each type of family. But the size is the floor size. If a resident wants to buy a private domestic flat, the value of the flat, however, covers the construction area. The usable floor area of an existing property is generally only 70% to 80% of the construction area. So the HA must consider this factor.
- (2) A family may need an even larger living area because of overcrowding.
- (3) Retired and unemployed people may depend on rent collected from a unit to maintain their livelihood.

Based on the above three factors, we take the area of each family's public housing unit and multiply it by 1.5 for the living area. We also take into account the average price per sq m of private properties in Hong Kong. The net asset value proposed by the HA for, say, a family of four is \$1,496,000 whereas our "net housing asset value" is \$2,929,000, or about \$3 million. This is more rational and flexible than the original proposal.

The Association is also of the opinion that since our community encourages individuals to develop freely and accumulate wealth, the policy should not be so harsh that residents who have a pinch of wealth are being eyed covetously. Actually the demarcation line for the existing double rent policy is very harsh, too. Instead of achieving the goal of a rational allocation of resources, it adds to tenants' economic burden and lowers the quality of their everyday living. So we strongly feel that the double rent policy should be abolished and replaced with a rental policy which will classify tenants into two types, namely households in hardship which will receive rental assistance and

tenants who pay regular rents.

The ADPL supports the original motion because it clearly expresses a disapproving stand. Mr President, these are my remarks.

DR ANTHONY CHEUNG (in Cantonese): Mr President, the consultation paper "Safeguarding a Rational Allocation of Public Housing Resources " published by the Housing Authority (HA) is, according to the HA, to ensure that the resources of Hong Kong are effectively used so as to provide public housing for those who are in genuine need. Nobody would oppose this sweeping broad principle. But it is doubtful whether the logic and recommendations put forth can really achieve the purpose of "resources being effectively used". I have four issues to raise:

Firstly, this policy has no real effect in resolving the shortage of public housing supply.

First, if the HA thinks that double rent, one and a half rent or "market rent" can force the so-called "well-off tenants" to give up their units for applicants on the Waiting List and hence satisfy the needs of the community, this idea is highly questionable.

In the first place, the effect of the implementation of "double rent" policy by the HA has not been notable. There have not been many double rent payers moving out of public housing units because of that. Besides, since "double rent" policy was implemented in 1987, prices of private housing have soared immensely and are beyond the purchasing power of the general public. Now that the Government requires the tenants to pay market rent by way of "net asset value exceeding the stipulated limit", this is but the same old stuff with a different label. As private housing is too expensive, many tenants would rather pay market rent and stay in public housing. The actual effect of this policy of "forcing out tenants through high rentals" is thus open to question.

Actually, the implementation of the policy cannot really achieve a rational re-allocation of resources, as the current policy only applies to existing public housing tenants. The re-allocation is within the same strata of residents. From the point of view of the whole community, re-allocation within the same social strata is an unfair principle.

Secondly, public housing tenants should be encouraged to purchase their own properties.

From the former double rent policy to the present market rent policy, tenants are urged to turn to private housing by way of "penalty" and not encouragement. It is because tenants who have resided in public housing for 10 years are required to declare their income. If the limit is exceeded, they will have to pay double rent or one and a half rent. If the net asset value exceeds 110 times the stipulated limit, they will have to pay the market rent.

This has totally ignored the fact that people's income would have increased after having lived in public housing for 10 years. For after 10 years, many families have gradually improved their economic ability and income. But while their income has improved, they are penalized and required to pay higher rent or the "market rent". This would not achieve the effect of "encouragement". It only makes people feel annoyed, and would result in social disintegration. If the HA really wishes that public housing tenants purchase their own properties, it should, in the first place, building more low-cost Home Ownership Scheme flats, so that tenants with improved economic conditions can afford to buy such flats and are willing to move out of public housing. Secondly, it should sell public housing units at low prices. In the motion debate last week, this Council mentioned that the proposal of selling public housing is feasible. The HA can also consider the policy of "rentals for installment payments" so that public housing tenants can own their properties as early as possible.

Thirdly, why is the logic of pegging rentals to the tenants' economic ability not fully applied?

If the policy objective of the HA is that those who can afford shall pay more, then the market rent should not be used as a means to force tenants to move out. Rather, a "progressive" scale should be adopted in rental collection. More rent would be collected from those with more income. It was said that during a discussion of the Ad Hoc Committee on Private Domestic Property Ownership by Public Rental Housing Tenants, a member had put forward this proposal. But it was rejected due to administrative problems and the cost involved.

Therefore, if rentals are to be collected completely in accordance with

individual households' different income levels, it would tally more with the principle of vertical fairness. But problems will arise in its implementation. Hence, if higher rent or the market rent is to be paid, so that tenants can pay according to their abilities, we think this logic should be fully applied. But why is it not in use? It is because actually it cannot justify itself. Also, it would create a lot of administrative problems.

Finally, what is the objective of public housing?

The Government says that resources are insufficient and they need to be rationally allocated. At present, demand for public housing is greater than supply. A large number of applicants on the General Waiting List and tenants of Temporary Housing Areas cannot be allocated public housing units in a short time. The crux of the problem lies in that the Government adopted the policy of "priority to private housing" in the "Long Term Housing Strategy" formulated in 1987. It refuses to put in vast land resources and resolve the housing needs of the society through the supply of public housing. The Government keeps saying that those who have the economic ability should not live in public housing. But why not? In Singapore, 80% of the population live in public housing. Does that mean Singapore is facing economic collapse, or complaints are heard everywhere about injustice?

The current supply of public housing is insufficient. Therefore it is understandable that income check has to be conducted when tenants move in. But once they have lived in public housing units, they should not be forced out. Why is it not proper for people who are a little well-off to live in public housing? Are the so-called "well-off tenants" the really rich people in society? Must public housing be "pauperized" to make it a good policy? I hope the Government would respect the housing need of the people and review the objective of long-term housing policy so that people in the upper, middle and lower strata, regardless of income, can all have an opportunity to live in public housing.

Of course, we would welcome tenants choosing to purchase their own properties according to their abilities and should encourage them to do so. But we should not penalize them or stamp some of the public housing residents with a brand, resulting in unnecessary social distintegration.

Mr President, these are my remarks.

MR CHIM PUI-CHUNG (in Cantonese): Mr President, public housing is actually not my area of strength. Originally, I intended only to vote. But many Members from the Democratic Party whom I normally found commenting on an issue in a very fair state of mind have expressed different views over this issue. On the one hand, they give their views on some matters; on the other, the two sides of politics are also fully expressed. Therefore, I cannot but give my views on this matter.

Mr President, first of all, we have to understand that the public housing policy in Hong Kong is a very, very good policy. In the 1950s in particular, as many Chinese refugees flooded into Hong Kong, the Government first built public housing in Kai Liu, Kwun Tong. Since then, public housing were built in different areas in the territory, catering for the needs of many citizens. Singapore also modelled after the public housing of Hong Kong and improved on it.

In the first place, I would like to stress that our public housing policy has been a correct policy of the Hong Kong Government in the past. But we have to bear in mind it is not the policy of the Housing Department. The Housing Department is of course, one of the government departments. Therefore, we need first to confirm that public housing has played its role and has its distinctive features towards the prosperity and other aspects of Hong Kong. With public housing, many Hong Kong residents have found themselves worry-free and accomplished achievements in different areas.

At present, a lot of public housing residents in Hong Kong have migrated to the United States, Canada, Australia and other places. Their original homes in Hong Kong were very small but after migrating overseas, they can all buy big houses and seem to become rich. Their argument is that they enjoyed low rentals when they were residing in public housing in Hong Kong. This proves that many Hong Kong public housing residents can afford to buy big houses after migrating overseas.

The Hong Kong Government emphasizes that it is a fair, open and highly transparent government and has won the support of the Democratic Party. I

believe that the policies of the Democratic Party are supported by the majority of people, and I can see that they are pretty fair and enterprising. The general theory all along is to seek fairness. But why is it stressed this time that no fairness is wanted? This makes one doubt that it might have something to do with the hundreds of thousands of electors. Mr President, I am not saying a definite "Yes". But it really arouses suspicion.

Since some of the public housing residents have achieved success and accomplishment when they reside in public housing, they consider their homes enjoying good "fung shui" and do not want to move out. In actual fact, if one works hard, lots of places in Hong Kong are of good "fung shui". If the Housing Department does not formulate new policy, an old house with good "fung shui" will only become an old house with definitely no good "fung shui".

Therefore, the housing subsidy policy and "assets review" implemented by the Government is nothing but a term. How this term can be better interpreted and accepted by the people and residents is very important. If public housing residents have achieved a financial situation satisfactory to themselves, they should be encouraged to accept a better future and to let those who are more in need to take up what they should have.

The public housing policy is not a lifelong privilege. We have to understand that only the actual purchase of a flat is everlasting. But then, of course, the lease of land in Hong Kong covers only 999 years and is not for ever.

Part of the procedure involving objective factors as mentioned by the Honourable Albert CHAN just now, for example, the policy of allocating public housing units to people who are actually property owners, should be given a deeper thought and evaluation by the Housing Department. It goes without saying that the policies of the Government are for its own good at all times (the Government, of course, represents the people). But the Government usually thinks that its policies are feasible and will just go ahead.

We, as Members, should request the Government with even more profound, positive and effectively means to improve those legislation which are not too good. But it should not for our own needs that we encourage a political party to achieve its goal and objective.

Therefore, Mr President, I support in principle that frequent reviews

should be made by the Housing Department. But I do not support the spirit of the original motion.

These are my remarks.

MR LAW CHI-KWONG (in Cantonese): Mr President, a lot has been said by colleagues from the Democratic Party about other issues. To avoid repetition, I shall focus on discussing the so-called question of "subsidizing public housing tenants" in basic social sciences. I also hope that the contents of the following two stories would enable the Honourable CHIM Pui-chung to have some understanding about the standpoints of the Democratic Party on the related policies. However, the details might take a few hours to explain further.

First of all, I would like to tell you a story about a "pioneer".

Mr CHAN and his four-member family moved to a public housing estate in a new town more than 10 years ago. It was still a rural area a few years ago and was a nice picnic place. They were the first batch of residents moving in and public facilities were lacking. For the first few months, they had to walk for 10 minutes to go to the nearest bus stop. Shopping for daily necessities was also very inconvenient. Three years later, a few new housing estates were built in neighbouring communities. Road networks and public facilities also developed one after another. In an auction of a piece of private residential land, the sale price reached a few thousand dollars per sq ft. The price of the land was only tens of dollars per sq ft a few years ago. Two years later, a friend of Mr CHAN gained nearly \$100,000 in a property transaction of pre-sale flats offered by the developer of that piece of land. Mr CHAN could not help thinking why he, as a "pioneer", had indirectly helped the Government to make several billion dollars and had helped those speculators to make big money in property transactions. Had the Government subsidized him or had he subsidized the Government and the speculators?

The Government, while emphasizing subsidies to residents of public housing on the one hand, shares profits with the Housing Authority (HA) on the other. Who has actually been subsidized? The HA claims that deficits are incurred with residential tenants while gains come from commercial tenants.

After all, the wool comes from the sheep. The so-called commercial tenants and residential tenants are only games of figures. The relationships of social communities are interactive.

Needless for me to say, we all know that public housing programmes have rendered Hong Kong people to live and work in peace and contentment in the past few decades. It also helps to alleviate the demand for increase of wages by workers. Its overall effect on economic development is of great importance. When we consider the housing policy, we should not only take into account how much rent is paid by the tenants, but the overall interactive social and economic relationships should also be considered.

The second story is about selling apples.

Mr CHEUNG is a hawker with good foresight. He understands the purchasing power of his customers and how much they like the apples. When a rich man comes to buy his apples, Mr CHEUNG sells at the price of \$10 each. But to a poor man, the price is \$1 each. Mr CHEUNG would also said to the poor man, "Please do not forget that I have subsidized you \$9 per apple!"

It is, of course, a fictitious story. However, this is a very basic economic concept. If we can divide the market, we will be able to price differently so as to maximize our profit. This is the phenomenon of the current markets of public and private housing. As tenants of public housing have to meet specified requirements, public housing and private flats are, objectively speaking, two different markets. Public housing rental should not be considered in the context of private housing rental, not to mention charging some tenants of public housing the so-called "market rent".

We may also consider a very basic economic concept. We know that the number of rental units of public housing is far greater than those of private housing. If the average rental for public housing is \$1,000 and that for private housing is \$4,000, when we combine the two markets into one, an obvious phenomenon would be the rental for public housing will go up slightly while the

rental for private housing will fall significantly. What is the so-called "market rent" then?

I hope the above two stories would give you some food for thought. In view of our analysis of social policies and standpoint, we cannot accept any well-off tenant policy nor its extension.

These are my remarks.

MR ERIC LI (in Cantonese): Mr President, I support the spirit and basic principles behind the consultation paper published recently by the Housing Authority (HA), that is, public housing resources should be rationally allocated according to needs.

In the past 40 years, the economy of Hong Kong has achieved successful development. By striving hard, many Hong Kong citizens have improved their economic condition, whether they reside in public or private housing. A lot of them are comparatively well-off. This is an encouraging phenomenon. However, despite the rate of economic development, the increase in the number of people who can afford to purchase their own properties remains less than 40%, which is far from directly proportional. I also endorse the basic spirit put forth by the consultation paper, that is when public housing residents have improved their living conditions, they should return the housing units for re-allocation to those families who are more in need. For if they do not do so or there is no such mechanism, it would mean lifelong protection to these public housing residents. Coupled with the fact that the difference between rentals and mortgage payments in private and public housing is getting bigger, it is simply hard to believe that many public housing residents would choose to leave their subsidized homes by themselves.

According to Chapter 3 of the consultation paper, a four-member family with a monthly income of over \$40,800 and net assets of over \$1.496 million would be affected by the new policy. Compared with other advanced countries such as Britain, Australia and Canada, Mr President, these people may well be considered as having a high income or many assets. However, with the situation in Hong Kong, they would still consider themselves at the grassroots level, or should even continue to be subsidized. If a family possesses the above economic condition, I am absolutely sure they can afford the current price of a Home Ownership Scheme (HOS) flat, and should return their public housing

units. Let us look at the development of the last 20 years. If they were given absolute protection and were not required to move out of public housing, it is difficult to tell whether they should be grateful or complain. It is because in the past 20 years, if they had strived hard to purchase a flat by instalments, they might become rather rich now or not just well-off. If lifelong protection were given to them so that they did not need to give thought to the matter, they might thank you today. But 20 years later, they may not be thankful. For if property prices should continue to go up by then, they would have given up a very good opportunity.

If the general direction is that public housing units should be rationally allocated, it is then necessary to see if asset review is the best way or a nuisance to the people. I believe some Members have criticized this as an annoying measure. But I do not hold the same view. In the present society it is acceptable that a family applying for public assistance need to disclose the family and financial information to the authorities concerned. Public housing tenants are in fact enjoying excellent public assistance. From an overall social point of view, other than medical treatment, public housing is a welfare service that benefits most people, nearly half of the population. In terms of other figures, nearly each household in public housing is subsidized by another family. The ratio is about 1:1. This is an indisputable fact. After moving into public housing for a certain period, a family would be required by the HA to disclose information related to its financial condition again so as to ascertain whether it should continue to receive the subsidy of another family. I think this gives no cause for much criticism. And it should not be considered an annoying measure.

First, if these public housing residents do not really have many assets, conducting an asset review should be a very simple procedure, not necessarily a complicated one nor a procedure that cannot be carried out. Second, they also have the right to choose to give up public housing. If they give it up, there is no need to go through the so-called. With this measure, I think it would not be unfair to those people who pay tax to give subsidy.

