

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 13 March 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 NGAI SHIU-KIT, O.B.E., 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 FREDERICK FUNG KIN-KEE

THE HONOURABLE MICHAEL HO MUN-KA

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

THE HONOURABLE EMILY LAU WAI-HING

THE HONOURABLE LEE WING-TAT

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

THE HONOURABLE FRED LI WAH-MING

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

THE HONOURABLE JAMES TO KUN-SUN

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

DR THE HONOURABLE PHILIP WONG YU-HONG

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE HOWARD YOUNG, J.P.

THE HONOURABLE ZACHARY WONG WAI-YIN

THE HONOURABLE CHRISTINE LOH KUNG-WAI

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

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE CHAN KAM-LAM

THE HONOURABLE CHAN WING-CHAN

THE HONOURABLE CHAN YUEN-HAN

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE PAUL CHENG MING-FUN

THE HONOURABLE CHENG YIU-TONG

DR THE HONOURABLE ANTHONY CHEUNG BING-LEUNG

THE HONOURABLE CHEUNG HON-CHUNG

THE HONOURABLE CHOY KAN-PUI, J.P.

THE HONOURABLE DAVID CHU YU-LIN

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE IP KWOK-HIM

THE HONOURABLE LAU CHIN-SHEK

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

DR THE HONOURABLE LAW CHEUNG-KWOK

THE HONOURABLE LAW CHI-KWONG

THE HONOURABLE LEE KAI-MING

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE BRUCE LIU SING-LEE

THE HONOURABLE LO SUK-CHING

THE HONOURABLE MOK YING-FAN

THE HONOURABLE NGAN KAM-CHUEN

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

THE HONOURABLE MARGARET NG

THE HONOURABLE SIN CHUNG-KAI

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 GORDON SIU KWING-CHUE, J.P.

SECRETARY FOR ECONOMIC SERVICES

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

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

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

MISS JACQUELINE ANN WILLIS, J.P.
SECRETARY FOR EDUCATION AND MANPOWER

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

Sessional Papers 1995-96

- No. 65 — Revisions to the Estimate of Expenditure on Capital Projects approved by the Urban Council as at the end of December 1995
- No. 66 — Report of the Public Accounts Committee on the Report of the Director of Audit on the Review of the Housing Benefits provided by the Hospital Authority to its Employees (February 1996 — PAC Report No. 25A)
- No. 67 — Audited Statement of Accounts of the Language Fund for the year ending 31 August 1995

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

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

At the time when we decided to defer a full report on the subject, the Committee were hopeful that our request to examine the relevant documentary evidence concerning the formulation and financial analysis of the HA remuneration policy could meet with the Administration's favourable consideration. To our great disappointment, although the Chief Secretary implied in her earlier letter to the Committee that exceptions could be made in the disclosure of Executive Council papers, the Administration and the Executive Council have finally chosen to resort to blanket claims of "class" confidentiality

in denying the Committee's access to the documents which we believe should not contain sensitive information affecting public security.

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

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

In the course of examining the cost comparability between the civil service and the HA packages, the Committee had been provided different figures by the Director of Audit and the HA. The Committee are well aware of the fact that different assumptions taken to interpret the open-ended "cost comparability" principle could lead to very different cost projections. However, we do not consider it the proper role of the Committee to decide or adjudicate policy matters where the Administration's own policy is silent. This role falls squarely on the Administration. It alone must take full responsibility to tie up the loose-ends. The proper focus of the Committee is therefore placed on the various short-comings identified in the policy formulation process and the glaring potential of over-spending revealed by the Director of Audit's Report. We urge the Administration to critically examine the HA staff remuneration package, as a matter of urgency, to ensure the public that there could be no chance of over-spending in future.

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

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

Thank you, Mr President.

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

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

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

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

ORAL ANSWERS TO QUESTIONS

Equal Opportunities Commission and CEDAW

1. **MR LEE CHEUK-YAN** asked (in Cantonese): *The Government undertook last year that it would adopt two measures concerning women's rights, namely the setting up of an Equal Opportunities Commission (EOC) and the extension of the United Nations' Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) to the territory. However, these two measures have still not been implemented by the Government. In this connection, will the Government inform this Council:*

- (a) *what is the timetable for the setting up of the EOC and when its membership will be announced;*
- (b) *whether the Government will consider setting up the EOC first to start work before its chairman is appointed;*
- (c) *whether, having regard to the fact that the Government has planned to draw up certain reservations for inclusion in CEDAW upon its extension to the territory and that the matter will be discussed by the Sino-British Joint Liaison Group, women's groups will be consulted on these reservations; if not, why not; and*
- (d) *what is the timetable for discussion of the reservations referred to in (c) above by the Joint Liaison Group?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Mr President, as Members are aware, we are in the process of recruiting the Chairperson of the Equal Opportunities Commission. We hope to complete the selection process before the end of March. As the individual circumstances of the person selected

may involve certain formalities to be completed before an announcement of appointment can be made, a firm timetable for the setting up of the Commission cannot be given at this point. However, Members may rest assured that we intend to make an announcement of the full composition of the Commission as soon as possible.

We do not consider it proper to set up the Equal Opportunities Commission without its Chairperson. In order to ensure that the Commission can function effectively upon its commissioning, the preparatory team in my Branch has already secured its funding and office accommodation has been leased and furnished. Other preparatory work such as the drawing up of the proposed organization structure and terms of reference for the Commission and its committees, and the terms and conditions for the recruitment of some 60 staff for the Commission office is being finalized. Work has also started on the preparation of draft Code of Practice on Employment for consideration by the Commission.

I would now turn to the second part of the question on the Convention on the Elimination of all Forms of Discrimination Against Women, which many referred to as CEDAW. As the application of CEDAW will confer new international rights and obligations on Hong Kong, and as the Convention is intended to continue to apply after 1997, we need to consult the Chinese side at the Joint Liaison Group. We have handed over a speaking note together with the relevant information to the Chinese side in January this year and are awaiting their response.

In September last year, the United Kingdom completed a comprehensive review of the previous reservations which it had entered under CEDAW. We have since then examined these reservations in respect of their relevance for Hong Kong. We propose to enter seven reservations upon the extension of CEDAW to Hong Kong. These seek to either clarify our obligations under the Convention or to reiterate the compatibility of some of our existing regulations and practices with the Convention. All but one are modelled on similar reservations to be retained by the United Kingdom. The exception covers the rent concessions provided for under the Joining Declaration and the small house policy. On this latter reservation, we had explained to the public the need for it in 1994 when we announced our intention to seek an extension of the Convention to Hong Kong.

MR LEE CHEUK-YAN (in Cantonese): *Mr President, my question is very simple, that is when will the Equal Opportunities Commission (EOC) be set up? The Secretary for Home Affairs did not say when the Commission will be set up. The two Ordinances, namely, the Sex Discrimination Ordinance and the Disability Discrimination Ordinance, could not be effective without the Equal Opportunities Commission. Thus I would like to know when the EOC will be set up.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Just as what I have pointed out in my main reply, we would set up the EOC as soon as possible. In fact, the selection process has started and we hope that a decision on the person selected would be made by the end of this month. As I have just said, the person selected may have to complete certain formalities depending on individual circumstances, for example, he may have to resign or some candidates applied from overseas may have to come back to Hong Kong for the appointment. Thus they need some time to complete these formalities. We have to wait till they have completed these procedures before we could make an announcement. The time needed could be as short as one to two days, or as long as one to two weeks or even one to two months depending on the needs of the person selected. Thus, as I have just said, it is difficult to give a firm timetable. However, in any way, we would try to make an announcement of the list as soon as possible.

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

MR LEE CHEUK-YAN (in Cantonese): *Yes, Mr President, I think I am very clear*

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

SECRETARY FOR HOME AFFAIRS (in Cantonese): Mr President, very sorry, just as what I have said, I cannot provide a definite date.

MR LAU CHIN-SHEK (in Cantonese): *Mr President, the Honourable LEE Cheuk-Yan in part (c) of his question asked: "whether, having regard to the fact that the Government has planned to draw up certain reservations for inclusion in the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) upon its extension to the territory and that the matter will be discussed by the Sino-British Joint Liaison Group, women's groups will be consulted on these reservations, if not, why not ". However, the Secretary for Home Affairs in his main reply did not touch on this question. I would like to ask whether the Secretary for Home Affairs is prepared to answer this part of the question?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Mr President, in fact in the last paragraph of my reply I have made myself clear about the circumstances. Mainly, out of the seven reservations, six are modelled on similar reservations to be retained by the United Kingdom. The exception covers the rent concessions provided for under the Joint Declaration and the small house policy. On this latter reservation, we had explained to the public the reasons for it in 1994 when we announced our intention to seek an extension of the Convention to Hong Kong. In other words, we have explained the needs to members of the public in Hong Kong, including women's groups.

MR LEUNG YIU-CHUNG (in Cantonese): *Mr President, the Secretary for Home Affairs in the last paragraph of his reply mentioned that the Government announced in 1994 that the Convention would be extended to Hong Kong. May I ask the Secretary what is the progress of this extension? Also, is there any assurance that the work will be completed before the transfer of sovereignty in 1997?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Mr President, just as what I have said, when we made the announcement that the Convention would be extended to Hong Kong, the United Kingdom, in September last year, completed a comprehensive review of the previous reservations which it had entered under CEDAW. Later, we conducted a review to see whether those reservations could be applied to Hong Kong. After we completed the work in January this year, we handed over a speaking note together with the relevant information to the

Chinese side and are awaiting their response. As China is a signatory of the Convention, thus we expect that there would not be too much a problem to extend the Convention to Hong Kong. However, the actual work will depend on the work progress of the Joint Liaison Group.

MR ALBERT HO (in Cantonese): *Mr President, the Honourable LEE Cheuk-yan in part (d) of his question asked what was the timetable for discussion of the reservations by the Joint Liaison Group. I think the Secretary for Home Affairs probably believed that his reply that "handed over in January" was already an answer. I would like to ask whether the Government must wait for a concrete reply before it can take the next step? In other words, does it mean that if there is no reply, then the Hong Kong Government would not take any further action at all?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Mr President, all work must be done in the Joint Liaison Group. We have handed over the relevant information to the Chinese side and after they have read the information, they would ask for our views at the Joint Liaison Group if there are questions. Thus all work is done there and I think that it would not be held there indefinitely.

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

MR ALBERT HO (in Cantonese): *Yes, I would like the Secretary for Home Affairs to answer clearly. Is it that the consent or agreement of the Joint Liaison Group must be obtained before the next step could be taken to extend the Convention to Hong Kong? I just want an answer, yes or no.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Mr President, the simple answer is "yes".

MISS EMILY LAU (in Cantonese): *Mr President, regarding the extension of the seven reservations of the Convention, I believe that the Government also knows that some Members are against such practice by the Government. However, the Government said except the small house policy reservation, the others were the reservations made by the United Kingdom. I would like to ask the Government, is it that for those reservations made by the sovereign country, the colony must retain them when extending the Convention? The present progress is so slow, when later China becomes our sovereign country, do we have to take into consideration the reservations by China? Now we follow the practice of the British Government, if China has no reservation at all, what should we do and what will be the situation?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): *Mr President, just as what I have said, the United Kingdom completed its review in respect of the reservations last September. We do not adopt all the reservations made by United Kingdom and it all depends on whether the latest reservations by the United Kingdom could be applied to Hong Kong before we decide to extend them to Hong Kong. Thus the seven reservations extended to Hong Kong are just part of the reservations by the United Kingdom. Some other reservations by the United Kingdom were not extended to Hong Kong.*

As for China, as far as we know, China's reservation is very simple. It has only one reservation. Hong Kong needs to implement the reservations presently proposed to ensure that some of our regulations and measures can continue after the extension of the Convention.

MR LEE CHEUK-YAN (in Cantonese): *Mr President, publicity activities including the printing of promotional leaflets and advertising on the light boxes in the MTR stations for the "Personal Data (Privacy) Ordinance", which was enacted after the "Sex Discrimination Ordinance", were launched before the appointment of a chairman. In comparison, it seems that the Home Affairs Branch has no intention to publicize the proposed structure of the Equal Opportunities Commission (EOC). Is the Government discriminating against the EOC? I would like the Government to explain what the publicity criteria are after the enactment of the ordinances?*

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

Executive-led System

2. **MR TSANG KIN-SHING** asked (in Cantonese): *As the Governor and the Chief Secretary have described on a number of occasions the existing system of government as an "executive-led" system, will the Government inform this Council:*

- (a) *What is an "executive-led" system and what are the specific contents in such a system;*
- (b) *whether the introduction of Member's Bills under the Standing Orders of this Council is contrary to the "executive-led" system;*
- (c) *whether the Governor's intention to refuse assent to a Member's Bill under certain circumstances as stated in his policy address last year is to uphold the "executive-led" system; and*
- (d) *how the Government will ensure that the "executive-led" system will not hamper the development of democracy in the territory?*

CHIEF SECRETARY: Mr President,

- (a) The political system of Hong Kong is built on the principle of "separation of powers" with an executive-led government. The executive, legislature and judiciary have different and independent roles, which check, balance and support each other. Under our executive-led system of government, the executive is responsible for formulating and implementing policies and providing various services to the community. In line with this, it is the Administration's role to put its legislative and expenditure proposals to the Legislative Council for consideration. In short, the Administration proposes and the legislature disposes.

- (b) The Legislative Council Members have a constitutional right to introduce Member's Bills provided that their proposals do not have the object or effect of disposing of or charging any part of the public revenue. But a proliferation of Member's Bills on important issues of public policy would undermine the present division of responsibilities between the executive and the legislature. It would also upset the Administration's own legislative programme, which has been carefully drawn up to take account of the views and aspirations of the various sectors of our community, including the Legislative Council. As the Governor said in his policy address, we believe that the public interest would be better served if we moved forward on an agreed basis, rather than on parallel tracks.
- (c) The Governor's statement in his 1995 policy address was no more than a recognition of the constitutional position. The Governor also emphasized that the Administration is committed to working together with Members of this Council on behalf of the community we all serve.
- (d) The principle of "executive-led" government does not mean that the executive can do whatever it wants. In the Hong Kong system, the legislature and the executive perform distinct roles and provide checks and balances to each other. Thus, the Administration's legislative and financial proposals all have to be approved by the Legislative Council, in which we have no votes.