There are over 140 000 households waiting for the allocation of public housing units. Many of them live a difficult life. With a humble income, they have to live in dilapidated private residential units of poor environment. Many even have to share a unit with other families. These cast ill effects on the developments of their children, both academically as well as in body and mind. I believe the majority of colleagues in this Council will agree that these families

are in urgent need to be allocated public housing units. I also agree to what the Honourable MOK Ying-fan has said. Compared with those who can afford to move out, not too many of these 140 000 households would benefit in the short run. Nonetheless, to those who are most in need, I think a faster way to render them assistance is still good. Besides, this policy has a far-reaching impact. If we do not change the lifelong welfare system, it would only result in public housing tenants moving in but not moving out. There would be less and less people bearing burdens or providing assistance. This is not a healthy development. If we talk about penalty, such a system would penalize the most productive or diligent group of people in Hong Kong, causing them to shoulder heavier burdens or subsidizing public housing residents who do not move out.

Therefore, I support the policy objective put forth in the consultation paper "Safeguarding a Rational Allocation of Public Housing Resources" by the HA. I also support the Honourable Edward HO's amendment. It is hoped that the HA can formulate some rational policies as soon as possible and use cost-effective methods to encourage public housing tenants who have improved their conditions to return their units for re-allocation to those who are in urgent need.

However, I also wish to take this opportunity to urge the HA to speed up building public housing so that more needy families can solve their housing problem at an early date. As a matter of fact, only some 28 000 public housing and HOS units were built last year. This is really disappointing. I earnestly appeal to the Government to allocating as much land as possible so that the public housing programme can benefit the needy families as soon as possible.

With these remarks, I support Mr Edward HO's amendment.

MR FRED LI (in Cantonese): Mr President, I shall speak with regard to the views of the residents of redevelopment areas. In view of my geographical constituency and my working experience in housing estates for over 10 years, I

have a good knowledge of the views of the residents of redevelopment areas.

Mr President, other than the double rent payers, residents of redevelopment estates are also to be victimized by the requirement to declare their assets.

Public housing residents who are currently affected by the overall redevelopment scheme, are exempted from the effects of the public housing tenants subsidy policy within 10 years after rehousing. That is to say, they do not have to declare income for another 10 years. Even for those tenants who pay extra rental, after moving into new flats due to redevelopment, they only need to pay the rental for the new flats. For example, the rental for a four-member family living in an old housing estate in Kwun Tong is about \$800 to \$900. If they move to a new housing estate, the rental is about \$2,400, three times the former rent they paid. But the new policy would abolish the favourable term of being exempted from declaring income for 10 years originally enjoyed by residents under the redevelopment scheme. This policy shall affect residents under redevelopment schemes commencing from 1998-99. Each year, there will be about 20 000 households directly affected by this policy. The number of residents under this category is far greater than those double rent payers who possesses assets over 110 times of the Waiting List Income Limit. When the housing subsidy policy was reviewed in 1986, the subgroup decided that residents who would be affected by the overall redevelopment scheme should be exempted from paying double rent in 10 years after rehousing. The intention of such decision was to give residents under the redevelopment scheme an opportunity to have a break after rehousing. This is because they have to pay rental more than double of what they used to pay. They would also need to pay a considerable amount in decoration when they move.

The decision of the Housing Authority and the factors it took into consideration remain unchanged today. Residents still have to pay more rentals when rehoused and spend money in decorating their new homes. These factors have not changed in the course of time. But I remember that when the Panel on Housing of this Council asked why the Housing Department changed this policy, the Department answered ambiguously that the said decision was made in view of the social environment then, but it has changed now. However, the Housing Department did not point out what actually has changed. Unless the Housing Department is saying today that the policy made then was wrong and unfair and that residents under the redevelopment scheme were given preferential treatment

and therefore it has to be rectified, the exemption is abolished, and residents under the redevelopment scheme will need to declare their assets after moving to a new estate building, otherwise, I do not see any reason why this policy need to be changed.

Regarding this consultation paper, I have organized consultative meetings at several housing estates to be redeveloped. I think the Housing Department is aware that the results of the consultative meetings are unanimous and of the same voice. The residents queried why those living next block could pay double rent 10 years later. Why does the Housing Department change this policy today such that they are to be affected? Being residents of redevelopment areas but are required to declare their assets and have their 10-year exemption period abolished this time, they have raised a serious protest and objection unanimously. I am here to reflect the views of the residents of the redevelopment areas expressed at these consultative meetings. These are the views of those residents who will be affected by redevelopment programmes announced for the year 1998-99 or after.

With these remarks, I support the Honourable LEE Wing-tat's original motion.

MR BRUCE LIU (in Cantonese): Mr President, I only wish to say a few things about our standpoint on behalf of the Association for Democracy and People's Livelihood (ADPL) and to explain our points of view further.

First, we will oppose the Honourable Edward HO's amendment and support the original motion of the Honourable LEE Wing-tat. In fact, we only want to give the Housing Authority (HA) a very clear message. We wish Mr LEE Wing-tat's original motion be given a chance to be voted on in this Council. We wish to convey a clear message to the Ad Hoc Committee that we oppose the asset review put forth by the Committee as a means to an end. If this means is not acceptable, no matter how good the objective is and no matter how well it sounds, it is still unacceptable. That is to say, no matter how good the "end" is,

if the "means" is no good, we cannot accept it. This is the first point. Therefore, when a vote is taken later, we will oppose Mr Edward HO's amendment. In fact we only wish to convey this message.

Secondly, just now the Honourable MOK Ying-fan represented the ADPL and expressed our views. It can be seen from the history of this consultation paper. From the full name of the Ad Hoc Committee — "Ad Hoc Committee on Private Domestic Property Ownership by Public Rental Housing Tenants", it shows what does not come within its jurisdiction. Initially the Ad Hoc Committee intended to handle issues about public housing tenants owning private properties. That is to say, they should not be occupying public housing units. Being owners of private properties, they should reside in their properties. In the course of study, it was found that some people might possess huge wealth. Residing in public housing, they do not only become well-off, some have become super rich. In fact, studies have also been conducted by the ADPL for quite some time. We shall agree that this is a compromise. We agree that if they own private properties, and the area of which is big enough for a family to live in, then a more lenient line should be drawn. We agree that an incentive method should be adopted to encourage them to move away. We do not agree that because of that some extra work should be done to review the assets of public housing tenants. This is our second point of view.

Thirdly, our plan is in fact different from the proposal of the Liberal Party. In principle, we oppose collecting double rent under the well-off tenant policy. Basically, we are of the opinion that there should be no double rent policy. This policy will not render the HA obtain more resources. In fact, it just invents a pretext to make public housing tenants pay more rent. The original policy objective of asking those people to move out cannot be achieved either. Basically, this objective cannot be achieved.

Therefore, in view of the above three points of view, in today's voting, we would like to take this opportunity to ask the Ad Hoc Committee not to take the measure as mentioned in the proposal. It is because such measure is not acceptable to most public housing tenants. It is also not appropriate in view of

the situation in Hong Kong.

These are my remarks.

MR IP KWOK-HIM (in Cantonese): Mr President, the Hong Kong Government has constructed and public housing since the 1950s as a result of the Shek Kip Mei big fire. By now, there are 670 000 families or 2.4 million people living in public rental housing. In the past 40 years, the economic conditions of many public housing families have improved from poverty to become comparatively well-off or can even be considered wealthy. They own properties, expensive cars and other assets. To tackle this phenomenon, the Housing Authority (HA) published the consultation paper "Safeguarding a Rational Allocation of Public Housing Resources", proposing to conduct a review on the assets and income of "well-off tenants".

The Democratic Alliance for Betterment of Hong Kong (DAB) endorses safeguarding a rational allocation of public housing resources. But it is doubtful whether this policy can achieve the objective. Some tenants have abused public housing. They look upon public housing as personal "lifelong" possession, passing their units to descendants as "ancestral houses". Even when the units are of no more use to them but as storage rooms, they are still unwilling to return them to the Housing Department. This is extremely unfair to those low-income people who cannot but wait for the allocation of public housing silently. The people of Hong Kong are glad to see the Housing Department taking measures to impose restriction.

Mr President, the success of Hong Kong society lies in not envying other people's success. Those residents who moved into public housing in the old days have seen improvement to their living environment through savings and thrift, or when their children have grown up and find jobs with good income. To live and work in peace and contentment are the wishes of Hong Kong people. In fact the implementation of the policy of asset review will have a lot of problems in actual practice, for example, there will be much controversy regarding the definition about assets and whether the limit is fair. The much talked about tools of trade such as public light bus or taxi licences are not for investment purpose. Is it fair if they are considered as assets? Therefore the method of asset review must be properly balanced in all aspects. It has to be strict as well as flexible so that fairness can be achieved without causing a nuisance to the people.

Mr President, the new well-off tenant policy is in fact neither economically efficient nor cost-effective. The Housing Department has to establish a central investigation unit, and the annual administrative expenditure could reach \$3.5 million. Yet the units that can be recovered, I believe, is less than 500 at most. This is neither a big nor small number. But it does not render much help in solving the public housing problem. While administrative expenditure is made each year, the number of well-off tenants will definitely decrease every year. It is because those tenants who have resided in public housing for less than 10 years can take precaution by transferring their assets to put under somebody's name to avoid reaching the level of asset review. Therefore, in the long run, the effect of the measure will decline every year, resulting in only a nuisance to the people and fruitless expenses.

Mr President, the DAB endorses the rational use of public housing resources. As a short term expediency, encouraging measures should be adopted to make tenants move out from public housing, for example, retaining the first priority to "well-off tenants" and increasing the quota of House Ownership Scheme flats. In the long run, should the HA study positively the idea of "rentals for mortgage installments" that a Member has just mentioned? That is to say, the tenant would own the unit after paying rent for certain years. Also, should the concept of selling public housing to sitting tenants be considered? If some annoying measures are adopted, not only that the desired objective of fair allocation of resources cannot be achieved, but it would also arouse unnecessary complaints from the people.

These are my remarks.

DR YEUNG SUM (in Cantonese): Mr President, the public housing policy of Hong Kong has, in fact, many aspects which deserve the support of Hong Kong people and which we can be proud of. The main reason is that the Government can provide public housing to nearly half of our population at pretty low rent. Since they have lived in those public housing estates for a long period of time and rarely move away, a comparatively stable community spirit has been established. From the numerous election votings, it can be seen that there are higher voting rates at public housing estates than private housing areas such as Mong Kok, Prince Edward and Wan Chai. The main reason is that they have established a community spirit, since most residents may have been basically born and brought up or even got married in the areas. Due to this stable community relationship, coupled with perhaps certain marital relations, such

community spirit is established and the Government has not expected this at the outset. May be this is a more positive side effect of social policy.

The second effect is that as there are quite a lot of people living in public housing estates, though most of them do not earn much, there are two to three members working in each family. After paying the rent, there is a handsome amount which can be used any time. Such money can give people an opportunity to improve their livelihood. As nearly half of the population of the territory live in public housing estates, in time of economic recession, domestic consumption can be maintained because of the money they can use. Therefore this is also highly advantageous to the domestic economy.

I also wish to raise another point. Though their incomes are not high, they have more members working. After paying the rent and taxes, they still have money left. Therefore they do not need to take industrial action every time to force their employers to increase wages. The result is that there are rare cases of strikes in Hong Kong. Perhaps labour-capital relations are thus established. University researchers did not expect this at the outset.

Mr President, the three points which I have just raised, namely labour-capital relations, productivity and community stability, can improve the livelihood of residents and is a good policy of the Government. Unless the Government tells us that it has encountered an enormous financial problem or that the Housing Authority might have a huge deficit, otherwise, if our society can cope with it, there is no need to have this basic policy dispatched.

Mr President, the views put forth by so many Members just now have not stated directly what effects the housing policy has on society. I wish to say positively for the record that, the existing public housing policy of Hong Kong has in fact enormous effect on the stability of the society, the maintenance of productivity and the consolidation of internal consumption. There is no point creating such a serious contradiction between the Government and the people because of trivial matters. The Government does not need to spend huge manpower and resources on consultation either.

Regarding the asset review, many Members have already pointed out its serious fault in their speeches.

First, the loss actually outweighs the gains. Why should so much money be spent for the recovery of so few public housing units while at the same time such a serious contradiction is created between the Government and the people?

Second, the Housing Department wants civic education, teaching the tenants that public housing units are not assets for permanent possession. Is it necessary to put in so much effort to implement civic education? Generally, it is sufficient for the Government to show some publicity programmes on television, publish some leaflets and do some public consultation. Why is it necessary for over 30 000 tenants to declare their assets, causing so much disputes? I really do not understand. If the Government does not want to recover the housing units, and since civic education does not need to use such method, what actually does it want?

There is another point. The Secretary for Housing must give his explanation to me in his reply afterwards. The Director of Housing, Mr Tony FUNG, has recently expressed that there would be plans to sell public housing. If there are already plans to sell public housing now or it is intended that public housing are for sale, why is the asset review necessary? If the Housing Department has already planned to sell public housing to residents at low prices or redevelopment costs, why is asset review necessary? While doing asset review on the one hand, it is thinking about selling public housing on the other. I would not criticize the Administration when it did not have plans to sell public housing. But if it decides to sell housing units now and yet wants to conduct the asset review, we would like to request the officials sitting in their offices to think whether these two policies are contrary to each other. On the one hand, tenants' assets have to be checked; while on the other, units are to be sold to tenants at low prices. Are these two policies not contradictory to each other?

Mr President, basically I hope the Secretary for Housing would listen carefully to the views of this Council, and look at the outcome of our voting. As this is a fully elected Council, basically the views of the public can be reflected. The Administration would, of course, conduct some opinion polls. People living in private housing would wonder why those rich public housing tenants do not move out. Behind this simple concept, they have not seen another side. Why put in so much effort to achieve so little? Besides, it will have such huge negative effects on the society. Why do this? I stress particularly that, if the Government is considering selling public housing, why still do this asset review? If this new policy is to be implemented, would the original policy be completely overthrown?

In conclusion, I hope the Secretary for Housing can explain in his reply. How is the plan of selling public housing — I believe it is not definite, and perhaps a decision will be made after listening to people's views — to be linked with asset review? Do not try to save a little only to lose a lot. Hong Kong has already entered the transition period. There is a feeling of insecurity and economic demand is slackening. People do not have much confidence about the future. So do not make too much loss for something little.

Mr President, with these my remarks, I support the Honourable LEE Wing-tat's motion.

MR ALBERT HO (in Cantonese): Mr President, many Members from the Democratic Party have spoken today. Therefore I shall be brief as far as possible and not repeat.

The basis of our argument is that we oppose this policy, that is, the asset review policy aiming at public housing tenants. Our argument questioning its fairness is quite clear. I only wish to place emphasis on the question of cost effectiveness. Talking about this, we of course assume that we do not question whether this policy is fair for the time being. But when we discuss cost effectiveness, there must be a concrete objective to achieve something. It is the recovery of more public housing units as the Housing Department has suggested, or increase of revenue. I cannot accept that it is only for the sake of educating the public, especially when the content of education is the most controversial area. It is exactly what we want to reject, and is also what the Legislative Council probably will not accept.

Talking about cost effectiveness, let us talk about cost first. According to the figures given to us by the Housing Department, the implementation of the well-off tenant policy, that is, double rent policy requires an administrative cost of \$7.5 million. To implement this new policy, a smaller establishment is required because the number to be checked is not that many, then the cost might be around \$3.5 million. According to the figures disclosed, there are about 30 000 well-off tenants, 42% of them, that is, 14 000 tenants are property owners. These 14 000 tenants will be required to declare the value of their properties. We will assume that not everyone of these tenants are to be questioned by the Housing Department. In other words, the asset value declared by most tenants would be accepted by the Housing Department. Only marginal cases would be

questioned and re-assessment made. I only make an estimate of say 15%.

Somebody spoke loudly in the public gallery.

PRESIDENT: Order in the gallery! Order in the gallery! (The President's order was disregarded.) Have that gentleman removed! Security guards, remove him!