MR TSANG KIN-SHING (in Cantonese): *Mr President, as the Chief Executive of Hong Kong is not returned by election and has no public mandate and the Policy Secretaries are civil servants who do not have to bear any political responsibilities in case of maladministration, will the Government inform this Council whether the "executive-led" practice will become "executive dictatorship" under this system?*

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

DR YEUNG SUM (in Cantonese): *Mr President, according to the Blackwell Encyclopaedia of Political Science, there are only the congress system, the election system and dictatorship but the "executive-led" system has never been mentioned. May I ask the Government what theoretical justifications were based on when this "executive-led" system was introduced?*

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

DR YEUNG SUM (in Cantonese): *Mr President, though I am teaching at the university, not all my questions are academic ones. As the Government always mentions the "executive-led" system, I think that members of the public would like to know on what basis or what theoretical justifications were based when this was introduced?*

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

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

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

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

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

MR CHEUNG MAN-KWONG (in Cantonese): *Just now when the Chief Secretary answered the Honourable TSANG Kin-shing's question, she denied that the Government was an "executive dictatorship". However, as the Government can veto Member's Bills passed by an elected legislature by means of the Governor's veto power, is there be any material difference between the "executive-led" system and "executive dictatorship"? As the Legislative Council has obviously lost its chance to check and balance the Government by legislative means by Members because of the Governor's veto power, how can the "separation of powers" be realized?*

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

MR FREDERICK FUNG (in Cantonese): *Mr President, according to the Standing Orders of this Council, Members have the power to introduce some Member's Bills that involve no public revenue. However, in answering part (b), the Chief Secretary mentioned that "a proliferation of Member's Bills on important issues of public policy would undermine the present division of responsibilities between the executive and the legislature". The key word is "proliferation" and will this "proliferation" affect the power conferred on Members by the Standing Orders? The Government is of the view that it would be affected by such "proliferation". So what does it mean by "proliferation"? Will the present case be considered as a "proliferation"?*

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

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

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

MR FREDERICK FUNG (in Cantonese): *Yes. My question is whether the Member's Bills in this term is considered as a "proliferation"?*

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

MRS ELIZABETH WONG: *Mr President, I shall not ask an academic question. I shall ask a simple relevant question. I have checked against the Standing Orders and think they are all right. My question is: To lead implies that there are followers who are led, for example, a shepherd leads a flock of sheep. Can the executive-led government explain who are the flock of sheep who are prepared to be led by the executive-led government?*

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

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

MR CHIM PUI-CHUNG (in Cantonese): *Mr President, the Chief Secretary in her reply again mentioned "checks and balances". This proves that "checks and balances" among government departments are very important. May I ask the Chief Secretary, in view of this situation, where does the power of checks and balances regarding the Securities and Futures Commission come from? Which government department could exercise such checks and balances?*

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

MR MICHAEL HO (in Cantonese): *Mr President, in the reply to part (b) on whether Member's Bills have affected or would affect the "executive-led" system, "proliferation" and "upset legislative programme" were mentioned. Would the Government quote some concrete examples here to prove how Member's Bills*

which have been alleged by the Government as affecting the "executive-led" system have become a "proliferation" and have "upset legislative programme"?

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

MR CHOY KAN-PUI (in Cantonese): *Mr President, will the Government inform this Council whether it has any ways and means to avoid the executive and the legislature each going its own way and thereby jeopardizing the smooth transition?*

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

MR LEE WING-TAT (in Cantonese): *Mr President, from paragraph (b) of the main reply, I can see a clear signal that the Chief Secretary does not seem to agree that the introduction of Member's Bills is contrary to the "executive-led" system. If that is the case, I hope that the Chief Secretary will clearly indicate to her Policy Secretaries that they should stop telling the press that the introduction of Member's Bills is contrary to the "executive-led" system. Mr President, in the last few sentences of paragraph (b), the Chief Secretary seemed to say that when drawing up the legislative programme every year, the Government has to some extent consulted the public and learned about their views. May I ask the Chief Secretary whether the Government, for the year 1996-97, has consulted the Legislative Council on the timetable and programme for each of the Bills proposed?*

CHIEF SECRETARY: Mr President, I think I have made it quite clear in my main reply that the Administration recognizes the constitutional right of this

legislature to introduce Member's Bills. I have simply urged that in putting forward Member's Bills that this legislature gives some priority to the Government's legislative programme.

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

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

DR ANTHONY CHEUNG (in Cantonese): *Mr President, in part (a) of her reply the Chief Secretary mentioned that the "executive-led" system has the characteristics of the separation of powers and that the executive, legislature and judiciary check, balance and support each other. She also mentioned that in short the system was that the Administration proposes and the legislature disposes (these are the words used in the Chinese version). If that is the definition, does the Chief Secretary agree that instead of calling it an "executive-led" system, it should be more correct to describe it as an "executive-proposed" system?*

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

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

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

MR TSANG KIN-SHING (in Cantonese): *Mr President, just now the Chief Secretary did not answer my question. My question is whether the Chief Executive and members of the Executive Council were produced by direct election. I also asked the Chief Secretary whether she agreed that if the Chief Executive and members of the Executive Council were returned by direct election, they would have a public opinion base.*

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

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

Police Force Disciplinary System

3. **MRS SELINA CHOW** asked (in Cantonese): *Mr President, the Expatriate Inspectors' Association has criticized the Police Force management for the way in which senior police officers suspected of corruption are treated by the management. In view of this, will the Government inform this Council:*

- (a) whether both senior and junior officers have to abide by the same set of disciplinary regulations under the present internal disciplinary system of the Police Force; if not, why not;*
- (b) of the number and rank of senior police officers who are currently not bound by the Force's general internal code of discipline; and*
- (c) of the number of police officers in various ranks who were investigated for corruption or other crimes, as well as the number and rank of those who were eventually disciplined, over the past three years?*

SECRETARY FOR SECURITY (in Cantonese): Mr President,

- (a) All police officers, irrespective of rank, have to abide by the requirements of conduct and discipline laid down in the Civil Service Regulations and police internal orders. For disciplinary matters relating to officers at Inspectorate rank or below, they are dealt with under the Police (Discipline) Regulations made in accordance with s.45 of the Police Force Ordinance. The authority for dealing with these cases rests with the Commissioner of Police. For disciplinary matters relating to officers at the rank of Superintendent and above, they are dealt with under the Colonial Regulations in accordance with s.13 of the Police Force Ordinance. The authority for dealing with these cases rests with the Governor.

The underlying principles of both sets of Regulations are the same, that is, fairness and justice. The procedures for both types of proceedings including hearing, punishment and appeal are similar so as to ensure that all cases are dealt with thoroughly and impartially. Obviously, senior officers are dealt with by a higher level of authority in view of the more important positions they hold. However, there is no question that they will be treated more leniently; they are expected to uphold the same level of integrity as any other police officers.

- (b) As explained in Part (a) of my reply, all police officers irrespective of rank are bound by the same requirements of conduct and discipline. There are therefore no police officers who are not bound by the Force's internal code of discipline.
- (c) Statistics are only kept in respect of officers investigated for corruption or other crimes who were eventually prosecuted and/or disciplined. In the past three years, a total of 87 officers were disciplined following corruption allegations and 32 for other criminal allegations. A breakdown by number and rank is annexed

to the written version of my reply.

Moreover, in the past three years, a total of 82 officers were found guilty of criminal offences (including corruption offences). In accordance with s.37(5) of the Police Force Ordinance, 69 of them were dismissed without formal disciplinary proceedings and 12 were reprimanded. Moreover, one case is now being appealed. A breakdown by number and rank is also annexed to the written version of my reply.

Annex

Breakdown of Police Officers disciplined
following investigations into corruption or
other criminal allegations by rank over the past three years

(I) *Officers disciplined following investigations into corruption allegations*

<i>Rank</i>	<i>Year</i>			
	<i>1993</i>	<i>1994</i>	<i>1995</i>	<i>Total</i>
Superintendent and above	-	-	-	-
Inspectorate	4	5	3	12
JPO*	15	30	30	75
Total	19	35	33	87

(II) *Officers disciplined following investigations into other criminal allegations*

<i>Rank</i>	<i>Year</i>			
	<i>1993</i>	<i>1994</i>	<i>1995</i>	<i>Total</i>
Superintendent and above	-	-	-	-
Inspectorate	-	-	1	1
JPO*	4	7	20	31
Total	4	7	21	32

* JPO : Junior Police Officers include officers at the rank of police constable and sergeant.

Annex

Breakdown of Police Officers
Convicted of Criminal Offences
Over the past three years

(III) *Officers convicted of corruption offences*

<i>Rank</i>	<i>Year</i>			
	<i>1993</i>	<i>1994</i>	<i>1995</i>	<i>Total</i>
Superintendent and above	-	-	-	-
Inspectorate	-	3	-	3
JPO	6	3	8	17
Total	6	6	8	20*

* All 20 officers were dismissed.

(IV) *Officers convicted of other criminal offences*

<i>Rank</i>	<i>Year</i>			
	<i>1993</i>	<i>1994</i>	<i>1995</i>	<i>Total</i>
Superintendent and above	-	1	-	1(*)
Inspectorate	-	3[1]< 2>	-	3[1]<2>
JPO*	21[21]	28[18]<10>	9[9]	58[48]<10>
Total	21 [21]	7 [19]<12>	9 [9]	62 (*) [49]<12>

[] Number of officers dismissed.

- ◇ Number of officers reprimanded.
- (*) Case being appealed.

MRS SELINA CHOW (in Cantonese): *Mr President, recently there were reports on the newspapers that the Police Anti-Corruption Strategy Steering Committee had discussions on the conduct of senior police officers and the Expatriate Inspectors, Association particularly asked the Police Force to prevent the senior officers from using the complicated procedures to avoid punishment. The figures in the reply also reflect that, except for one case, nearly all disciplinary actions involved middle-ranking and junior police officers below the rank of Superintendent. Can the Secretary for Security explicitly point out the difference between the two sets of regulations just mentioned? Why is there no standardization to ensure that there is no double standard by which the senior officers could evade punishment?*

SECRETARY FOR SECURITY (in Cantonese): *Mr President, first of all I would like to take this opportunity to clarify that in dealing with disciplinary matters involving police officers, irrespective of rank, all officers would be subject to the same standard. There will not be different standards for different ranks of police officers. In my main reply, I explained that though different regulations were used to deal with officers at Inspectorate rank or below and officers at the rank of Superintendent and above, their underlying principles and contents are basically the same. I also explained in my main reply that it is reasonable that senior officers at the rank of Superintendent and above are dealt with by a higher level of authority. These officers at the rank of Superintendent and above are dealt with under the Colonial Regulations and this of course has its historical background.*

MR JAMES TO (in Cantonese): *Mr President, a presumption of the whole question is that the Expatriate Inspectors, Association has criticized the way the Police Force deals with senior police officers alleged to have involved in corruption.*

I would just like to ask about this presumption: whether the Expatriate Inspectors' Association has recently criticized the way the Police Force deals with senior police officers alleged to have involved in corruption? If yes, what

are the criticisms? If no, is the Government going to deny it and say that this presumption is wrong?

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

MR JAMES TO (in Cantonese): *Mr President, what my question means is that the Government is asked this question which is based entirely on a presumption. My question is that whether the Government admits that there was such a criticism as stated in the presumption. The Government can say yes or no or even that it does not know if in case it knows nothing about it.*

PRESIDENT: Thank you for rephrasing your supplementary.

SECRETARY FOR SECURITY (in Cantonese): When the Commissioner of Police and the management echelon of the Police Force look into the strategies to prevent and to cut down corruption, they will continually discuss and exchange views with different staff associations of the Police Force from different perspectives. However, I would like to reiterate that as far as I know, this Expatriate Inspectors' Association fully supports the Commissioner's policy to stamp out corruption.

MRS SELINA CHOW (in Cantonese): *Just now the Secretary for Security mentioned that the Colonial Regulations were used to deal with the conduct of senior police officers because of historical reasons. Since the Colonial Regulations will not be applicable after 1997, what replacement arrangement is being made by the Government or the police?*

SECRETARY FOR SECURITY (in Cantonese): The Regulations, of course, do not just cover the police officers. Because of the transfer of sovereignty on 1 July 1997, the Colonial Regulations will no longer be applicable after 1 July 1997. As to what relevant measures will be taken, it is the responsibility of the Secretary for the Civil Service. Mr President, may I have your permission to pass this question to the Secretary for the Civil Service?

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): We understand the need to maintain a system. After 1997 when the Colonial Regulations are no longer applicable, we still have a system of rules and regulations to deal with this kind of disciplinary matters. We are now examining all possible ways including the introduction of a legislation to replace the Colonial Regulations. Mr President, we are still considering the various options and has not come to a decision yet.

Study on Penal Institution at Lo Wu

4. **MR CHEUNG HON-CHUNG** asked (in Cantonese): *It was mentioned in the Policy Commitments published by the Government in 1995 that consideration was being given to converting a former military camp at Lo Wu into a penal institution. In this connection, will the Government inform this Council:*

- (a) *of the progress of the study mentioned above;*
- (b) *whether the Government will still go ahead with the plan without the support of the North District Board, which has passed a motion opposing the plan; and*
- (c) *whether, as the proposed conversion of the military camp at Lo Wu will only provide 300 prison places and there is an overall shortage of some 3 000 prison places in the territory, there is a comprehensive plan to resolve the problem of shortage of prison*

places?

SECRETARY FOR SECURITY (in Cantonese): Mr President,

- (a) Our study has concluded that it is feasible to convert the former military camp at Lo Wu into a minimum security prison. Since December last year, we have been consulting the North District Board on this proposal. Certain concerns were expressed to us, and in response to which we forwarded a comprehensive response to the District Board last month. We have not received further comments from the District Board.
- (b) Consultation with the local community, including the North District Board, is an on-going exercise and I would not wish to speculate on the final outcome or the Government's decision. We are still pursuing this proposal, and will do what we can to address the concerns expressed by the local community. I would, however, take this opportunity to urge members of the North District Board to consider the Government's proposal with an open mind, and to play their part in addressing the whole community's concern on the need to relief prison over-crowding.
- (c) The Lo Wu project is, of course, just one of the proposed projects to ease overcrowding in prisons. Over the past five years, we have increased our penal capacity by about 1 250 places through redevelopment projects at existing institutions. But we still currently have a total shortage of about 3 000 penal places. We are now undertaking other redevelopment projects at existing institutions in Chimawan and in the Stanley Prison area. By early 1997, Chimawan (Lower) Detention Centre will have been converted into a female drug addiction treatment centre for up to 250 inmates transferred from existing female penal institutions. The redevelopment project in Stanley will generate, in two phases, about 700 additional penal places between 1998 and 1999. We are also looking into the feasibility of redeveloping Tai Lam Correctional Institution, which can generate up to 260 additional

places. While these projects will bring significant relief to the current overcrowded situation, they are not enough. We have virtually exhausted the potential for redevelopment of existing penal institutions, and are thus looking for new sites for about 2 000 penal places. But developing new prison institutions takes several years. In the meantime, the Lo Wu project, though small, will provide an additional 300 places and thus bring some relief.

MR CHEUNG HON-CHUNG (in Cantonese): *Mr President, as there is still a total shortage of 3 000 penal places in Hong Kong, may I ask what are the factors that have led to this wrong estimation? Secondly, apart from building more prisons, is there any other way and strategy to solve this problem?*

SECRETARY FOR SECURITY (in Cantonese): Mr President, overcrowding in prisons does not just happen today. It used to be the same in the past. Though they are more overcrowded at present, the situation is not that bad compared with the past. The present overcrowding in prisons is mainly due to a significant increase in the number of new inmates over the past two or three years. Thus we need to build more penal institutions to accommodate these new inmates.