MR ALBERT HO (in Cantonese): Mr President, in other words, on the basis of 15% out of these 14 000 tenants, 2 100 tenants's property value might need to be re-assessed. How much money is required then? I do not have the figure about the expenses required for the Housing Department to re-assess each household. I can only use one figure. The evaluation fee for the premium of Home Ownership Scheme (HOS) flats charged by the Housing Department is \$5,300. Unless the Housing Department says this is expensive and the amount charged is not fair, otherwise this figure should not be questioned. This is the amount charged for determining the premium of HOS flats. 2 100 households times \$5,300 would give \$11.13 million. If 20% need to be re-assessed, that is 2 800 households, then \$14.84 million has to be spent. Honourable Members, this has not taken into account if the asset is not a property but a private business. The business might own properties. Even without properties, it might have other things such as tools of trade which need to be assessed. The goodwill of the business and past income and so on might also need to be assessed. A professional accountant will probably have to be hired. I understand that the professional fees for a simple evaluation of a company would not be anything less than \$2,000. Honourable Members, how much administrative cost is required for all these? If the border-line cases appeal and have to be referred to the Appeal Committee or Lands Tribunal, with these professionals going to court, how are the expenses to be calculated?

Moreover, if the super well-off tenants are identified and required to pay the market rent, how is the market rent to be calculated? I understand that no individual evaluation for rates has been made to each unit by the Housing Department. May be an overall assessment of rateable values of housing estates in a certain district is available. If the market rent for each household has to be calculated, even if we put aside temporarily the question of market separation as mentioned by the Honourable LAW Chi-kwong just now, what is the market rent of the unit? Can we not give consideration to the location, floor level and direction of the unit? All these involve issues of professional assessment. Is the overall administrative cost going to be \$3.5 million? I have reason to

believe that a realistic estimate would not be under \$20 million and I also hope the Secretary for Housing will give me a reply later. If the Administration questions the basis of estimate that I have just mentioned, I hope it can put forth some data.

Also I would like to respond to the Honourable Edward HO briefly. Just now he said that the Liberal Party wishes to raise the total asset value to 220 times. Of course with the upper limit raised, the net would be smaller and the assessment cost would be less. As the target number has decreased, the administration cost might be reduced. But it is probable that the number of units recovered would also be smaller. Therefore, mention must be made regarding how much money is spent in recovering how many units. This is the question of cost effectiveness. Up till now we do not have ready-made estimates. If only a few hundred units are recovered, is it worth paying so much money? The Honourable Eric LI just now said that if we do not adopt this policy, there are only people moving in and nobody willing to move out. In fact this is absolutely wrong. According to figures that I know, each year, there are about 6 000-10 000 households of public housing returning their units when they purchase HOS units. Those who move out after becoming private housing owners have not been counted.

In fact, we Chinese hold the concept of hoping to own properties and reside in one's own property. I think this is the most important reason why many people work hard to purchase their own properties and move out of public housing units. Therefore, we fully endorse encouragement instead of coercive measure or penalizing method. Hence, I support the Honourable LEE Wing-tat's motion. Thank you, Mr President.

PRESIDENT: I now invite Mr LEE Wing-tat to speak for the second time, but this time on the amendment to his motion. He has five minutes to speak on the amendment. Mr LEE, do you wish to speak?

MR LEE WING-TAT (in Cantonese): Mr President, I shall be very brief, as many colleagues have spoken enthusiastically today and the Honourable Edward HO's amendment has also been discussed.

I have three points to make. First, the consultation paper has a very good title: "Safeguarding a Rational Allocation of Public Housing Resources". In philosophy (I have not studied much philosophy, but perhaps the President and other colleagues have), this title itself carries a touch of self justification. The name of this document is not much different from "no need to eat when one is full" or "no need to put on more clothing when one is warm". When you ask somebody a slogan that justifies itself, he would hardly raise an objection. When the Secretary for Housing speaks later, I think he would say that according to a survey by the Housing Authority, it is found that people are highly in favor of this principle. We can list more general truth which will be supported by the public. For example, if you have improved your livelihood and somebody encounters a difficulty, would you lend him money? If you live a stable life and somebody are victims of a fire or flood, would you donate some money to them? I think everybody would support. There is an even more popular issue. If the Housing Branch or Government or the Financial Secretary conducted a survey and asked: Should rich people pay more tax? I think 70% to 80% of people would support it. It is because this statement itself does not carry any specific content. It is a general truth that people have always believed. Therefore, it is not difficult to obtain 70% to 80% of support if this slogan or topic is used for consultation. The most important thing is to see whether its content can reflect the specific situation.

Mr President, secondly, the question of whether the so-called asset owner himself is wealthy or not is highly controversial. The Honourable Edward HO's amendment just now refers to another criterion to determine whether possessing assets at a certain level should continue receive assistance. In fact, what has been proposed is an objective standard that would not win the full support of all people, no matter what the level is. Many of these so-called owners of assets and properties have different family conditions. In a radio phone-in programme, a civil servant called me

PRESIDENT: Mr LEE Wing-tat, please resume your seat. May I say a few words. Please resume your seat first. Although I tend to give Members certain latitude in making the second speech, I certainly hope that every single point that you make would be on the amendment. Of course you can seek to rebut arguments for the amendment to your motion, and to argue why your motion is preferable, but I hope that the points you make would be on the amendment; why the amendment should not be accepted.

MR LEE WING-TAT (in Cantonese): Mr President, I am still focusing on this question because Mr Edward HO just mentioned in his speech about another level of asset. And I am speaking about this point. It is about four-member family as mentioned in the consultation paper and whether \$1.5 million or \$3 million as suggested by Mr Edward HO. On the surface, a four-member family having \$1.5 million can be considered very rich. And if it has \$3 million, it is very, very rich. Just now I said that I received a telephone call from a civil servant in a radio programme. He said both he and his wife are low-ranking civil servants. When they retire, they could get \$800,000 to \$1 million. This sum of money can allow them to maintain their livelihood for the next 20 years. If this family has one or two children making money after graduation, it might already reach the level for asset review.

Mr President, regarding whether this policy can solve the problem of the Waiting List and whether it is a nuisance to people, many colleagues have already spoken. I do not intend to repeat here. Thank you, Mr President.

PRESIDENT: There is one more Member who has raised his hand after Mr LEE Wing-tat has spoken. Since Mr LEE Wing-tat has not made his final reply, I will allow Mr CHAN Wing-chan to speak first.

MR CHAN WING-CHAN (in Cantonese): Mr President, I am not making a speech. I wish to declare my interest as a current tenant in public housing.

PRESIDENT: I rule that being a tenant in a public housing estate is not a pecuniary interest that ought to be declared because it is something which is shared with members of the community in general.

SECRETARY FOR HOUSING (in Cantonese): Mr President, after listening to the views of Members, I wish to make a general reply.

Policy objective

One of the objectives of the housing policy of the Hong Kong Government is to ensure that public housing units are allocated to the most needy people. The basic spirit of the consultation paper Safeguarding a Rational Allocation of

Public Housing Resources published by a subgroup under the Housing Authority (HA) is identical with the Government's policy objective.

Public response

The consultation paper has aroused in-depth and enthusiastic discussion among the public since its publication. Broadly speaking, they are in support of the basic principle and spirit of the paper. This is of course, very encouraging. The public also put forth their views in some details. I can tell Members that the views given by the public and Members of this Council would be carefully considered by the subgroup.

Allocation of social resources

Today, the Honourable LEE Wing-tat's motion opposes that tenants are required by the HA to declare their assets. However, in fact, it has avoided the basic question of whether public housing resources should be allocated according to needs. Although some Members attempt to raise the level of discussion to the rational allocation of the overall resources of the community, I endorse the views of Mr Edward HO. With little land and lots of people, Hong Kong has in fact limited land resources for building houses. This is an indisputable fact. The Government has the responsibility to provide public housing assistance to the needy families. It also has the responsibility to ensure public housing resources are allocated according to actual needs. The Government considers public housing as resources commonly owned by the community. They should never become private assets of public housing tenants and be occupied unconditionally for long periods of time or permanently. This basic principle must be established and is generally endorsed by the public.

In view of the fact public housing resources have to be allocated according to needs, we must introduce a mechanism to assess those families who are still in need of public housing assistance. It is inevitable that a system of declaration is devised. To tenants of public housing, the concept of declaring assets might be a bit unfamiliar, thereby creating psychological opposition. This is, of course, understandable. In fact, declaration of assets is required when one applies for Comprehensive Social Security Assistance, legal aid, Sandwich Class Housing or even subsidy for post-secondary students. Therefore, declaration of assets itself

is actually nothing new. The motive of opposing declaration of assets is perhaps to protect one's vested interest. This is really hard to understand.

The Honourable Miss CHAN Yuen-han and the Honourable MOK Ying-fan raised the point that public housing tenants purchase properties for the relief of overcrowding. Miss CHAN also said that retirees need the rentals to maintain their livelihood. In actual fact, the implementation of the new policy should not affect these people. If they purchase properties for self use, their family members can be deleted from public housing tenancy. Retirees without income would not be affected by the new policy either.

The Honourable Albert CHAN mentioned such historical issues like land resumption compensation, clearance and rehousing arrangement, and so on. Although the consultation paper has already given the explanations, I wish to reiterate that whether from the view of legislation or government policy, land resumption compensation and clearance and rehousing arrangement are two different things. According to the Crown Lands Resumption Ordinance, when private land and properties are resumed by the Government, full compensation must be made. Except in the 1970s and 1980s when Letters A and B were issued for land resumption in the New Territories, the Government has all along been paying cash compensation. It is also government policy to ensure that residents would not become homeless as a result of clearance operations. Therefore, residents affected by clearance, whether owners or tenants, would be allocated public housing units if they meet the requirement then. For those who do not qualify, they will be arranged to move into temporary housing areas. Therefore, compensation for land resumption and qualification for allocation of public housing are different issues.

Mr Eric LI also mentioned about the impact of the new policy on tenants of redevelopment estates. In fact, detailed explanations have been given in paragraphs 4.4 to 4.7 of the consultation paper. We have also explained at meeting of the Panel on Housing of this Council. I do not want to repeat here.

Dr the Honourable YEUNG Sum mentioned about the proposal of selling public housing units to public housing tenants. We shall give careful

consideration to this in our review of long-term housing strategy. I think this proposal does not contradict the recommendations of the consultation paper. Both encourage public housing tenants to purchase Home Ownership Scheme (HOS) flats or their own homes. Here, I would like to point out again that public rental housing involves huge resources. Nevertheless, the Government still decides to build 141 000 public housing units in the next six years. But the purpose of building public housing is to cater for those families with genuine needs instead of assisting the pretty well-off families to satisfy their own needs. I earnestly hope that all public housing tenants, after residing in public housing for a certain period of time, will reflect whether they have sufficient economic viability to take care of their own housing needs. If the answer is positive, they should consider buying HOS flats or private housing and return their public housing units to the HA for reallocation to the more needy families.

Cost-effectiveness

Some people or Members question about the cost effectiveness of the policy, that the administrative costs may be pretty high and yet the number of units recovered may be limited. In this regard, Members do not have to be over-worried. According to past experience, tenants required to pay extra rental will have a greater desire to purchase HOS flats than the average public housing tenants. In the past two years, as many as 2 000 tenants who have to pay extra rent have successfully purchased HOS flats. I believe the proposed new policy can urge more well-off public housing tenants to buy HOS flats. The HA can thus recover a few thousand more public housing units annually, not just a few hundred.

Regarding the administrative cost, the Housing Department estimates that it would be about \$3 million each year. The Housing Department intends to amalgamate the existing, I reiterate, the existing "Housing Subsidy Unit" and "Special Investigation Team on the Abuse of Public Housing" for more flexible deployment of manpower. Therefore, new jobs can be handled without creating new posts. The cost effectiveness is pretty high. In comparison, \$3 million can only build about eight public housing units, according to current building costs.

Conclusion

Mr President, the motion of Mr LEE Wing-tat only opposes one of the many recommendations of the consultation paper, that is, it opposes that some public housing tenants are required to declare their assets. In fact there are many other important recommendations in the paper. The HA subgroup wishes to listen to more views. Regarding Mr Edward HO's amendment, I think it is more balanced and comprehensive. Public housing is public wealth, not private assets and should be allocated according to needs. As to how a desirable plan and its details can be specifically formulated, this is the working objective of the subgroup. Therefore, I urge Members of this Council to support Mr Edward HO's amendment and not to support Mr LEE Wing-tat's motion.

Thank you, Mr President.

Question on the amendment put.

Voice vote taken.

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

Mr Edward HO claimed a division.

PRESIDENT: Council shall now proceed to a division.

PRESIDENT: I would like to remind Members the question to be voted on is that the amendment moved by Mr Edward HO be made to Mr LEE Wing-tat's motion. Would Members please register their presence by pressing the top button and then proceed to vote by choosing one of the three buttons below?

PRESIDENT: Before I declare the result, are there any queries? The result

will now be displayed.

Mrs Selina CHOW, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Miss Emily LAU, Mr Eric LI, Dr Samuel WONG, Dr Philip WONG, Miss Christine LOH, Mr Paul CHENG, Mr CHOY Kan-pui, Mr Ambrose LAU and Mr YUM Sin-ling voted for the amendment.

Mr Martin LEE, Mr SZETO Wah, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Michael HO, Dr HUANG Chen-ya, Mr LEE Wing-tat, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Mr LEE Cheuk-yan, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Andrew CHENG, Dr Anthony CHEUNG, Mr CHEUNG Hon-chung, Mr Albert HO, Mr IP Kwok-him, Mr LAU Chin-shek, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr LEUNG Yiu-chung, Mr Bruce LIU, Mr MOK Ying-fan, Mr NGAN Kam-chuen, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE and Mrs Elizabeth WONG voted against the amendment.

Miss Margaret NG abstained.

THE PRESIDENT announced that there were 13 votes in favour of the amendment and 31 votes against it. He therefore declared that the amendment was negatived.

PRESIDENT: Mr LEE Wing-tat, you are now entitled to a final reply and you have four minutes 25 seconds out of your original 15 minutes. Mr LEE, do you wish to speak?

MR LEE WING-TAT (in Cantonese): Mr President, first of all, I would like to thank my honourable colleagues for supporting my motion. I only wish to respond to two points very briefly.

First, Mr WONG Shing-wah said that the wording of my motion only opposes the review process. In fact, I think he has misunderstood it. My motion is to oppose the proposal concerned. I hope there is no "trick on words" that I am only opposing the review process.

Secondly, the views expressed by Dr the Honourable YEUNG Sum just now is the essence of our Democratic Party's standpoint. That is whether this policy is necessary when the long-term housing strategy is being reviewed by the Housing Authority and the Housing Branch, and when the situation of how to make those tenants who have improved their livelihood purchase their own homes is reviewed again. In fact the policy recommending the sale of public housing was put forth many years ago. All along we feel that should this policy be implemented, there is no need to make other unnecessary policies. Therefore, we think the present proposal is putting the cart before the horse.

Mr President, I understand that a very important motion will be discussed next, so I shall say no more. Thank you, Mr President.

Question on the original motion put.

Voice vote taken.

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

Mr Edward HO and Mr TSANG Kin-shing claimed a division.

PRESIDENT: Council shall now 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 LEE Wing-tat be approved. Would Members please register their presence by pressing the top button and then proceed to vote by choosing one of the buttons below?

PRESIDENT: Are there any queries? The result will now be displayed.

Mr Martin LEE, Mr SZETO Wah, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Michael HO, Dr HUANG Chen-ya, Mr LEE Wing-tat, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Mr LEE Cheuk-yan, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Andrew CHENG, Dr Anthony CHEUNG, Mr CHEUNG Hon-chung, Mr Albert HO, Mr IP Kwok-him, Mr LAU Chin-shek, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr LEUNG Yiu-chung, Mr Bruce LIU, Mr MOK Ying-fan, Mr NGAN Kam-chuen, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE and Mrs Elizabeth WONG voted for the motion.

Mrs Selina CHOW, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Miss Emily LAU, Mr Eric LI, Dr Samuel WONG, Dr Philip WONG, Miss Christine LOH, Mr CHOY Kan-pui and Mr Ambrose LAU voted against the motion.

Mr Paul CHENG, Miss Margaret NG and Mr YUM Sin-ling abstained.

THE PRESIDENT announced that there were 31 votes in favour of the motion and 11 votes against it. He therefore declared that the motion was carried.