MR BRUCE LIU (in Cantonese): *Mr President, in paragraph (c) of the main reply, it was mentioned that the penal institutions are overcrowded currently. May I ask what is the average living area for prisoners in the penal institutions and what does it mean by overcrowding?*

SECRETARY FOR SECURITY (in Cantonese): Mr President, I do not have the figure in respect of the average living area for prisoners in the penal institutions in hand. However, I can answer this question in this way: In the year 1995-96, there are totally 10 404 places in all the penal institutions of the Correctional Services Department but there are more than 13 000 inmates in the prisons and other correctional institutions. From this figure it can be seen that in the year 1995-96, the number of inmates is 28% more than the penal places available.

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

MR BRUCE LIU (in Cantonese): *Mr President, yes. That is because without a figure in respect of the standard living area or prison area, how can we tell whether the penal institutions are overcrowded?*

SECRETARY FOR SECURITY (in Cantonese): Mr President, we do have a standard. We have based on a general international standard in deciding how many people our penal institutions can accommodate. Just as what I have said, in the year 1995-96, our penal institutions can accommodate 10 404 inmates. This is a very detailed standard. If the Honourable Bruce LIU is interested, I would provide him with detailed information later in writing explaining what international standard we have been using to measure the usable degree of penal places. (Annex)

MR IP KWOK-HIM (in Cantonese): *Mr President, in point (b) of the Honourable CHEUNG Hon-chung's question, he asked the Government to inform this Council whether it would go ahead with the plan without the local support. As a Member returned by the Election Committee, I am very much concerned whether the views of the district boards would be respected. I do hope that the Government will inform this Council whether it would go ahead with the plan without the local district board's support?*

SECRETARY FOR SECURITY (in Cantonese): Mr President, I have in my main reply mentioned that I would not wish to speculate on the final outcome of our consultation with the district board or what decision the Government would make because consultation with the district board and the local community is still in progress. We would like to use this opportunity to urge members of the North District Board to consider our proposal with an open mind and to join hands with us to solve the problem of overcrowding in prisons, an issue of

common concern to the whole community.

MRS SELINA CHOW (in Cantonese): *Mr President, it seems that the Secretary for Security has good news to tell us in respect of the Vietnamese boat people in that repatriation would take place very soon. After all the Vietnamese boat people are repatriated, there should be some space vacated. Will the Government consider using the space instead of finding new locations to build penal institutions so that the local people would not find the proposal unacceptable?*

SECRETARY FOR SECURITY (in Cantonese): Mr President, in my main reply I also mentioned that we are still looking for new locations for the construction of new penal institutions. In this respect, we are looking for new locations together with our colleagues in the Planning Department. While we are seeking new locations, we would not forget the space that would be vacated by the Vietnamese boat people. However, as far as I know, some Vietnamese camps are planned for other purposes and may not be allocated to us for building penal institutions.

MR JAMES TO (in Cantonese): *Mr President, it should be true that a large proportion of the inmates are illegal immigrants who are imprisoned under the present prosecution policy, while we have maintained an exchange of prisoners with foreign countries on a voluntary basis on the part of the prisoners. May I ask the Government whether it is practicable to exchange prisoners with China, particularly after 1997, so that they can serve their prison terms in their own places of abode in order to relieve the overcrowdedness in our prisons?*

SECRETARY FOR SECURITY (in Cantonese): Mr President, I would like to use this opportunity to clarify a misunderstanding by many people. They have misunderstood that the overcrowdedness in our prisons is caused by illegal immigrants. In fact, it is not the case. According to our practice, over 90% of

the illegal immigrants are repatriated immediately after arrest. Only those who have committed other offences or worked as "black market workers" and then arrested by us are prosecuted.

We conducted a study in mid 1995 and the result showed that among the 13 000 serving inmates, only 1 500 or 11.5% were the so-called illegal immigrants or people overstaying in Hong Kong. They were detained because they had been convicted as illegal workers. In addition, we also found that the number of local prisoners had increased greatly from 6 200 in 1993 to 8 600 in August 1995. Thus, though there are quite a lot of illegal immigrants in our penal institutions, I do not think that it is a major reason for overcrowdedness in our prisons.

As for the Honourable James TO's question on whether these prisoners could be sent back to China to serve their prison terms, I can tell him that we currently do not have such a plan nor do we have such an arrangement.

Buildings Department's Processing of Food Premises Licence Applications

5. **MR CHAN WING-CHAN** asked (in Cantonese): *Mr President, recently a number of food establishment operators have applied to the Urban Council for food premises licences or permits, but the issue of such licences and permits has been held up due to the long period of time taken by the Buildings Department in processing such applications. This has led to a delay in the operators starting their business. In this connection, will the Government inform this Council:*

- (a) *of the average time taken by the Buildings Department to process an application for a food premises licence or permit;*
- (b) *of the existing staff establishment of the Department responsible for the processing of such applications, and whether there is sufficient manpower to cope with the workload; and*
- (c) *whether consideration has been given to recruiting more building*

surveyors so as to speed up the processing of such applications?

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

- (a) The Urban Services Department and the Regional Services Departments, as the executive arms of the two municipal councils, are responsible for the processing of General or Light Refreshment Restaurant Licence applications. In doing so, they seek the comments of other government departments on various matters. The Buildings Department is consulted on the structural suitability of the concerned premises, adequacy of the means of escape and the existence of any unauthorized building works posing a risk to safety.

Since the introduction by the municipal councils of the Central Application Vetting Panel System in 1993, the Buildings Department has been able to give its comment on all new applications within 30 days. However, in cases where the applicant has to submit revised plans or structural plans, to carry out alterations, to remove unauthorized building works, or where re-inspection of the premises has to be conducted, it may take up to six months on some occasions to process the applications.

- (b) The Licensing Unit of the Buildings Department deals with restaurant licence applications, and also licence applications for places of public entertainment and for certificates under the Education Ordinance and Child Care Centre Ordinance regarding the suitability of premises to be used as education facilities or child care centres.

The current establishment of the Unit is one senior building surveyor, five building surveyors and five survey officers. The Licensing Unit is also supported by one senior structural engineer

and two structural engineers.

- (c) In view of the recent increase in licence applications, two building surveyors have been redeployed since January this year on a temporary basis from other units to deal with the additional workload. As a further measure, one senior building surveyor and two more building surveyors will be redeployed to the Licensing Unit next month.

In the longer term, we will consider in consultation with the municipal councils and other government departments whether further changes to the present system should be made. Failing that, we will have to consider whether more staff should be posted to the Unit on a permanent basis, given the overall resource constraints.

MR CHAN WING-CHAN (in Cantonese): *Mr President, I do not agree with part (a) of the reply given by the Government. The Secretary for Planning, Environment and Lands said that the processing of licence applications needed time and on occasions the time taken might be as long as six months. What he meant was that it should not be over six months or nine months. But what he said does not tally with the facts. I have received several complaints. One case is about an application for a Food Business Licence which started in October 1994 and subsequently a Fire Services Certificate and a Ventilation Certificate were issued in July and August 1995. That should mean that other departments were of the opinion that there was no problem with that food establishment. But the Buildings Department said that there were some problems with the specifications of its fire exit doors. Then the applicant immediately started the alteration. However, despite repeated requests by the applicant, the Buildings Department still has not sent someone to the food establishment for inspection and examination*

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

MR CHAN WING-CHAN (in Cantonese): *Mr President, by November 1995 that food establishment still had not got its licence. My question is why would such a situation occur and are the officers of the Buildings Department that inefficient?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): Mr President, the Buildings Department processed a total of about 3 000 such applications last year and the figure in the previous year was roughly the same. If Mr Chan quotes me a case now, I do not know how to answer as I do not know whether it is, as what Mr CHAN alleged, solely the fault of the department concerned or it is due to a delay on the part of the applicant. Thus, if Mr CHAN can provide me with further details of that case, I may be able to review the relevant case after the meeting.

On the other hand, licensing is not within the scope of work of the Buildings Department. It is rather the work of the licensing departments of the two municipal councils. The Buildings Department is only responsible for advising the licensing departments of the municipal councils on the suitability of the applicant and whether the premises under application is suitable for the purpose stated.

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

MR FRED LI (in Cantonese): *Mr President, I am wearing a second hat. I am an Urban Councillor and therefore I am qualified to talk about this issue. The problem is that in many cases, the delay in issuing a licence is really caused by the Buildings Department. In part (c) of the main reply, it was mentioned that in the long run, the Buildings Department and the two municipal councils would discuss whether further actions should be taken to amend this system. May I ask the Secretary for Planning, Environment and Lands whether there is really any problem with the present system that warrants an amendment? If yes, what is the problem and what amendment will be made?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): Mr President, at present the Buildings Department has been able to

give its comments to the two municipal councils on new applications for restaurant licences within 30 days. When will there be a delay? It is in cases where there is unauthorized structure or where the applicant has to carry out structural alterations or change other fittings. Of course that should include any problem with the fire prevention facilities. Firstly, the applicant must solve the problem and then submit the revised plan or application to the Buildings Department, which will then inspect the revised conditions and give its comments particularly on whether the unauthorized structure has been removed. Thus, when there is a delay sometimes, we have to see when the delay is counted. If the applicant does not remove the unauthorized structure within six months, the Buildings Department can in no way process the application within that six months. Thus the responsibility lies with both sides.

Moreover, as for the municipal councils, I think that Mr LI is quite clear about the interim licence system introduced at the end of last year. Under that system a food business operator can ask an approved person to certify that he has complied with the requirements of the Buildings Department so that he can get an interim General or Light Refreshment Restaurant Licence valid for six months. Under this system, if I remember it correctly, I believe that about 78% of the applicants should be able to start operation through this interim licence arrangements. Then the operator has six months' extra time to rectify the premises.

I have mentioned consultation with the municipal councils. By that I mean studying whether the means by which certification by approved persons could be further extended or improved so that part of the work to certify that the requirements under the Buildings Ordinance have been met would be passed back to the applicant and the approved person. However, we have not come to this stage yet because the two municipal councils stated that review on this system would not begin until the middle of this year. Thus we are now looking at the progress of the interim licensing system and certification by approved persons.

MR MOK YING-FAN (in Cantonese): *Mr President, this is clearly a problem of shortage of staff in the Buildings Department. When was the establishment of the Buildings Department as mentioned in part (b) of the main reply put into force? Has the Buildings Department or the Government really started to review whether there is any shortage of staff as soon as possible so that there is*

no need for redeployment of other surveyors?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): Mr President, the establishment of the Buildings Department I mentioned in my main reply had been in force up to 1995. There was not too much of a problem in the past but why have there been such problems lately? On the one hand, we learn from the newspapers that many food operators have gone out of business, but on the other hand, the number of applications for Restaurant Licence or Light Refreshment Restaurant Licence received by the two municipal councils increased by nearly 30% last year. Thus, the existing establishment could in no way cope with such a drastic increase in applications. I admit that there could be a short-term shortage of staff. As a result the Director of Buildings has to redeploy staff from other sections in the Department to handle those new applications. We will monitor the development of the situation and, just as what I have said, the Director of Buildings will redeploy more staff to that Unit next month. However, we have to see whether the increase in application is on a longer term basis. If yes, we will study whether more staff should be deployed to that Unit permanently. But, if the outstanding applications have all been processed and there is no more increase, the Administration will conduct a review to see whether the original establishment should be reverted to.

MISS CHAN YUEN-HAN (in Cantonese): *Mr President, my question is similar to the Honourable MOK Ying-fan's. I would like to ask the Government, apart from the increase in the number of applications for restaurant licences, whether the delay is caused by any procedural problem. Just now the Secretary for Planning, Environment and Lands said that if there was any problem with the buildings, the delay might be caused by the failure of the applicants to respond after a long lapse of time. Does the Government set a deadline for the applicants, for example, requiring them to reply within three months as to whether they would proceed with their applications or not? Can some specific amendments be made?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): Mr President, the Buildings Department is not responsible for processing the food business licences and the work falls within the scope of the

two municipal councils. If a deadline for reply is to be set for the applicants, I think that it should be for the two municipal councils to decide.

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

MISS CHAN YUEN-HAN (in Cantonese): *Mr President, I think that he has not answered my question. My question is: The current practice is that the Buildings Department will notify an applicant of certain shortcomings, but the other party may delay in giving a reply. Thus I suggest that perhaps the Buildings Department should set a deadline for the applicants. Does that have anything to do with the two municipal councils?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): Mr President, I have in fact explained that the role of the Buildings Department is to give comments to the two municipal councils on whether an applicant's premises is suitable to be a food premises under the Buildings Ordinance. We are just giving comments to the two municipal councils on whether the premises concerned has fire routes or any unauthorized structure. The Buildings Department has no right to tell the applicant that unless his application is completed within three months, we will not process his application because in reality, the policy and authority to process the food business licences lies in the hands of the two municipal councils. If the two municipal councils can amend their relevant ordinances and stipulate that unless the applicant complies with all the requirements within three months, his application will be invalid, we will certainly be happy to consider it. But the decision rests with the two municipal councils.

MR CHIM PUI-CHUNG (in Cantonese): *Mr President, the Secretary for Planning, Environment and Lands mentioned in his reply that generally a restaurant can in no way obtain its licence in one go and thus it usually has to wait for six months. To my understanding, the Buildings Department, in fact, has to shoulder the bulk of the responsibility. Therefore, will the Secretary for Planning, Environment and Lands make a bold commitment that he would review the matter so that the problem could be solved instead of just shirking his*

responsibility as what he did when answering our questions? I think that is not the proper thing to do. Can he promise that he will make an effort to solve the problem?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): Mr President, may I seek your consent first? I do not know what proof and evidence Mr CHIM has for his question?

MR CHIM PUI-CHUNG (in Cantonese): *Mr President, I myself applied for a restaurant licence more than 10 years ago and the problem really came from his department. The situation was such that someone could use the opportunity to reap benefits from it. More than 10 years ago such matters were not under the control of the Independent Commission Against Corruption. Thus I hope that he would make a commitment for the Buildings Department to conduct a review because the delay is really caused by that department*

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

MR CHIM PUI-CHUNG (in Cantonese): *He wants me to produce evidence. Can he not just make a commitment to conduct a review?*

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

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): If I heard him correctly, Mr CHIM quoted an example more than 10 years ago. It would be difficult for me to answer things happened more than 10 years ago. However, I would like to point out the fact that of all the new applications received by the Buildings Department, on the average, about 50% get a reply from the Buildings Department within the first 30 days that there are no problems and that they can start operation. As for the other 50%, they usually involve the premises which require further work to be done. We are of the view that the present interim licensing system of the two municipal councils

in which the assistance of approved persons is sought is effective. The two municipal councils think that the system should be allowed to run for six months to see its effectiveness. Then we would conduct a review together with them. This is what we would do.