MEMBER'S BILLS

First Reading of Bill

PUBLIC BUS SERVICE (AMENDMENT) BILL 1996

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

Second Reading of Bills

PUBLIC BUS SERVICE (AMENDMENT) BILL 1996

MR LAU CHIN-SHEK to move the Second Reading of: "A Bill to amend the Public Bus Service Ordinance."

MR LAU CHIN-SHEK (in Cantonese): Mr President, I move that the Public Bus Services (Amendment) Bill 1996 be read the Second time.

The purpose of this Bill is to amend the Public Bus Services Ordinance and change the existing practice that any fare increase sought by franchised bus companies only requires the approval of the Executive Council with the Legislative Council having no right to query. The change would mean that details of future bus fare increases approved by the Executive Council have to be submitted to the Legislative Council in the form of subsidiary legislation so that the Legislative Council, if necessary, can amend the decision of the Executive Council by way of a resolution.

To put it in a simple way, the purpose of the Bill is only to establish a mechanism, so that any proposed increase of bus fares which would affect people's livelihood may have the deliberation of the present fully elected Legislative Council. The passing of the Bill into law does not mean that all increases of bus fares would meet with obstruction. It only renders the Legislative Council to examine the increase of bus fare. The decision made by the Executive Council each time, if not opposed by the Legislative Council, would be implemented without affecting the increase of fares concerned.

Some people think that the proposal in the Bill embodies a "revolutionary change" and might even seriously jeopardize the operation of the executive-led administration. But I must point out clearly that the public transport fare increase approval mechanism proposed by the Bill is no new mechanism. It is because the fare increase of nearly all private owned franchised public transport organizations are under the control of the Legislative Council. According to existing legislation, increases of fares by franchised ferry companies, the tram company and taxis have to be approved by the Executive Council and referred to

the Legislation Council for consideration in the form of subsidiary legislation. Therefore, it is unreasonable and exceptional that the increase of fares of bus companies now only requires the approval of the Executive Council. Since both are private-owned franchised public transportation organizations, there is no reason why the fare increase procedures of bus companies are different from other organizations. Besides, the passenger volume of buses is the highest among all the other modes of public transport. From the point of view of people's livelihood, increases of bus fares should all the more be monitored by the Legislative Council.

The present bus fare increase procedure is governed by the Public Bus Services Ordinance and the relevant legislation was introduced in 1975. Before 1975, the operations of Kowloon Motor Bus (KMB) and China Motor Bus (CMB) were controlled by two different laws. The laws then also required that increases of bus fares be approved by the Executive Council, and then referred to the Legislative Council for consideration in the form of subsidiary legislation, that is, same as my present proposal! So why was the power of the Legislative Council to consider bus fare increases slashed by the new legislation of 1975? The information provided by the Government to the Legislative Council then did not give any explanation. Even when the Bill was read the Second time and debated in the Legislative Council, the Government Official expressed that the approval mechanism for bus fare increases had not changed. I believe the Government has got to answer this question.

In the past 20 years, bus fare increases had been totally outside the control of the Legislative Council. In recent years, bus fares have increased every year. Increases far beyond inflation were put forth even when public opinion voiced strong protests. People's livelihood was completely ignored! The bus companies point out that when the annual increase is proposed, the Panel on Transport of the Legislative Council would be consulted. It would then be further examined by the Transport Advisory Committee before being submitted to the Executive Council for approval. It is, therefore, considered a very ideal mechanism. However, experience in the past few years showed that the so-called consultation of the Legislative Council meant only "empty talks" of the Legislative Councillors on the one hand and "complete disregard" by the bus companies and the Government on the other. This year's fare increase proposals by CMB and City Bus have already been rejected by my honourable colleagues on the Panel on Transport. But the Government still supports the two companies in increasing their fares substantially. What is more difficult to

understand is that the percentage approved by the Transport Advisory Committee is even higher than what CMB asked for. The reason given was to cover the inflation rate because of the delayed increase of fares. So with the existing bus fare increase mechanism, how can the public and my honourable colleagues be convinced?

I sincerely hope that my colleagues would support this Bill.

Mr President, with these remarks, I move that the Bill be read a Second time. Thank you, Mr President.

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

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

Resumption of Second Reading Debate on Bills

IMMIGRATION (AMENDMENT) BILL 1995

Resumption of debate on Second Reading which was moved on 10 January 1996

Question on the Second Reading proposed.

MR LAW CHI-KWONG (in Cantonese): Mr President, the policy of importing foreign labour in Hong Kong in recent years has aroused much controversy, both inside and outside this Council. On 21 July 1993, the Immigration (Amendment) Bill also under the Honourable Michael HO's name was read the First and Second time in the Legislative Council. It was negatived by this Council in the resumption of debate on its Second Reading in 1995. The Democratic Party then pledged to the people of Hong Kong that a similar Bill would be introduced again in the next session, so that the Legislative Council would have the right to monitor the policy of imported labour. During the election period in 1995, the Democratic Party also reiterated this promise. Therefore, as this new session began, the Democratic Party introduced the Bill to stop importing foreign workers immediately to ensure that foreign workers entering or staying in Hong Kong for employment must abide by the rules and quota approved by the

Legislative Council. But those engaging in domestic work, possessing special skills or working in international and diplomatic organizations are exceptions.

First of all, I have to explain why the policy of imported labour has to be monitored by way of legislation. What is the legislative spirit behind? The Hong Kong Government has, since 1992, extended the labour importation scheme, making the importation of foreign labour an established long-term policy. This policy has a significant impact on the economy and people's livelihood. However, questions like quota, approval and monitoring regarding the policy totally lack legislative and legal supervision. On the one hand, approval of quotas by administrative departments lacks transparency. As a result, even those trades with excess manpower are importing workers. On the other hand, employers and those people responsible for recruiting imported workers frequently use the loopholes in monitoring to exploit the foreign workers, and the employment opportunity of local labour is seriously jeopardized.

The requirement that the rules regarding foreigners coming here to work need to be monitored by this Council is actually a policy measure often adopted in other countries. When drafting this Bill, the Democratic Party has referred to the British immigration legislation which provides that after the rules regarding the entry and employment of foreigners are formulated, the Secretary for Home Affairs should table them to be passed by the House of Commons before they can become effective. The spirit of the Bill introduced by Mr Michael HO is in line with the current established practice in Britain. Besides, the amendment to the Immigration Ordinance accords with the existing relations between the executive and the legislature. The administration is not led by the legislature. The executive branch retains the leading power to introduce policies because in this amendment Bill, it is stipulated that the imported labour quota and details of monitoring have to be introduced to the Legislative Council by the Secretary for Education and Manpower in the form of subsidiary legislation. Therefore, the policy initiative is still in the hands of the executive branch. The Legislative Council only has the power to veto and amend.

When the current Legislative Council session commenced, as unemployment rate was high, there were two Member's Bills proposed regarding monitoring the importation of labour. The Honourable LEE Cheuk-yan had planned to introduce a similar amendment Bill. The Bill introduced by the Democratic Party was criticized for being not thorough enough. In fact the amendment of the Democratic Party and that of what Mr LEE originally planned to introduce do not have any difference in principle. There is only a technical

difference. Once the amendment Bill introduced by the Democratic Party is passed, any labour importation scheme will have to cease immediately. The Government has also agreed to this view.

A lot of people may still ask, as the Government and the trade unions have already reached an agreement about the quota in the Supplementary Labour Scheme, why is the Democratic Party still introducing the Bill to the Legislative Council? At the commencement of the current session, the Government was well aware that a number of Members planned to introduce Member's Bills to monitor the importation of labour. Therefore, talks were held with the Democratic Party and Members representing trade unions immediately. But the Democratic Party and the Government had grave differences in their talks because the latter flatly refused to monitor the labour importation policy by way of legislation. On the other hand, Members representing trade unions continued to hold talks with the Government and finally reached an agreement on a quota of 2 000 foreign workers. We fully understand the path that Members representing trade unions chose to hold talks with the Government. But the Democratic Party still insists that the imported labour policy must be subject to control by legislation. As for the quota and details of monitoring, the final decision had to be made by the organization that represents public opinion, that is, the Legislative Council.

On the other hand, we consider the existing arrangement by the Government to reduce the quota of the Supplementary Labour Scheme from 5 000 to 2 000 not a concession. Before the Government introduced the Supplementary Labour Scheme, it had already stopped approving quota under the General Importation of Labour Scheme. In other words, the quota of 5 000 is only a notional figure on the negotiation table. It turns out that the quota for imported labour has increased from zero to 2 000. Besides, 2 000 is not the actual upper limit. This can be reviewed later and might be increased. What is more important is that the public strongly supports the cancellation or tightening of the imported labour policy by way of legislation. According to an opinion poll conducted by the Democratic Party in early January, 81% were in favour of cancelling or tightening the policy by legislation, four times the number (only 19%) supporting negotiations between the trade unions and the Government. The question of importation of labour does not only involve trade unions. It involves all the people of Hong Kong. Therefore the Democratic Party cannot just listen to the views of registered trade unions.

This Bill is the first Member's Bill successfully introduced in this session to the Legislative Council. In the course of introduction, the Government raised an objection on the ground that public money might be involved. Finally, the President of the Legislative Council made his wise ruling that this Bill would not involve public money. This ruling by the President is highly important as it indicates the independence and autonomy of this Council which is totally separated from the executive branch.

It is the wish of the Democratic Party that Members representing trade unions and other Members of this Council would support this Bill.

Thank you, Mr President.

MISS MARGARET NG: Mr President, I oppose the Immigration (Amendment) Bill 1995 of the Honourable Michael HO for a number of reasons, one of which having to do with the importation of labour.

In the first place, this is an incomplete legislation. We are asked to approve a new policy whereby no one will be allowed to land or remain in Hong Kong for the purpose of employment, except according to certain regulations and set quota without knowing what these regulations or quota may be. Indeed so far as I know, no such regulation and quota are now in existence.

Secondly, this Bill, if passed without the regulation and quota in place, will cause great confusion to immigration. Since no regulation and quota exist, no one may come to Hong Kong for the purpose of employment, although the Honourable Member may not have intended it. Far more than foreign labourers, every kind of overseas employees will be affected, including business executives, administrative and teaching staff. The only exceptions are the three categories provided in the proposed section 11(1C). So every Immigration Department officer will now have to decide for himself whether a person seeking to come into Hong Kong qualifies for one or the other of these categories. While categories A and C may be easier to determine, B is obviously going to cause great uncertainty. Innumerable people at present on the staff of international organizations may have to be turned away.

Thirdly, I am by no means sure that this is the right approach to the problem of imported labour at this point in time, not only are we using a blatantly political means to solve what is acknowledged to be an economic and

administrative problem, but this means is being proposed after, so I am told, broad consensus had already been achieved among the major trade unions and the Administration. In this light, the present Bill would be a step backward for its effect is to undermine what degree of consensus already achieved and put everything on hold while the Secretary for Education and Manpower drafts his regulations and sets his quota. And the parties will again each gather its forces in order to obtain the majority vote. If for any reason the regulations are defeated in this Council, then a further period of freeze and uncertainty will ensue.

Mr President, the above reasons are sufficient for me to oppose the Bill. But I rose to address this Council urged by a deeper and far more important reason. That reason is my fundamental disagreement with the use of legislation as manifested in this Bill.

Mr President, this community has been fighting long and hard for democracy, not because democracy is perfect, but because democracy provides the safest system which prevents unlimited and arbitrary power. The aim of democracy is not to ensure that only good people are the only people with popular support who will have power. The aim is that nobody will be able to exercise unlimited and arbitrary power, be it the executive, the legislature, or the Judiciary. Democracy is about empowering the people, so that they could decide more for themselves. The progress of democracy must be the establishment of more and more autonomous bodies and procedures whereby the people concerned will be able to reach a resolution of their dispute through rational means following a fair procedure. We are here to promote, enhance and protect autonomy, not to substitute our own decision, no matter how superior we consider it, for the decision reached through such a process. Above all, we must not only support the procedure of conflict resolution so long as we agree with the outcome, but use our legislative power to interfere when we do not agree with the outcome. The most benevolent interference is nevertheless an interference which would require very strong justification indeed.

Mr President, I would respectfully point out that the Honourable Michael HO's Bill is suggestive of an interference by way of legislation. It is arbitrary and without sound justification. It is not the proper use of legislation in a democratic system. It is not how we in the context of a democratic system would understand by the rule of law.

Thank you, Mr President.

MR TSANG KIN-SHING (in Cantonese): Mr President, today the Council debates on the Second Reading of the Bill regarding the importation of labour. This debate is obviously different from the past as not only different views are expressed or the Government is criticized, but it is also a golden opportunity to change government policy. Should we stop importing foreign workers or allow the Government to continue the existing policy? Should we allow the situation of "collaboration between the Government and the business sector" to continue and ignore the rights of workers? Should we allow the employment and wages of local workers to go without basic protection?

Mr President, when I prepared today's speech for the Second Reading, I had high hopes that this Bill can be passed with the support of Members who safeguard the interests of the grassroots level. I remember among honourable colleagues here today, there are representatives of the labour sector, the grassroots level and various political parties (except the Liberal Party) who once stood with me outside the Legislative Council Building, outside the Government House and the Government Secretariat in the past few years, shouting slogans like "oppose the importation of labour", "stop importing foreign workers to appease the resentment of people". I remember we collected thousands and thousands of signatures on different streets. Some collected signatures on cloth banners and sent them to the Legislative Council while others sent their signatures to the Government House by hoist. Some carried a coffin to the Government House or sent bitter gourd and tortoise to the Governor. Some broke rice bowls, meaning that the Government had broken the workers' rice bowls. There were people carrying rice bowls to the Government House. All these actions had only one purpose, and that is to ask the Government to stop importing foreign workers. Today, friends on the street now sitting in the Legislative Council seem to have forgotten the conviction. Are you different from what you were then? The phenomenon is just like "the 10 fire fighting youths". When it really comes to a time to fight fire, they just go away one after another. It does not matter if you are not a fire fighter. But I hope you would not add fuel to the flames at this critical moment by voting against the Bill. I sincerely hope that you will support the Honourable Michael HO's Bill and render assistance to the "employees" in Hong Kong. It does not matter if you do not support Mr HO by casting your vote. But I hope you would either leave

the Council Chamber or abstain.

Mr President, may be somebody would think I am "ignorant" and forgot that the six representatives of the labour sector in this Council had reached an agreement with the Government, reducing the upper limit of imported labour from 5 000 to 2 000. They have also successfully established numerous so-called "outposts" to protect the employment of local workers and have taken the opportunity so that the trade unions may take part in monitoring, thereby achieving long-term victory. On the other hand, this may also establish the foundation for talks between the trade unions and the Government. This is conducive to striving for the rights of workers in future.

However, what could be the criteria to reduce the number from 5 000 to 2 000? Why is it not reduced to 1 000 or zero? Do not forget the candy factory just because you have one piece of candy. Do not sacrifice a basket of grain for a bowl of congee. This is definitely not scientific standard. When negotiating the upper limit, no mention was made about the "airport". Have you forgotten that Hong Kong is building an airport? Have you forgotten that in the past few months, imported workers working at the airport had their wages pocketed? Has the contemporary story of "exploitation" occurred in Hong Kong?

What is more ridiculous is the so-called "outposts" were actually mentioned in the policy address last year. They were scheduled to be established and were not something to be strived for. As for the high-sounding name of recruitment centre and the extended employment matching programme, are they different from the employment agencies in the private sector? Of course it is good to have them. But what is the difference without them? To what extent will they really benefit the local workers? It is too early to consider these technical changes as campaign victory before assessing objectively whether these mechanisms are effective.

The so-called basis for negotiation with the Government actually cannot withstand a single blow. Do you not remember that the Government was pressed by the business sector and changed the 2 000 upper limit to the reviewing mechanism? Do you not remember that by just amending the upper limit of compensation for the Protection of wages on Insolvency Fund, the Government

was forced to make an "unethical deal" with the business sector? Do you remember how we were treated by the Government last Friday? The Mandatory Provident Fund Scheme would be withdrawn if we just propose a slight amendment. Would the Government listen to you?

Mr President, I am not discriminating against foreign workers. In the past few months, I have been striving for equitable rights for workers, whether local or foreign. But from last year's unemployment rate of 3.6%, it can be seen that under the situation of unemployment and without social security, imported labour has distorted the market. The wages and employment opportunity of local workers are directly affected. Foreign workers are exploited in different ways by employers who make lots of money by using cheap labour. The labour market of Hong Kong is subject to impact. The local workers do not have bargaining power nor the right to collective negotiation. They can only rely on themselves. Honourable Members, Members from the grassroots level, please cast a vote of conscience today to support Mr Michael HO's Bill. If you do not vote, you may abstain. But please do not vote against the Bill.

The workers in Hong Kong have already suffered as a result of the northward move of factories, imported labour and decrease instead of increase in wages. They do not get their due rewards. Here, I would like to question what the past economic prosperity of Hong Kong has to do with this group of hard working economic pillars. How much can they share in the economic achievement? Why do we give them a kick and hit them when they are down and let the imported labour policy "exists all but in name"?

Today's voting is an expression of courage and moral character. I believe representatives of the grassroots workers all held the slogan of "oppose imported labour" when they were standing for election. I hope you would cast a vote of conscience on Valentine's Day.

Mr President, the unemployment rate rose to 3.6% last year. Coupled with the policy of imported labour, the Government is helpless. Foreign workers were exploited and the Pearl of the Orient has become the "market of exploitation". With the operation of the employment matching centre, 1 500 people were interviewed, 400 switched jobs and 17 were actually hired. Do you think the centre is effective?

Mr President, I remember last year, there were three people who admonished the Government by death because they had their jobs due to imported labour. Colleagues from the Federation of Trade Unions and the Democratic Alliance for the Betterment of Hong Kong (DAB) hurried to put on mourning clothing and carried a coffin to the Government House. The intention was to claim justice for the dead and their rights of employment. I hope that the Federation of Trade Unions and DAB can have such courage today and cast your votes to get justice for the dead. When you sent bitter gourds to the Government, it would not make the Government bitter. However, if you cast an opposition vote, it will make the workers bitter. It does not matter if their rice bowls are broken, but they should never be broken by representatives of the grassroots level. The eggs of the Association for Democracy and People's Livelihood are all right. But it should be ensured that the workers of Hong Kong have rice and eggs to eat. We Democratic Party once cooked congee at the Government House. I hope congee can become rice so that the "employees" in Hong Kong have rice to eat.

Mr President, today is Valentine's Day. I very much hope the some two million workers in Hong Kong can live and work in peace and contentment, with everybody getting employed. I hope Members from the grassroots level can uphold the interests of the grassroots and cast a vote of conscience. Do not forget the candy factory because you have a piece of candy. Do not sacrifice a basket of grain for a bowl of congee.

Thank you, Mr President.

MR CHEUNG MAN-KWONG (in Cantonese): Mr President, the purpose of the Member's Bill introduced by the Honourable Michael HO is to amend the Immigration Ordinance in order to ensure that the future labour importation scheme is to be implemented according to such rules and quota as approved by the Legislative Council. It is also to ensure that the labour importation scheme is totally monitored by an organization representing the public opinion. Today, I wish to talk about the part of the Bill regarding foreign workers at the airport.

A review about the General Importation of Labour Scheme was conducted last year by the Education and Manpower Branch. It was acknowledged that the trade with high quota of imported labour was the trade with high unemployment rate. Under the pressure of people's livelihood and public feeling, the Education and Manpower Branch has already replaced the General Importation

of Labour Scheme with the Supplementary Labour Scheme. However, the Branch still retains the labour importation scheme for the new airport. And so the Legislative Council and the public have witnessed tragedies of contemporary "exploitation" one after another in the last few months.

Labour disputes involving foreign workers at the airport include wages being pocketed, overtime work without pay, arrears of wages, as well as poor board and lodging. Strikes one after another have revealed the tragic encounters of foreign workers, the heartless features of employers and the incompetence of administrators. The government departments involved in the labour importation scheme of the Hong Kong New Airport Core Programme include the Education and Manpower Branch, the Labour Department, the New Airport Projects Co-ordination Office as well as the Immigration Department. The officials responsible are a galaxy of talents. But the whole process from approval of quota, monitoring of implementation to prosecution of employers infringing the law can be described as full of loopholes. In view of the clever tricks of the employers, the monitoring effectiveness of the government departments are negligible.

The executive-led Government always waits to see serious policy problems appearing before any action is initiated. The labour disputes at the new airport have revealed a number of loopholes in the policy. It is necessary to conduct a serious review and stipulate effective rules for implementation. The Bill introduced by Mr Michael HO just puts the rights of approving quota and monitoring of implementation in the hands of the Legislative Council, thereby preventing the Government from procrastinating to cancel or amend faulty policies for the sake of protecting the employers' interests.

On the question of approving the quota, the recent strikes of foreign labourers reveal that some employers have imported an excess number of workers. Some of the workers who had not been assigned work "disappeared" from the site and turned to other sites for work. They become "black market workers" who are formally imported. Some foreign workers have even revealed that the people who recruited them told them they could choose to take "free jobs" or "fixed jobs". Therefore, those who chose "free jobs" never reported to their official employers' work sites. This indicates that somebody might be selling the quota in a disguised form. There were cases in which foreign workers signed contracts of eight months to two years with employers, but were dismissed half way. The foreign labourers would then become in debts when

they return to their home country and hence they resorted to strike.

The cause of these incidents might be that the department responsible for approving the quota failed to seriously assess the number of foreign labourers on the application forms, their periods of stay in Hong Kong or the scales of the projects before giving approval, hence giving rise to future trouble. The department concerned failed to approve an appropriate number of foreign labourers by referring to the tender price of each project, resulting in an excess number of imported workers. The situation was abused by employers who did not abide by the law and resold the quota. The department concerned also approved unnecessarily long contracts without considering the time required for the projects. As a result, the idled foreign workers could work in other sites and become what I have mentioned just now, the legally imported "black market workers".

Mr President and honourable colleagues, the Member's Bill introduced today places the right of approving the quota in the hands of the Legislative Council. Regarding the aforesaid problem of approving and assessing quota, when the Legislative Council possesses the relevant power, effective ways of approval and the appropriate quota can be determined according to the principle of protection of people's livelihood.

Some employers claimed they had financial problems and dismissed the foreign workers prematurely. This raised doubts as to whether the employers had initially calculated the tender price and cost expenditures at suppressed wages. Once they were forced by law to pay the full wages, financial difficulties arose and they had to dismiss the workers, thereby causing labour disputes. In fact, at the time of approving the quota, if the department concerned can accurately estimate the reasonable ratio between the project price and labour cost, it should be possible to prevent some employers from making profit by way of exploiting foreign workers of their wages or using the quota as a tool of trade. If the Bill is passed, the power of amending such faulty measures can be given to the Legislative Council and this Council will take up the responsibility to make appropriate arrangements.

In the past, the effectiveness of the Labour Department and the Immigration Department regarding the monitoring mechanism was also questioned. It was learned that the Labour Department had made inspection at various sites with labour disputes. The employers were able to show the documents required by the officials. However, the officials were unable to

understand thoroughly the "big secret" behind the papers. The employers practised deception by using multiple contracts, blank withdrawal slips and authorization of automatic payment. Even the imported labour contracts kept by the Immigration Department were not the real contracts executed. It was only when the foreign workers protested that the above were revealed.

As for monitoring whether foreign labourers report to their employers and commence work after arrival, the two law enforcement departments could find no way to prevent the "excess" imported workers from becoming imported "black market workers". The Labour Department would not go to the sites to make counts while the Immigration Department could not possibly follow the tracks of the imported workers. So imported workers have disappeared and worked for other employers. Finally, it is in the routine "black market workers" busting operation that they are arrested by the police or special unit of the Immigration Department.

In fact, the ways that employers can profit from imported labour are numerous. The bureaucratic Immigration Department and the conservative monitoring measure of the Labour Department are only decorative to the faulty policy. The imported labour policy has been implemented since 1989. The labour disputes seen today are no longer a new phenomenon. What is different is that the tricks used by the employers are wiser than before while the Government is reluctant to do anything and incapable of resolving the problem, as obvious to all. I am sure it is now time to introduce the supervisory power of the Legislative Council.

Mr President, I was very much shocked by a report in the newspaper at the end of last month. It was reported that a member of the Executive Council who did not want his name disclosed recollected that when the imported labour policy was passed by the Executive Council in 1991, the papers submitted by the Labour Department did not include any monitoring plan. The Government only passed the part involving imported labour but did not formulate the relevant monitoring measures. Today, the Legislative Council is to formulate the relevant monitoring measures, the implementation of which will be by way of legislation.

It is hoped that the Government would inform this Council whether the report is true. The report seems to have verified why the Government's monitoring mechanism cannot effectively protect the interests of imported workers, because actually the Government does not have an explicit,

comprehensive monitoring scheme. If the report is true, such attitude is really infuriating.

Mr President, without an effective monitoring mechanism, the imported labour policy would only bring negative effects to the society. The rice bowls of local workers would be broken while foreign labourers would be exploited. It only benefits those unethical employers and some foreign employment companies. And Hong Kong would be tarnished internationally. Our renowned international airport would become an "airport of sweat and toil". Legislative Councillors are responsible for supervising the Government's work, and they should carry out their functions and step up the monitoring of imported labour. The Member's Bill introduced by Mr Michael HO is only the first step to establish the monitoring of imported labour policy in accordance with popular opinion. There are still many future problems regarding monitoring that need to be addressed.

With these remarks, I support the Bill.

MR ALBERT HO (in Cantonese): Mr President, I only wish to respond to the query regarding the legal viewpoints of this Bill raised by the Honourable Miss Margaret NG just now.

First, this Bill states clearly that when it is passed, then Immigration Officers cannot approve certain employees to come to Hong Kong unless they are authorized by and comply with regulations under the mechanism stipulated by this Bill. But this would not apply to those who have already obtained approval to stay. Therefore, this Bill should not affect those people who are already working in Hong Kong.

Second, Miss NG mentioned that no regulation and quota are now in existence and therefore the Bill cannot be passed. I am surprised that she has raised such a question. In fact, very often when we introduce legislation, a principal ordinance would be introduced first as an authorizing legislation, and then authorization would be given for the formulation of regulation, forming a so-called "statutory scheme" for the implementation of certain policies. Therefore, it is always the case that a principal ordinance should first come into existence before there can be any subsidiary legislation. I think Members do remember that even when a statutory scheme is not involved, for example, the

Matrimonial Causes (Amendment) Bill concerning the shortening of separation time for divorce which was passed last year, and a regulation has to be made, that is the Matrimonial Causes (Amendment) Rules. As the regulation could not be made in time, the Bill remains not effective. This is a good example. Even Members not from the legal sector understand that a principal ordinance needs first come into existence to give authorization. Only when the policy objective is known can we know how the regulation be made.

Besides, it is impossible to set the quota before the statutory scheme is formulated, because the quota is exactly the product of the statutory scheme set by the Bill. Therefore this scheme must first come into existence before the Secretary for Education and Manpower can put forth the quota for this Council to approve in accordance with the regulation. Only then can the quota come into existence. Therefore, I think the two technical questions cannot be used for attacking the feasibility of this Bill.

I only wish to respond briefly to the question of whether the executive power is interfered wantonly. In fact, if we accept the idea of democracy, we should accept two concepts. First, the public should have an equal right of participation. Of course, this right of participation can be manifested through representation or direct election. These are ways of participation. The second concept is the checks and balances between the executive and the legislature. If we only emphasize on an executive-led government and do not allow a fully representative legislature to have reasonable powers of checks and balances, it will not be a healthy democratic mechanism.

In fact the powers of checks and balances that we want, that includes the power of approving certain quota as required by this Bill, is not without precedents in history. The Honourable LAW Chi-kwong has just now clearly stated that we have, in fact, made reference to the existing immigration legislation in Britain. Even in this Council, we have lots of mechanisms that enable us to approve or amend certain fees and charges by the Government by way of motions. We have debated a lot in this regard today. Of course, we are exercising this authority in the form of veto. But this is also the power of checks and balances of this Council. Moreover, the Budget each year has to be approved by this Council. A number of appropriations also need to be approved by the Finance Committee of this Council. Even the scope of reclamation, for reason of environmental protection in future, may also need to have this Council's approval according to legislative procedures.

Honourable Members, does the Legislative Council require these powers

of checks and balances? Are these powers reasonable checks and balances? I think this is what we need to consider today. As importation of labour has a significant impact on the economy and livelihood of the whole community of Hong Kong, the Legislative Council should have the ultimate power of checks and balances in this regard.

Of course, I firmly believe when the Legislative Council exercise this power, consideration would be given to the interests of all parties. As Mr LAW Chi-kwong said at the beginning, every initiative lies in the hands of the Government. The Government has the power of proposing the quota. This Bill also stipulates that the Secretary for Education and Manpower has to produce all information and data. Here again, the Government takes the initiative. I believe under the checks and balances exercised by the Legislative Council, the Government can set a reasonable quota to balance the needs of all sectors.

After clarifying the aforesaid viewpoints, I hope Members will support the Member's Bill introduced by the Honourable Michael HO.

Thank you, Mr President.

MR LEE CHEUK-YAN (in Cantonese): Mr President, several Members from the labour sector and I shall vote against the Immigration (Amendment) Bill introduced by the Honourable Michael HO.

We vote against the Bill not because we oppose the policy in principle, but because we have already chosen the strategy of negotiation. The Government has been urged to limit the quota of the Supplementary Labour Scheme to 2 000 at this stage and to forbid importation of labour for 26 trades and work categories. The Labour Advisory Board shall be responsible for monitoring this to ensure that local workers will be given priority in employment and that their employment opportunities will not be affected.

As it is still too early to decide whether the new scheme can protect local workers' employment, we do not think it is the appropriate time now to introduce this Member's Bill to empower the Legislative Council to monitor the

importation of labour. The labour sector will continue to monitor the Supplementary Labour Scheme closely and to hold talks with the Government to strive for ceasing the importation of labour policy. When we find that the monitoring mechanism of the Supplementary Labour Scheme cannot provide protection to local workers, we shall then choose to introduce a Member's Bill to put the importation of labour policy to an end.

The labour sector has strongly demanded the ceasing of the importation of labour policy since 1989. This is our objective of long term protest. We have never changed our objective nor flinched in our stand. We consider our present negotiation strategy appropriate in ensuring workers' employment. Finally, I urge all the Members who cares about labour problems not to become an obstacle to co-operation in opposing the importation of foreign labour due to a difference in strategy.

These are my remarks.

MR JAMES TIEN (in Cantonese): Mr President, the Liberal Party has given much thought to the Member's Bill after it was introduced by the Honourable Michael HO. We have been extremely dissatisfied that the normal imported labour quota was slashed from 25 000 to 5 000 last year by the Government after a review. But then the Government reached an agreement with Members representing the workers. The Government told the business sector that a review would be conducted when a quota of 2 000 was reached. But Members representing the workers seem to have a different understanding, thinking that the quota of 2 000 is the ceiling.

Regarding the Supplementary Labour Scheme with a quota of 2 000 recently put up by the Government, we can already see that employers wishing to apply for foreign labourers will face a lot of difficulties. As far as I know, many people in the business sector are reluctant to apply for imported labour even when they do not have enough hands. One of the reasons is that the Government specifies that only when no employees can be recruited within two weeks that the employers can go on with the application procedures. But the so-called two weeks stipulated by the Government will lapse as long as someone is hired within two weeks after the advertisement is put up. If the employee quits after working a day or two, it will be necessary to start all over again.

Therefore many employers simply have no confidence in this programme. I believe the Government would be able to say, in one or two months' time, that no employer submits an application and therefore there is no need to have imported labour. In that case, the 2 000 quota cannot be reached and then there is no need to conduct a review. The 2 000 quota would thus become the upper limit. The business sector and the Liberal Party are very dissatisfied about this.