MR ALBERT HO (in Cantonese): *Mr President, I would like the Secretary for Planning, Environment and Lands to clarify. In the second paragraph of part (c) of his main reply, he mentioned that the time required for approving the application was 30 days in the first instance. But if changes were needed, say if the plan needed to be revised and so on the time needed could be as long as six months starting from the date the revised plan was resubmitted to the Department for processing. If I understand it correctly, the department needs six month for receipt of the plan. That means the time required for approval the second time is six months. Firstly, may I ask the Secretary for Planning, Environment and Lands whether he is satisfied with six months' or even longer processing time and is it acceptable? If not, will the Buildings Departments make a performance pledge or lay down a criterion on the reasonable time required? No matter whether the Department is serving the Urban Council, the Regional Council or the applicant, should there be a performance pledge?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): Mr President, when viewed from the angle of an applicant, it is of course unsatisfactory that six months are required for the approval. However, the applicant should also consider the time he has actually spent on structural alterations to meet the requirements of the Buildings Ordinance. The Buildings Department is in fact considering whether some administrative arrangements can be made to expedite the work such as whether it is possible to accept photos from applicants as proof that the relevant changes have been made, the unauthorized structures have been removed, the procedure in respect of the alterations of the premises have been completed or the fire prevention facilities have been installed. Re-inspection of the premises may thus be saved. Though the Buildings Department has redeployed staff and will deploy additional staff to the Unit next month, it will also consider whether it is possible to accord priority to the restaurant licence cases when processing different types of licence application referral cases. The Director of Buildings is now considering these possibilities.

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

MR ALBERT HO (in Cantonese): *In fact I want to ask whether from the Government's point of view, six months' processing time is reasonable and should it be shortened?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): Mr President, If Members have looked at the performance pledge of the Buildings Department, they would notice that the Department is trying to comment on new applications within 30 days. In fact they have achieved this goal. Now the problem comes from some indirect cases with other troubles and complications. The situation varies for different cases and thus some delay is caused.

MRS SELINA CHOW (in Cantonese): *Mr President, just now we watched a table tennis tournament between the Secretary for Planning, Environment and Lands and colleagues of this Council who are also members of the Urban Council talking about who should be held responsible. But the Secretary for Planning, Environment and Lands is answering our questions today. It is well known that applications for restaurant licences take a long time to get approved and there are lots of complaints. Will the Secretary for Planning, Environment and Lands take up the responsibility to conduct a serious review perhaps jointly with the two municipal councils to improve some undesirable procedures and to implement some time-saving or simplified procedures in various departments (not just the Buildings Department) in order to shorten the time required for the whole licensing procedure to truly serve those people applying for restaurant licences?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): Mr President, I have in fact explained that the two municipal

councils and the relevant government departments, after a review, have done what the Honourable Mrs Selina CHOW has just proposed, that is the implementation of the interim licensing system. Under the interim licensing system, an applicant can obtain an interim licence within 30 days and start operation. Even if there are other problems in respect of the premises, he has six months to make alterations. I do not know why Mrs Selina CHOW thinks that we have not done this kind of work. We are informed by the two municipal councils that the interim licensing system is working well in its first three months of operation. This new measure was implemented last December and has been in operation for only three months. Let us wait for another three months to see how it works. If there are improvements, the relevant departments and the two municipal councils would of course reconsider the situation.

WRITTEN ANSWERS TO QUESTIONS

Air Time for Government Programmes

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

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

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

As regards television broadcasters, the Broadcasting Authority require

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

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

Annex

8A. Restriction in respect of commercial television broadcasting

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

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

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

hours in any week; and

- (d) in case the programme service is an English service, 6 hours in any week.

Registration of Proprietary Chinese Medicines

7. **MR LO SUK-CHING** asked (in Chinese): *It is learnt that in January this year the Department of Health refused to process an application for registration of a proprietary Chinese medicine used for drug rehabilitation. In this connection, will the Government inform this Council:*

- (a) *whether there is any mechanism to handle applications for the registration of proprietary Chinese medicines; if so, what are the details; if not, why not;*
- (b) *whether the Government adopts different approaches in the registration and regulation of Chinese and Western medicines; if so, what are the reasons; and*
- (c) *whether the Government has conducted any tests or imposed any regulation on proprietary Chinese medicines available in the market; if so, what criteria the Government has adopted in determining which medicines should be selected for tests and regulation?*

SECRETARY FOR HEALTH AND WELFARE: Mr President,

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

which is not directly applicable to Chinese medicine. Regulation of Chinese medicine in the long term is a subject which will be considered by the Preparatory Committee on Chinese Medicine.

- (c) The Department of Health regularly takes random samples of proprietary Chinese medicines to analyze for the presence of Western drug ingredients and the level of heavy metals. Medicines containing Western drug ingredients are required to be registered as in the case of Western medicines. The level of heavy metals is checked to ensure that it does not exceed the safety limit.

Disciplined Services Staff Involved in Crimes

8. **MR CHEUNG MAN-KWONG** asked (in Chinese): *Recently, a number of cases have been brought to light in which members of the disciplined services have been found to have committed criminal offences or breaches of internal discipline. In view of this, will the Government inform this Council:*

- (a) *of the number of staff in the disciplined services who have been accused of committing criminal offences in the past three years, together with a breakdown, by type of offence, of the number of such cases proceeding to prosecution as well as the number of prosecutions resulting in conviction;*
- (b) *of the breakdown, by type of offence, of the number of staff in the disciplined services who have been accused of committing breaches of internal discipline, as well as the number of staff who have been disciplined for such breaches, in the past three years; and*
- (c) *what strategy does the Government have to maintain discipline so as to prevent members of the disciplined services from collaborating with criminals to commit crimes as a result of their coming into frequent contact with criminal activities; and how it will prevent staff in the disciplined services from abusing their power to engage in illegal activities in the course of carrying out their law enforcement duties?*

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

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

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

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

- Note:
- (i) Disciplined services here include the Customs and Excise Department, Correctional Services Department, Fire Services Department, Immigration Department, Royal Hong Kong Police Force, and the Independent Commission Against Corruption;
 - (ii) The above figures are based on the number of counts of offences and an officer can be accused of more than one offence in some cases
 - (iii) figures in () indicate the number of convictions
 - (iv) figures in [] indicate the number of cases still under court proceedings
- (b) The number of cases in which staff in the disciplined services who were accused of breach of internal discipline, and the number of staff who were subsequently disciplined for such breaches in the past three years, are as follows:

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

<i>Nature of offences</i>	<i>1993</i>		<i>1994</i>		<i>1995</i>	
	<i>Accused</i>	<i>Disciplined</i>	<i>Accused</i>	<i>Disciplined</i>	<i>Accused</i>	<i>Disciplined</i>
Late/Absent from duties and related offences	81	78	99	91	82	80
Neglect of duty/Fail to carry out orders	100	93	121	116	131	113
Conduct to the prejudice of good order and discipline	21	18	32	29	40	36
Disobedience of orders	35	30	71	62	38	33
Conduct calculated to bring the public service into disrepute	37	31	31	25	43	32

Breach of regulations/ working procedures	146	140	275	265	260	250
Making a false statement	52	43	64	51	63	47
Others	22	16	15	14	38	36
Total	494	449	708	653	695	627

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

(i) *Integrity Checking*

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

(ii) *Education*

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

(iii) *Clear Guidelines and Procedures*

There are clear guidelines and orders for all major aspects of the work of members of the disciplined services, such as conducting an investigation, making an arrest, taking statements and manners

towards members of the public. These procedural controls are designed to prevent officers from abusing their authority in discharging their duties.