Mr Michael HO did not mention anything about the quota in his Member's Bill. However, from the speeches from colleagues from the Democratic Party today, we understand clearly that although they make no mention about quota, they have actually "zero" quota in their minds, and that is even worse than what is specified by the Government. At first I thought we can discuss with the Democratic Party in the Legislative Council. The Liberal party and the business sector have all along thought that whatever number of imported workers is required by the market, the quota would be that number, not necessarily zero, or 2 000 or 5 000. However, according to the explanation given by Members of the Democratic Party just now, the business sector simply have little chance to prove how much need there is in the market for imported labour. For in actual fact, their intention is zero.

Also, I wish to mention another point. I have spoken to Mr Michael HO a number of times, asking him to introduce today's Bill in May or June if he sincerely wishes that it would get passed. The reason is that we would like to know whether the quota is still "zero" by May or June after the Supplementary Labour Programme is implemented by the Government. If so, we would seriously consider the Bill introduced by Mr Michael HO. But Mr Michael HO does not want to do that. We cannot, of course, prove today whether the Supplementary Labour Scheme is as bad as we imagine that even the 2 000 quota cannot be approved by next year. Mr President, why does the business sector have such worries? It is because another programme of importation of professional skills has a set quota of 1 000. However, according to Government statistics, there were only 659 people imported from December 1994 to 1996. If only 659 people were imported in a year's time, it is unlikely that the 2 000 quota would be entirely approved by July 1997. We are also very dissatisfied about this.

In view of the reasons just mentioned and that Mr Michael HO does not wish to introduce his Bill later but insists on introducing it today, we are forced to make a decision. After consideration, both the Liberal Party and the business

sector have decided to oppose Mr Michael HO's Bill.

Thank you, Mr President.

MR IP KWOK-HIM (in Cantonese): Mr President, during the past year, our high unemployment rate has triggered disputes over the snatching of local jobs by imported workers. The issue of importation of labour has therefore become a popular topic of discussion for the Legislative Council and the public. The recent case of pocketing portions of foreign workers' wages led to the use of over \$1 million of public money and the application of the Powers and Privileges Ordinance by our colleagues to open a hearing. The Honourable Michael HO's Private Member's Bill today proposed that this Council be empowered to scrutinize and approve the quota for general imported labour and those for the airport project. The Democratic Alliance for the Betterment of Hong Kong cannot support it.

In his policy address delivered in October last year, the Governor proposed a Supplementary Labour Scheme with a quota of 5 000 to replace the General Labour Importation Scheme with a quota of 25 000. After co-ordinating with the labour sector, Government in the end proposed an amended scheme acceptable to both parties for the quota ceiling to be set at 2 000. It was agreed that on reaching the 2 000 quota, Government would make use of the review machinery to decide whether the quota should be further increased or cut. Since an agreement to solve labour importation has been reached through a consensus among the employees, employers and Government, would it not be meaningless for Members to insist on handling the matter by legislation? And this is also not an opportune time. Furthermore, at this time when we are faced with the task of scrutinizing proposals for fee increases, the Budget and other bills submitted by the Administration, do we have to spare time to handle specific tasks for the administrative departments?

In any case, the Labour Advisory Board will be responsible for monitoring each application under the Supplementary Labour Scheme. Last time when we resolved to increase the protection of wages in cases of bankruptcy as proposed

by the Honourable LEE Cheuk-yan, the consensus of the Labour Advisory Board on this issue was destroyed and the value of the Board's existence became a topic for discussion. Now another Member has come up with a Private Member's Bill to seek authority to scrutinize the quota for labour importation and make regulations, does it signify that the Labour Advisory Board can once again be "brushed aside", or that its supervision is "unreliable"?

Mr President, members of the community, institutions, groups and different government departments have their individual parts and roles to play. For a society to operate smoothly and harmoniously, each one of us must play our roles appropriately. One of the functions of Legislative Council is to legislate. Mr Michael HO's Bill suggests that the Legislative Council should have the final say in the vetting and approval of the quota for labour importation. It means a change in the role of the Legislative Council by shifting the constitutional structure from one led by the executive branch to one led by legislature. It will become a case of the Legislative Council guiding the Government in its work. This is not acceptable to us.

In his speech delivered just now, the Honourable TSANG Kin-shing took support for Mr Michael HO's Private Member's Bill as the one and only criterion for upholding labour interests. I think it is only wishful thinking of the Democratic Party and it has brutally distorted the rational decisions of Members who truly represent the interests of the labour sector.

On the issue of labour importation, the Democratic Alliance for Betterment of Hong Kong wants to see the setting up of a committee with representatives from employees, employers and the Government to monitor its progress. We therefore will not support the Private Member's Bill proposed by Mr Michael HO.

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

MR BRUCE LIU (in Cantonese): Mr President, I shall raise four points on behalf of the Association for Democracy and People's Livelihood (ADPL).

First of all, the ADPL supports the mechanism of restricting the Supplementary Labour Scheme as agreed between Members representing the Labour Constituency and Government after discussions. I think this mechanism should be put in place for a period of time initially, and if there are deficiencies, chances of improvement should be provided. We believe that in a year or so, we will know whether this mechanism is going to work. This is not the right time to pass the Honourable Michael HO's Member's Bill.

Mr HO's Bill assumes that there will be or already is a mechanism in place to control labour importation. If there really is such a mechanism, it is at a preliminary stage and we should give it a chance to be implemented. Just now, the Honourable TSANG Kin-shing criticized our present scrutiny of imported workers. The criticism proves that there is not yet in place a mechanism acceptable to the labour sector, political parties and the community. We should therefore give the mechanism agreed between the labour sector and Government a chance. The Honourable Albert HO mentioned that we would only pass the principal ordinance here and that the ordinance would not become effective until the completion of the subsidiary legislation. But where is the subsidiary legislation? This is just the point for us to allow a mechanism to be implemented before we know how to put down such mechanism in words.

Secondly, the ADPL hopes that no additional unclear factors that affect the construction of the new airport will be included at this stage. Thirdly, the ADPL supports the past efforts of labour representatives in fighting for the interests of workers and is willing to show its support with its three votes in the Legislative Council. Finally, we hope that with the restrictive Supplementary Labour Scheme gaining preliminary results, Members can focus on urging Government to take measures to increase local employment opportunities. This should be the direction of our efforts at the next stage.

On behalf of the ADPL, I oppose Mr Michael HO's Member's Bill.

MRS SELINA CHOW (in Cantonese): Mr President, the Honourable James TIEN has already stated our position on behalf of the Liberal Party. In fact, this decision of the Liberal Party is a very difficult one indeed. The strangest thing

is that Mr James TIEN was the one in the Liberal Party who encouraged us most to co-ordinate with and even consider the possibility of supporting the Democratic Party. At first, he had believed in the sincerity of the Honourable Michael HO. Unfortunately, that sincerity was no more than an illusion. Outside the Legislative Council Building this afternoon, a team of Democratic Party members lobbied Members of this Council coming into the chambers. Their banners were written clearly with the words "Second Reading of Michael HO's Member's Bill — Stop Labour Importation".

That has been the position of the Democratic Party all along. Let us look back on the motion debate in this Council on 3 May last year. Dr the Honourable HUANG Chen-ya of the Democratic Party said labour importation had to be stopped; the Honourable CHEUNG Man-kwong said the Labour Importation Scheme had to be stopped at once; and the Honourable Martin LEE said they would actively urge the Government to stop the Labour Importation Scheme. On 7 June, the Honourable Fred LI asked the Government to legislate to cancel the labour importation policy; Mr Michael HO said the labour importation policy had to be withdrawn immediately; and Dr HUANG Chen-ya also wanted labour importation to stop immediately. The fact that many Members from the Democratic Party repeatedly expressed the Party's stand within and outside this Council clearly reflected that the Party's principle was to stop labour importation. That position is a hard fact with real proof and "it cannot be shrugged off". The Honourable LAW Chi-kwong said just now that we should legislate a plan to monitor the scheme. If labour importation is to be stopped, why is there any need to monitor the scheme? Their logical error is fully exposed there.

The Honourable Albert HO just now eloquently explained that the Bill was aimed at putting in place a statutory mechanism, but we all know that a piece of legislation is based on a basic policy. So how would Mr Albert HO explain the contradiction between this Bill and their basic policy to stop labour importation? He also said that legislation would provide a final check and balance. In fact, what he wanted was the ultimate power of veto. If the principal Bill reflects a basic policy which is just the opposite, then, however convincing he may be, any Member from the Democratic Party who attempts to convince Members here today that the purpose is to put the labour importation policy under appropriate supervision could only mean that either he and other Honourable colleagues are self contradictory, or he has underestimated our wisdom. If the Liberal Party or other Members here were to be convinced by this specious "schizophrenic"

theory, we would be laughed at and we would leave people wondering why the Liberal Party, which has always supported the labour importation policy, would be so easily cheated to help the Democratic Party wield the weapon to "stop labour importation".

I must mention the "collusion between the Government and the labour sector" over this issue. Today, it was learned that colleagues belonging to labour unions would — well, it should be more than heard because the Honourable LEE Cheuk-yan just indicated that he would oppose Mr Michael HO's Bill. If there had not been a deal of "2 000 imported labourers" between Government and the labour sector, I believe the labour unions would not have refused to support a Bill aimed at "putting an end to labour importation". From the quota of 5 000 suggested in the Governor's policy address in October to the cut by the Government to 2 000 in December, nobody had paid any attention to employers who experienced recruitment difficulties. The ban on imported workers for 26 work categories including those in the retail business and catering industry shows that the Government is entirely subdued by the pressure from labour unions to the degree of overlooking the economic needs of Hong Kong. Once again here, I want to point out specifically the dissatisfaction of the industrial and commercial sector, especially small employers, over the way the Government is handling the issue.

Mr President, I oppose Mr Michael HO's Bill.

DR YEUNG SUM (in Cantonese): Basically, Mr President, I seldom spoke on labour matters. However, having heard the speech of our respected friend, the Honourable Miss Margaret NG, I would like to make some response. She stressed democracy, and felt that democracy meant resolving a problem through negotiation. What is most important, democracy would not allow for abuse of power, whether it be the Government or Legislative Council Members. I believe I have contributed a lot towards democracy and I will continue to do so, so I would specifically like to respond to her words.

I have asked myself but conclude that this Member's Bill of the Democratic Party has been introduced in accordance with the rule of the democracy game. According to the constitution, Members can introduce

Member's Bills. Our respected friend, the Honourable Ms Anna WU, had repeatedly urged the Government to introduce an anti-discrimination bill, but the Government did not listen. So Ms WU proposed a Member's Bill herself. Although the Government subsequently introduced some Bills against sex discrimination and disability discrimination, Ms WU went all the way and introduced her own Member's Bill. As for certain parts of Ms WU's Bill which were not passed, we decided to propose again during this current legislative year. Basically, we believe that we are exercising our powers to uphold fairness and to supervise the Government.

You may oppose the Honourable Michael HO's Member's Bill for different reasons. For example, the labour sector said an agreement with the Government had been reached and there was no reason to go back on the agreement. Some Members think we should support the agreement and see if it will work. Other Members believe social policies should be more conservative and should protect the interests of the industrial and commercial sector, thinking that labour importation would reduce inflation and increase productivity. You may have all sorts of reasons to oppose the Bill. However, considered from the point of constitution, the allegation that the Democratic Party is going against the spirit of democracy in proposing this Bill really leaves me scratching my head. So I have to speak up. Since the constitution allows for Member's Bills, Legislative Council Members can of course make use of such Bills to supervise the Government. We negotiated with the Government many times on the issue of labour importation, but the Government did not respond. That is why we are exercising this right of ours. In fact, in exercising this right, we are subjecting this Bill to your supervision. You may agree or disagree after discussion. Since this is the rule of the game, we follow the rule of the game of this Council and carry out supervision of the Government via the use of a Member's Bill. I have asked myself but I really do not see how this could be contrary to the spirit of democracy.

Thank you, Mr President.

MR SZETO WAH (in Cantonese): Mr President, strategy has a class nature. When we speak of strategy, we must not deviate from our position or forsake our principles. A strategy that deviates from one's position and forsake one's

principles is nothing more than political trickery; it deceives oneself and others. Only by maintaining our correct position and principles can we apply correct strategies.

Mr President, I so speak.

SECRETARY FOR SECURITY (in Cantonese): Mr President, I shall speak on the general view of the Government and the immigration aspects of the Honourable Michael HO's Member's Bill. My colleague the Secretary for Education and Manpower will speak in details about the specific effects of the Bill on the labour importation scheme.

This Bill is very similar to the one introduced by Mr Michael HO into this Council in July 1993. The 1993 Bill was subsequently voted down in this Council in February 1995. The difference between this Bill we are debating today and the one which this Council voted down last year is only minimal. Today's Bill suggests for the Secretary for Education and Manpower, not the Director of Immigration, to be responsible to make the subsidiary legislation as well as provide more, but still limited exemptions.

Anyone introducing a Bill into the legislature should clearly state the main policies and effects either in the main Bill or in the subsidiary legislation to go with it simultaneously. That would be responsible public administration. Of course, certain technical particulars can be provided later by way of subsidiary legislation, but a Bill cannot be introduced without the main policies or directions. When the Administration handles public Bills, it takes an approach that conforms with good public administration. This Council will of course debate on the merits and demerits of the policies behind a Bill and then decide according to circumstances whether to amend, pass or reject it.

Let us now base on this criteria of good public administration and study the policy or effects of Mr Michael HO's Bill. What is the policy of this Bill? Its main purpose seems to be to deal with the labour importation issue, but what are the labour importation policies and practices endorsed by him? They are not to be found in the Bill. The Bill states that the Secretary for Education and Manpower should put forth subsidiary legislation to indicate the policy and set out the measures, but nowhere does the Honourable Member tell us what the policies, practices and quota should be. As such, this is an extremely peculiar

Bill. Members here do not know about the policies and practices this Bill aims at achieving, and yet they are asked to approve it. In other words, Members are asked to endorse some proposals which they do not know about and the effects of which are unclear. This is definitely not what a responsible legislature should do.

The only definite result of this Bill is to cause an instant and complete halt to all labour importation schemes, including the Supplementary Labour Scheme which has the support of both employees and employers. The Bill does not put forth any replacement scheme. As such, if the Bill is passed, the effect will be the destruction of a policy under implementation without putting in place a better policy as replacement. It will be just destructive with no constructive effects at all.

At the debate in this Council in February last year, I used the metaphor of broken windows to illustrate the unreasonableness of a similar Bill introduced by Mr Michael Ho at that time. Circumstances have now changed, so I shall have to adapt my metaphor. The 1996 version is as follows. When we discovered that there was water seeping from a glass window into the Legislative Council Chamber, the people inside jumped to give their ideas on what to do. Those directly affected by the seepage replaced it with a new window, making the majority of people satisfied and allowing everyone to continue with their work in a comfortable environment. However, someone or a handful of people who did not like this new window for reasons unknown insisted that it should be broken. If we followed this opinion, the efforts of the majority in installing this new window would be wasted. If he agreed to put in another new window and clear up the broken glass, maybe we could contemplate to see if his opinion was feasible or better. But that was not to be the case. That person only left the broken pieces of glass all over the floor for others to clean up. He did not have any concrete plans as to re-installing a new window either. He expected someone else to do the job without telling anyone what shape and colour of window he wanted, or how much time others could have for the re-installation work. In the meantime, all of us had to bear with an environment buffeted by the wind and rain. If anyone became unwell or fell sick as a result, he would say, "It has nothing to do with me, it's not my fault." I am sure all of us can see the absurdity of such an act of mindless destructiveness.

However, that is not all that Mr Michael HO's Bill brings. Our immigration control system as established under the Immigration Ordinance is based on the power of discretion vested in the Director of Immigration, and in

exercising discretion, the Director acts according to the general policies made by the Executive Council. This Bill undermines the power of discretion vested in the Director of Immigration, rendering him unable as before to handle cases flexibly and effectively on the merits of each individual case. In fact, the existing immigration control system has always served its effects adequately. It has been under revision from time to time to cope with the fast changing circumstances. Destroying the existing system or engineering massive changes without giving cautious consideration to the effects will be dangerous and irresponsible. Of course, there are precedents in other countries of rulings on immigration policies by way of subsidiary legislation, but we should not copy the practices of other countries or areas blindly without finding out whether they are suited to the needs of Hong Kong. Let us not forget that the more there are scopes of legislation restricting administrative measures, the less flexible administrative measures will be. Besides putting a halt to all labour importation schemes, the Bill before us leaves our immigration control system with no flexibility.

Furthermore, this Bill has its unintended side effects. Just as the last one, this Bill does not grant exemption to specific categories of persons. Such persons may seek to enter for employment not on their special skills, but on bringing in substantial investments. Foreign investment has all along been very important for our economic growth. Introducing restrictions on foreign investment not only hurts our economy, but also local employees this Bill aims to protect.

Besides investors, many people who are important to the development of Hong Kong as an international and regional commercial and cultural centre could become the unintentional victims. I can name a few examples here. These people may include foreign bankers, businessmen and employees of foreign airlines stationed in Hong Kong. In the cultural field, they may include artists, performers and sportsmen coming here to participate in cultural and sports activities. The employees of non-government or voluntary organizations are affected too. These people may not have special skills, or they may have special skills generally available in Hong Kong, but in the interest of and to encourage economic, cultural and sports exchanges, the Director of Immigration currently has the discretion to permit these people entry for employment on the merits of individual cases. However, this Bill may not allow that to happen. At the present time, to strengthen economic and trade development, countries of the world share a common objective of removing or reducing barriers to trade

and travel, enacting such a Bill is surely a retrogressive step.

In comparing this Bill which Mr Michael HO is asking you to vote for with the one voted down by this Council last year, Honourable Members will notice that the negative purpose of this one has not changed and that the undesirable side effects have not been eliminated. Enactment of this Bill will send a wrong signal to the community and the world that we are discarding a sound, liberal and effective immigration control system only to replace it with a confused, undefined and inflexible one. Clearly, this Bill is not desirable for the development of Hong Kong as an international as well as Asia Pacific financial and trading centre.

For the above reasons and those which my colleague the Secretary for Education and Manpower will explain later, the Administration strongly opposes the Second Reading of Mr Michael HO's Bill. Last year, Honourable Members rejected a Bill of a similarly undefined nature. There are all the more reasons to reject this Bill today.

Thank you, Mr President.

MR JAMES TO (in Cantonese): Mr President, usually no response will be made by us after a Secretary has spoken. However, I have just heard some very ridiculous arguments and thus have to respond in order that a clarification could be made in the official records. Just now the Secretary for Security said at the beginning

PRESIDENT: Mr TO, resume your seat first. May I explain a bit first. We are at a stage before the final reply. As explained in the past, I have no authority under Standing Orders to stop a Member who has not spoken yet from speaking. So I am calling Mr James TO to speak, although I have called the Secretary for Security to speak and who has spoken.

MR JAMES TO (in Cantonese): Just now at the beginning of his speech, the Secretary for Security said that the policy objective of the Honourable Michael HO's Bill was not clear in that the Bill lacked details and did not have the draft

subsidiary legislation. I would like to ask how many of the Bills tabled at the Legislative Council by the Government were all in good order, all with subsidiary legislation? I can cite some 10 to 20 Bills which the Government could not provide any subsidiary legislation when we asked for them. The Secretary for Security said that the policy objective was not clear but I think that they are very clear. The policy objective of the Bill aims at transferring the power vested with the Director of Immigration to the Legislative Council. This is the policy objective of the Bill and I hope that the Secretary of Security would not twist the reasons. He can disagree with the policy objective and consider the power of discretion should be vested with the Government as far as constitutional arrangements are concerned. He can say this but he should not say that the policy objective of the Bill was not clear.

Secondly, just now he cited the installation of a glass window as an example. This is particularly irritating. It has been deliberated for nearly two years before Mr Michael HO put forward this Bill. During that period, the Government was allowed to consider ways to work with the implementation of the Bill. It is the right of Members to put forward Member's Bills. If the amendments to the legislation could be successfully made, then the Government should try to work with it once it becomes a legislation.

Let me try to quote an example. Between 1992 and 1993 I tried to propose amendments to some stipulations in respect of the noise pollution caused by civil airliners. At that time I requested to restrict the number of taking off and landing of airliners at night to some 20 times. The then Secretary for Economic Services said that it would not be appropriate because there were many exceptions, for example, there might be the need for humanitarian consideration or occasions of hijacking or illness or delays which were completely out of the scope of normal flight schedules. The then Secretary for Economic Services adopted a pragmatic approach. He was worried that once the Bill was passed it would restrict the number of flights taking off and landing at night. For that reason he took the initiative to write to all the Members saying that in case amendments were to be proposed, it was hoped that the Honourable James TO would consider making it into a proposal that they would be able to achieve. Of course, in the end we believe that the Government did not want to amend that piece of legislation. However, that approach was open and above board, making it clear that if an amendment was to be made, how they should be made after considering all the relevant factors. Of course, the Government could persuade Members to oppose to those amendments I proposed.

By contrast, the Government never made any amendment proposal to Mr Michael HO's Bill in nearly two years. The question is that does the Government think that it definitely will not be passed? No. If Members of

this Council and Members from the labour sector suddenly were touched by the Honourable TSANG Kin-shing's speech, or there is any change in their conscience that Mr Michael HO's Bill is passed, then how would the Government handle it? So either the Governor does not put down his signature on it or the Government will have to do something to work with it. Just now the Secretary for Security mentioned some foreign investors, professionals, employees of foreign airline companies stationed in Hong Kong and so on. The Government should have ample time to draw up some exemption clauses or amendments. At the Legislative Council debates in the past, on many occasions, the Government would amend the legislation or raise an opposition or even made an alternative proposal for amendments by Members. However, the Government does not do any such things this time but just tries to hinder it with some technical reasons. Is this what a responsible government should do? This is certainly not what an above-board and responsible government should do.

It all boils down to whether it should be the power of discretion of the Director of Immigration or the decision of the Legislative Council. The question is that simple. If we have the resources and manpower to draw up all the subsidiary legislation, we would be the Secretary for Security and the Secretary for Education and Manpower and all these posts would not be held by those of you sitting on the opposite side. Do you want to surrender the power of the Government? I guess not and so it should not be put this way.

Mr President, thank you.

SECRETARY FOR MANPOWER AND EDUCATION (in Cantonese): Mr President, first of all, I would like to point out from the point of the importation of labour the reasons why the Government opposes to this Bill.

From beginning to end, the Bill is aimed at the importation of labour. In October last year, the Government completed a review on the General Importation of Labour Scheme introduced since 1989 and then conducted extensive and in-depth consultations with people of all sectors including representatives of employers and employees, Legislative Councillors, and various political parties. I am glad to see that just now the Honourable LAW Chi-kwong in his speech confirmed that I had consulted and discussed with the Democratic Party. In fact, Mr LAW also confirmed that the reasons why no consensus could be reached between us and the Democratic Party were that the

Democratic Party insisted throughout that this Bill should be introduced. However, the Democratic Party has never made any concrete proposal in respect of the Importation of Labour Scheme. This is very clear. Finally, through extensive consultation, the Government has decided to halt the General Importation of Labour Scheme on the one hand and on the other hand to introduce the new Supplementary Labour Scheme (SLS) on 1 February. Details of this new labour importation scheme cover clearly in black and white, *inter alia*, that once the quota of 2 000 is reached, this mechanism would be reviewed. In addition, I would like to emphasize that the Government's policy objectives in respect of the importation of labour are clearly stated in this SLS. Firstly, it ensures that local workers have priority in employment and that their salaries and benefits are safeguarded and employers must accord priority to fill available job vacancies with local workers. Secondly, if employers have genuine difficulties in finding suitable workers locally, they can import workers to fill such vacancies.

This Scheme strikes a balance between various interests. Though some people have reservations about this Scheme and some have different views, the Scheme was widely supported by the Labour Advisory Board (LAB), employer and the employee groups and the community at large. Just now Mr LAW mentioned that the Bill proposed by the Democratic Party had strong public support. If what he referred to was the result of a survey conducted by the Democratic Party on a certain day, I do not want to make any comment because Mr LAW and many of the members of the Democratic Party are experts in surveys. I dare not say whether that survey is totally objective and whether they had explained in details the consequences of the passage of that Bill to the people interviewed and whether the people got any other options. I just remember that when the SLS was introduced last October, an independent survey was conducted by a newspaper and the results showed that more than half of the people interviewed supported the SLS proposed by the Government. Also, during the whole consultation period, from the press comments I got including the editorials and articles published in the press by academics and independent people, I was given the impression that the majority of them supported the balanced scheme which did not come by easily. There was not even one newspaper editorial supporting the Bill of the Democratic Party.

At the same time the operation of the SLS was monitored by the LAB. In addition, I must emphasize that a provision in the SLS stipulates that we have to

report to the Legislative Council's Panel on Manpower regularly. The SLS operates in a very open and transparent manner. Thus if it is insisted that this Bill which just has a shell should be passed, there can only be one effect and that is it would put an immediate end to all labour importation schemes in place, including the SLS. The Bill is very face-saving in that it allows the Secretary for Manpower and Education to make subsidiary legislation with regulation and quota on the importation of labour. About this point, I absolutely could not grasp what they thought during my discussion with the Democratic Party. In fact, from the time the Bill was proposed by the Democratic Party to now, the effect is very clear and that is the passage of the Bill would put an immediate end to all labour importation schemes which are now in place. In their speeches, some Members said that in fact they would allow the importation of labour in a limited scale and in circumstances where there is monitoring and quotas. However, so far I have not heard any of them mention any concrete details. Two years have passed. Today is Valentine's Day and if one does not change his affection in two years, he is a very good lover. But would that make a responsible Member or political party? I would not make any comment on this.

Some Members mentioned that the Special Labour Importation Scheme for the New Airport and Related Projects has triggered off many labour disputes recently. We admit that such problems do exist and I have repeatedly assure this Council that we would address these problems with extreme care. We would not tolerate any conduct that contravenes the law. In fact, we have taken legal action against some cases and some other cases are under investigation. At the same time as far as concrete actions are concerned, we have taken some remedial measures to avoid the re-occurrence of such disputes and to uphold the integrity of the Scheme. However, I do hope that these problems will not confuse other matters because these problems should not undermine the genuine need for imported workers for the new airport and related projects. If the Special Labour Importation Scheme for the New Airport and Related Projects was halted by the passage of this Bill, the progress of airport construction and the employment of the 15 000 local workers currently working on the Airport Core Programme (ACP) projects will be seriously affected. I do not say this lightly. It is quite possible that inability to complete one aspect of the works because of the lack of qualified workers could hold up the entire construction process. Construction of the airport requires highly specialized labour which is not always available in Hong Kong. Construction works in the ACP is expected to reach its peak in 1996. It will provide more job opportunities for our construction workforce. When completed, the new airport will provide many new

employment opportunities which will not materialize if the ACP were halted because of the shortage of labour.

Mr President, Hong Kong's economic well-being depends on our ability to react quickly and effectively to changing circumstances and also on our all along harmonious labour relations. Therefore we have to maintain this Supplementary Labour Scheme. If our labour importation scheme is subject to statutory control and those who propose the legislation do not know what is in their mind, I think this would greatly weaken our flexibility to react to market demand quickly and would severely hamper the effectiveness of these labour importation schemes. The economic well-being of Hong Kong as a whole will also be at risk. I know Members of the Council have the highest regard for the laws of Hong Kong. However, we should not legislate simply for the sake of legislation. We see no good reasons to destroy a consensus which has been painstakingly achieved after repeated discussions, consultations and co-ordination between the Government and the labour and business sectors. This is what I cannot understand. Thus, I urge Members of this Council to vote against the Bill in the interest of employees, employers and Hong Kong as a whole.

Thank you, Mr President.

MR MICHAEL HO (in Cantonese): Mr President, first of all I would like to thank my honourable colleagues for actively delivering their speeches and spending the first half of the evening of Valentine's Day with me here.

The Honourable Miss Margaret NG just now put forth some views which I would like to respond. Firstly, she said that this is an incomplete Bill in that it does not mention any conditions or quota clearly. When I tried to persuade some Members, some of them also made such comments. In fact, some of the quotas and ways of implementation have been in force as far as administration is concerned. However, everything now is just some administrative arrangements and the Labour Department has also laid down many rules on how they should be implemented. In terms of legislation, this is the minimum that could be done. This is not empty and it could be drafted. However, so long as the Government does not draft it, then there will be nothing about it.

Miss Margaret NG also mentioned that if the Bill was passed, there would

be some confusion. In fact, this Bill has no impact on what is in place now. The way the importation of labour is carried out now in fact can be put down in writing. After that we could of course discuss about it and it could also be amended. Miss Margaret NG also mentioned some executive staff. In fact, section 11(1)(c) is related to the so-called special knowledge and skill categories and these people could be exempted. Then, there are some international organizations and the Administration will need to draw up a schedule. I could do nothing if the Administration is unwilling to draw up this schedule because I could not force it to do so.

As for the consensus reached, in fact, when I persuaded the Honourable Miss Emily LAU and the Hong Kong Association for Democracy and People's Livelihood (ADPL), they also mentioned this consensus and asked why that policy was not allowed to be implemented first. In fact, there was no conflict between that consensus and this Bill. You can put forth what has been discussed. For example, the quota may be 2 000 as assessed by the Labour Advisory Board (LAB) or 5 000 as suggested by the Honourable James TIEN. It can be amended and thus there should not be any conflict. In the legislation we proposed to ask the Secretary for Education and Manpower to make the subsidiary legislation. We are adhering to the executive-led system and this is absolutely not a subjective decision made wantonly. This is because when the Legislative Council examines the subsidiary legislation, Members can amend the quota to 2 001 or 2 002. This is absolutely practicable.

I would like to say something more about the whole discussion process. In fact, in 1992 when Mr John CHAN was Secretary for Education and Manpower, we had a discussion with him. We also discussed with the previous Secretary for Education and Manpower, Mr Michael LEUNG. We put forth this Bill after some two years' discussion. Here I would like to mention whether we have to propose this Member's Bill. In fact, the answer is in the negative. I told Mr Joseph WONG that if he did not want us to propose this Member's Bill, he could take it as a government Bill and introduce it to this Council. But he was unwilling to do so.

The Honourable LEE Cheuk-yan said that it was too early to propose this

Bill and that we should wait until the agreed scheme is put into operation. Had we believed that the present agreement is workable and viable, we would not have proposed the Bill. This Bill does not only provide an administrative framework but also adds on a legislative framework. So why do we not let this present scheme to go for a trial?

Mr James TIEN mentioned the question of quota. I do hope that when the legislation in respect of the quota is tabled at this Council, you can make amendments to it. Whether it should be 2 000 or 2 001, we can always discuss about it. If you can convince me with statistical data, there is no reason why I should not lend my support. He asked me to propose the Bill in May or June. I really could not see its significance.

The Honourable IP Kwok-him talked about the executive-led system. However, I would like to remind the Democratic Alliance for the Betterment of Hong Kong (DAB) that in the history of the Hong Kong Legislative Council, the Member's Bill that fully manifested the legislature leading the executive was the Member's Bill proposed by Mr TAM Yiu-chung of the DAB in respect of the stoppage of the transfer of expatriate officers to become local officers in the civil service establishment. That was not a policy that would affect the community at large but was only related to the transfer of officers from one establishment to another within the civic service system. In fact, it can be said that it was a management issue within the civil service system. The DAB proposed and supported that Bill which is a Member's Bill that fully manifested the legislature leading the executive in the history of Hong Kong. In fact, both the Democratic Party and the Liberal Party supported that Bill at that time. Also, let us turn to the monitoring of the fare increase proposed by the Hongkong and Yaumati Ferry Company Limited and finally the DAB also proposed an amendment. That was not a legislature-led system, we are just monitoring the operation of the executive.