(iv) *Monitoring Performance*

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

(v) *Regular Review of Work Procedures*

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

(vi) *Turnover of Postings*

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

(vii) *Channels of Complaints*

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

Crime Control in Hong Kong's Airspace

9. **MR CHIM PUI-CHUNG** asked (in Chinese): *Will the Government inform this Council:*

- (a) *of the span of the airspace which comes under the jurisdiction of Hong Kong;*
- (b) *of the number of criminal cases (excluding hijackings) which have taken place on flights within the territory's airspace in the past three years; and*
- (c) *how will criminal cases occurring on flights outside the territory's airspace be handled?*

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

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

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

Offence

No. of cases

Serious Assault	1
Miscellaneous Thefts	4
Deception	2
Disorder/Fighting in Public Place	1
Total	8

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

Tertiary Education Fees

10. **DR ANTHONY CHEUNG** asked (in Chinese): *Recently, the Government has proposed that fees for degree courses be pegged to the average student unit cost of tertiary institutions so as to achieve the target of recovering 18% of the recurrent cost by 1997-98, and that fees for sub-degree courses should be set at a level of 75% of the fees for degree courses. In this connection, will the Government inform this council:*

- (a) *of the differences in the unit costs for the same type of courses offered by various tertiary institutions presently funded by the University Grants Committee; and whether it will consider adopting specific measures to narrow the gap if there are significant differences in such costs;*

- (b) *of the differences in the unit costs for different subjects (such as arts, science, engineering, medicine, social sciences, law etc.); and whether it will consider adopting specific measures so as to ensure that the fees charged will reflect the different unit costs for different courses;*
- (c) *whether the average unit cost for sub-degree courses offered by various tertiary institutions is equivalent to 75% of the average unit cost for degree courses; if not, whether it will review its policy for subsidizing sub-degree courses; and*
- (d) *whether it has any information showing how the average unit cost of an undergraduate place and the rate of cost recovery through tuition fees in the territory compare with the corresponding figures in other countries in Europe, America and Asia?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President,

- (a) The average unit cost per full-time equivalent (fte) student in the University Grants Committee (UGC)-funded institutions for the academic year 1994-95 is given by institutions in the table attached at Annex A. The differences in unit cost for comparable academic programme categories may be negligible or large between institutions for a variety of reasons such as:
 - (i) different mix of subjects — the range of subjects for an academic programme category may vary from institution to institution. Moreover, the number of students taking the same subject will vary in different institutions;
 - (ii) different levels of studies — the mix of different levels of studies also varies from institution to institution. A course at sub-degree level is normally cheaper than the same course at first-degree level which, in turn, is normally cheaper than the one at postgraduate level. This contributes to the relatively higher unit costs at institutions which focus on first-degree and postgraduate studies;

- (iii) different staffing structures — student to staff and senior to junior staff ratios are different at different institutions, as they have different emphasis on higher degrees and research. At a micro-level, an older faculty/department usually has more "senior" staff remunerated at higher salary points than a younger faculty/department; and
- (iv) institutions may choose to invest more heavily in certain programmes which it hopes to develop as areas of excellence.

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

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

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

Before 1974-75, differential fees were charged at the University of Hong Kong (HKU) and the Chinese University of Hong Kong (CUHK) and between faculties. A single uniform fee for degree courses at HKU and CUHK was introduced in 1974-75 to avoid the

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

negative effect of higher fees on the supply of manpower in some of the higher-cost specialities. It was also felt that differential fees for comparable courses at different institutions might perpetuate a pecking order among higher education institutions in Hong Kong.

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

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

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

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

Annex A

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

Cost: Hong Kong\$'000

<i>Academic Programme Category (APC)</i>	<i>CityU</i>	<i>HKBU</i>	<i>LC</i>	<i>CUHK</i>	<i>PolyU</i>	<i>HKUST</i>	<i>HKU</i>	<i>ALL</i>
A. Clinical medicine	-	-	-	837	-	-	524	669
B. Clinical Dentistry	-	-	-	-	-	-	562	562
C. Pre-clinical Studies	-	-	-	301	-	-	283	291
D. Subjects and Professions allied to medicine and dentistry	-	-	-	214	152	-	261	167
E. Biological Sciences	186	189	-	187	166	423	225	238
F. Physical Sciences	205	184	-	209	155	382	280	230
G. Engineering and Technology	169	-	-	185	150	330	213	193
H. Built Environment	112	-	-	171	137	-	196	146
I. Mathematical Sciences	126	161	-	139	120	251	161	155
J. Information technology and Computing Science	106	138	59	155	143	263	192	143

K.	Business and Management	92	123	110	132	118	245	142	134
L.	Social Sciences	108	139	106	138	133	243	169	139
M.	Languages	93	128	91	149	124	-	141	117
N.	Humanities (Ex languages)	127	122	-	135	-	239	181	158
O.	Art, design and performing arts	-	157	-	187	149	-	219	162
P.	Education	97	139	-	133	102	-	169	145
Q.	All APCs	116	142	105	193	139	297	219	172

Annex B

Public Education Expenditure per Student in
Higher Education and Selected Countries

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

Note:

- (1) Figure for Hong Kong includes public expenditure per headcount student for the UGC-funded institutions, the Hong Kong Academy of Performing Arts, and the Technical Colleges of the Vocational Training Council. The figure was converted to

US\$ by applying an average exchange rate of 7.741 for 1992.

- (2) Figures for other selected countries were extracted from the "Digest of Education Statistics 1995" published by the United States Department of Education and based upon full-time equivalent students.
- (3) Expenditure includes current and capital expenditure. The expenditure for Hong Kong excludes capital expenditure for large scale projects. The coverage of "current" and "capital" expenditure between countries may differ.

Annex C

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

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

Source

1. University Grants Committee
2. Singapore Commission in Hong Kong

3. Japan Information and Cultural Centre, Consulate-General of Japan
4. Consulate General of the Republic of Korea
5. Australian International Education Foundation, Australian Consulate General

Closed Road Permit System on Lantau

11. **MR ALBERT CHAN** asked (in Chinese): *Representatives of the Transport Department advised me in June 1994 that the system for the issue of prohibited zone permits to private light buses on Lantau Island would be reviewed. However, the outcome of the review is still not known up to the present moment. In this connection, will the Government inform this Council of:*

- (a) *the reasons for the Department's delay in completing the review; and*
- (b) *the exact date for the completion of the review?*

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

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

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

Review of Health Care Financing

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

- (a) *what is the progress of the overall review of health care financing, when the review will be completed and when the findings of the review will be promulgated;*
- (b) *what is the proportion of the revenue received by the hospitals of the Hospital Authority on the ten categories of "privately purchased medical items" to the overall expenditure on medical services; and*
- (c) *whether consideration will be given to providing more resources with a view to discontinuing the charging policy mentioned in (b) above?*

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

While public views expressed during the consultation exercise indicated general support for the introduction of semi-private rooms and the implementation of a co-ordinated voluntary insurance scheme, these new initiatives must be complemented by other funding options to achieve a balance

between affordability, equity and quality in line with our established policy that no one should be prevented from obtaining adequate medical treatment through lack of means. We currently estimate our deliberations on this subject may take a period of some 18 months.

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

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

Temporary Staff of Hospital Authority

13. **MR LEUNG YIU-CHUNG** asked (in Chinese): *Recently, I have received complaints about the Hospital Authority (the HA) employing a large number of temporary staff. In this connection, will the Government inform this Council of:*

- (a) *the total number of temporary staff currently employed in hospitals under the management of the HA, together with a breakdown of these staff in each hospital by number, post, average salary and average period of employment;*
- (b) *the basis used by the