The Honourable Bruce LIU also said that this new mechanism should be implemented. I know that the ADPL has a parliamentary group, that means a few Members may not be able to decide on their voting intention here this evening. However, we have still nine minutes and if there is a chance, they can go out quickly and try to make a telephone call.

The Honourable Mrs Selina CHOW said that our monitoring was not clear and we did not know what to monitor. If the Government can explicitly prove that some jobs really have recruitment difficulties, we would not bar the importation of labour to fill those vacancies. In fact, this Bill is very flexible. When the unemployment rate is high we can lower the quota to zero. However, if it can be proved that some employers really have recruitment difficulties, the quota can be increased to the extent that it would not be limited to a certain number. As to whether this is a suitable monitoring mechanism, we are absolutely sure that it is a more suitable one, at least more suitable than the LAB because it was originally an advisory body.

The Secretary for Security said that our policy was not clear. I think that it is very clear in that it aims at monitoring the importation of labour. Could there be any other policy? I think that the Government said different things at different times. When I proposed this Bill, the Government at first said that it involved public expenditures. However, apart from this, it did not mention any of the reasons it just quoted. On February 22 last year, the Acting Secretary for Security, Mr WOODHOUSE, did not mention at the Second Reading debate any of the reasons just quoted by the Secretary for Security. He absolutely made no mention at all and you can check the record for it. After I proposed the Bill, has the Government given me any advice explaining why the Bill would not be viable and asked me to make amendments to it? Has the Government explained to the other Members why the Bill would not be viable? The Government has not mentioned it at all. Do they think that they will surely win and the Bill will definitely not be passed this evening? In fact, the government officials are very lazy. They have never tried to make any subsidiary legislation and think that the Bill will surely not be passed. When I lobbied among Members, the Honourable YUM Sin-ling told me that the Government had told him that something would go wrong if the Bill was passed and the Labour Importation Scheme would be put to a halt immediately without any subsidiary legislation. Of course, there is no subsidiary legislation because the Government has never tried to make it. By so doing the Government has created an objective reality in which there will be no subsidiary legislation after the passage of the Bill. The Government is using this to try to force Members not to vote for it.

The water leakage example cited by the Secretary for Security was really ridiculous. He was using the smashing of a window to smear us. What we are saying is to shift to another system. We do not want monitoring by the LAB. We will let the Legislative Council take up the responsibility. I request the Secretary for Security to use another example. We Legislative Council Members can hold discussions on how the window should be changed as well as how it could be changed. But we certainly would not let that window stay and thereby leave us all wet in the rain.

May I ask where in my Bill did I suggest to restrict the power of discretion of the Director of Immigration? His power of discretion is in no case restricted. The new agreement includes an upper limit of 2 000 on the quota. Is the assessment by the LAB not tantamount to restricting the power of discretion of the Director of Labour? As for the banking, cultural and non-government organization people, are they not people with special knowledge and skills? They would be exempted under the relevant clauses. For example in the cultural circle, if they know how to sing a certain song such as the actors in *Les Misérables*, do we not grant them entry because no one here knows how to sing those songs in Hong Kong? Obviously they will be exempted. Our aim is to protect the local workers.

The Secretary for Manpower and Education asked how did we get the public opinion support for this Bill. He asked whether we got it from the telephone interview. If he wants to challenge us, I hope that he will stand out formally and challenge any flaw we have in the study. But instead he challenged whether our survey is 100% objective. Let me ask you a question. Could there be anything that is 100% objective in this world? If he challenges this, he will always be right. It has been the practice that it is being monitored by the LAB and reported to the Legislative Council Panel regularly. We are not satisfied with this approach and ask for a change. Why did he not talk about monitoring by the Legislative Council?

The Secretary for Manpower and Education also mentioned the "shell" Bill. I dare not say that the grandest "shell" Bill in the history of Hong Kong was the Bill proposed by the Secretary for Manpower and Education. Sorry, not by him. It was just passed to the secretary responsible for monetary affairs for handling. I dare not say that it was the grandest "shell" Bill in the history of Hong Kong. However, I welcome all friends in the media and academics to make a comparison between my Bill and the one that was just passed before the summer vacation to see which one could better qualify as a "shell" Bill.

It is not a matter of "face-saving" when the Secretary of Manpower and Education is allowed to make those rules. It is only that we respect the executive-led system. The present way the Bill is drafted is that if the Secretary for Manpower and Education does not make those rules, Legislative Council Members cannot make them.

The Secretary for Manpower and Education said that if one's affection is not changed after two years, then he is a good lover. Is this not a rather low standard? If my wife hears this, she will be scared. I do not know how many people who heard this over the radio were scared by it. From the United Democrats of Hong Kong and the Meeting Point to today's Democratic Party, we have not changed our hearts for at least four years.

As to the point about undermining the consensus, we do not have any intention to do that. What we want to do is to put down clearly in writing the things now prevailing. After these things have been put down in writing, they can always be amended. Before my Bill was discussed, the Honourable LAU Chin-shek had proposed the First and Second Readings of the "Public Bus Services (Amendment) Bill". He also proposed that monitoring should rest with the Legislative Council, saying that the present practice that decision was made by the Executive Council without going through the Legislative Council was unreasonable. He also said that when some things are passed to the Legislative Council, the Council will not always veto them. In fact, at the First and Second Readings of that Bill, I thought that it was very similar to my Bill. Why would he not support my Bill today?

Finally, I know that there is little chance that my Bill will be passed tonight. Thus I am very calm now because I am prepared that I will lose. Here I wish our friends who are out of jobs and some foreign workers who are alone in Hong Kong a happy Valentine's Day.

These are my remarks.

Question on the Second Reading of the Bill put.

Voice vote taken.

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

Mr Michael HO claimed a division.

PRESIDENT: Council shall proceed to a division.

PRESIDENT: I am quite sure Members would know that the question they have to vote on is the Second Reading of the Immigration (Amendment) Bill 1995. Would Members please register their presence by pressing the top button and proceed to vote by choosing one of the three buttons below?

PRESIDENT: Still 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, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Michael HO, Dr HUANG Chen-ya, Mr LEE Wing-tat, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Mr Andrew CHENG, Dr Anthony CHEUNG, Mr Albert HO, Mr LAW Chi-kwong, Mr SIN Chung-kai, Mr TSANG Kin-shing and Dr John TSE voted for the motion.

Mrs Selina CHOW, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr CHIM Pui-chung, Miss Emily LAU, Mr Eric LI, Mr Henry TANG, Dr Samuel WONG, Dr Philip WONG, Miss Christine LOH, Mr James TIEN, Mr LEE Cheuk-yan, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Paul CHENG, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr IP Kwok-him, Mr LAU Chin-shek, Mr Ambrose LAU, Dr LAW Cheung-kwok, Mr LEUNG Yiu-chung, Mr Bruce LIU, Mr MOK Ying-fan, Miss Margaret NG, Mr NGAN Kam-chuen and Mr YUM Sin-ling voted against the motion.

THE PRESIDENT announced that there were 18 votes in favour of the motion and 29 votes against it. He therefore declared that the motion was negatived and no further proceedings on the Bill shall be taken.

BANK OF TOKYO-MITSUBISHI BILL

Resumption of debate on Second Reading which was moved on 10 January 1996

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

Bill read the Second time.

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

THE BANK OF TOKYO-MITSUBISHI (MERGER OF SUBSIDIARIES) BILL

Resumption of debate on Second Reading which was moved on 10 January 1996

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

Bill read the Second time.

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

Committee Stage of Bills

Council went into Committee.

BANK OF TOKYO-MITSUBISHI BILL

Clauses 1 to 5, 7, 10, 13, 15, 17 and 18 were agreed to.

Clauses 6, 8, 9, 11, 12, 14 and 16

DR DAVID LI: Mr Chairman, I move that the clauses specified be amended as set out under my name in the paper circulated to Members.

The Bank of Tokyo-Mitsubishi Bill 1995 is a private Bill. Both the English and Chinese texts of the Bill were originally based on similar Ordinances previously enacted in Hong Kong. However, the accuracy of the Chinese text of legislation in Hong Kong has been the subject of constant scrutiny and improvement on the advice of the Bilingual Laws Advisory Committee. As a result, standardization, accuracy and consistency will be achieved in the usage of terms and expressions and their respective legal meanings in all legislation in Hong Kong. On the recommendation of the Attorney General's Chambers and the Legal Service Division of the Legislative Council Secretariat, some terms and expressions in the Chinese text of the Bill as read in this Council during its First Reading on 10 January 1996 should be amended. The proposed amendments are to achieve accuracy in translation and to make the Chinese rendition of legal terminology consistent with existing bilingual Ordinances.

There are totally 11 proposed amendments to the Bill. Apart from the major amendments mentioned above, the other proposed amendments are moved to correct technical errors in translation or printing.

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

*Proposed amendments***Clause 6**

That clause 6(a) be amended, by adding "被" before "指明".

That clause 6(h) be amended, by deleting "辦法".

Clause 8

That clause 8 be amended —

- (a) in the heading, by deleting "退休福利金" and substituting "酬金福利".
- (b) by deleting "退休福利金" wherever it occurs and substituting "酬金福利".

That clause 8(2) be amended, by adding "of" after "any provident fund".

Clause 9

That clause 9(3) be amended, by adding "在" before "香港" where it twice occurs.

Clause 11

That clause 11(2) be amended, by deleting "列入" and substituting "列入".

Clause 12

That clause 12(2)(a) be amended, by deleting "憑著" and substituting "憑藉".

That clause 12(2)(f)(ii) be amended, by deleting "轉易" where it secondly appears and substituting "保證".

Clause 14

That clause 14(b) be amended, by deleting "移轉或轉予" and substituting "移轉、轉予".

Clause 16

That clause 16 be amended, by deleting "成立法則" and substituting "成文法則".

Question on the amendmens proposed, put and agreed to.

Question on clauses 6, 8, 9, 11, 12, 14 and 16, as amended, proposed, put and agreed to.

DR DAVID LI: Mr Chairman, as Standing Order 46(8) stipulates that no amendment to the preamble shall be considered which is not made necessary by a previous amendment to the Bill, may I seek leave to move that Standing Order 46(8) be suspended in order that an amendment to the Chinese text of the preamble to the Bill may be considered.

CHAIRMAN: Dr LI, as only the President may give consent to move a motion without notice to suspend Standing Orders, your request cannot be dealt with in Committee. I therefore order that Council do now resume.

Council then resumed.

Suspension of Standing Order 46(8)

PRESIDENT: Honourable Members, in Committee, Dr LI has requested my consent to move a motion without notice to suspend Standing Order 46(8). I have examined the proposed amendment to the preamble to the Bank of Tokyo-Mitsubishi Bill. As the proposed amendment relates to the Chinese text only and is therefore technical in nature, I am prepared to give my consent under Standing Order 68 for Dr LI to move without notice the suspension of Standing Order 46(8) so that he may move his proposed amendment. The giving of my consent for Dr LI to move the motion to suspend Standing Order 46(8) should not be taken as my support or otherwise for the proposed amendment. And whether the proposed amendment should be agreed to or not is really a matter for the Committee of the Whole Council to decide.

PRESIDENT: Dr LI, you may move the motion to suspend Standing Order 46(8) now.

DR DAVID LI: Mr President, I move that Standing Order 46(8) be suspended to enable the Committee of the Whole Council to consider an amendment to the Chinese text of the preamble to the Bill.

Question on the motion proposed, put and agreed to.

Council went into Committee.

Preamble

DR DAVID LI: Mr Chairman, I move that the preamble be amended as set out in the paper circularized to Members.

Proposed amendment

Preamble (4)

That preamble (4) be amended, by deleting "周年".

Question on the amendment proposed, put and agreed to.

Question on preamble, as amended, proposed, put and agreed to.

THE BANK OF TOKYO-MITSUBISHI (MERGER OF SUBSIDIARIES) BILL

Clauses 1, 3, 4, 6, 8, 9, 12, 13, 15 and 19 were agreed to.

Clauses 2, 5, 7, 10, 11, 14, 16, 17, 18 and 20

DR DAVID LI: Mr Chairman, I move that the clauses specified be amended as set out under my name in the paper circulated to Members.

The Bank of Tokyo-Mitsubishi (Merger of Subsidiaries) Bill 1995 is a private Bill. Both the English and Chinese texts of the Bill were originally based on similar Ordinances previously enacted in Hong Kong. However, the accuracy of the Chinese text of legislation in Hong Kong has been subject to constant scrutiny and improvement on the advice of the Bilingual Laws Advisory Committee. As a result, standardization, accuracy and consistency will be achieved in the usage of terms and expressions and their respective legal meanings in all legislation in Hong Kong. On the recommendation of the Attorney General's Chambers and the Legal Service Division of the Legislative Council Secretariat, some terms and expressions in the Chinese text of this Bill as read in this Council during its First Reading on 10 January 1996 should be amended. The proposed amendments are to achieve accuracy in translation and to make the Chinese rendition of legal terminology consistent with existing bilingual Ordinances.

There are totally 17 proposed amendments to the Bill. Apart from the major amendments mentioned above, the other proposed amendments are moved to correct technical errors in translation or printing.

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

Proposed amendments

Clause 2

That clause 2(1) be amended, in the definition of "業務" by deleting "the".

Clause 5

That clause 5 be amended, by deleting "該部分".

Clause 7

That clause 7(f) be amended —

- (a) by deleting "行".
- (b) by deleting "委累" and substituting "委託".

That clause 7(g)(ii) be amended, by deleting "該銀行" and substituting "東銀國際".

That clause 7(h) be amended, by deleting "辦法".

Clause 10

That clause 10 be amended —

- (a) in the heading by deleting "退休福利金" and substituting "酬金福利".
- (b) by deleting "退休福利金" " wherever it occurs and substituting "酬金福利".

That clause 10(2) be amended, by adding "當作" before "成為".

Clause 11

That clause 11 be amended, by deleting "予並歸屬", "或歸屬" and "及歸屬" and substituting "並轉歸" in each case.

That clause 11(2) be amended, by adding "生" before "的任何條文".

Clause 14

That clause 14(2)(a) be amended, by deleting "移轉和" and substituting "轉讓並".

That clause 14(2)(f) be amended, in the definition of "轉易" by deleting "轉易" where it secondly occurs and substituting "保證".

Clause 16

That clause 16(a) be amended —

(a) by deleting "所規定的" and substituting "而言，並不構成".

(b) by deleting "購入" and substituting "收購".

That clause 16(b) be amended, by deleting "移轉或轉予" and substituting "移轉、轉予".

That clause 16 be amended, in the Chinese text, by deleting paragraph (c) and substituting —

"(c) 並不成為違反禁止讓與的契諾或條件；或".

Clause 17

That clause 17 be amended, by deleting "assignment of" and substituting "assignment or".

Clause 18

That clause 18 be amended, by deleting "成立法則" and substituting "成文法則".

Clause 20

That clause 20(2) be amended, by deleting "支付根據合併協議就業務所應付" and substituting "根據合併協議支付業務".

Question on the amendments proposed, put and agreed to.

Question on clauses 2, 5, 7, 10, 11, 14, 16, 17, 18 and 20, as amended, proposed, put and agreed to.

Council then resumed.

Third Reading of Bills

DR DAVID LI reported that the

BANK OF TOKYO-MITSUBISHI BILL

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

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

Bill read the Third time and passed.

DR DAVID LI reported that the

BANK OF TOKYO-MITSUBISHI (MERGER OF SUBSIDIARIES) BILL

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

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

Bill read the Third time and passed.

ADJOURNMENT AND NEXT SITTING

PRESIDENT (in Cantonese): In accordance with Standing Orders, I now adjourn the Council until 2.30 pm on Wednesday, 6 March 1996 for the 1996-97 Budget sitting. In the meantime, I would like to wish all Members and Public Officers a happy Chinese New Year. Kung Hei Fat Choy — be that with money or with talents.

Adjourned accordingly at Ten o'clock.

Note: The short titles of the Legal Practitioners (Amendment) Bill 1996, Buildings (Amendment) Bill 1996, Dutiable Commodities (Amendment) Bill 1996 and Public Bus Services (Amendment) Bill 1996 listed in the Hansard have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese).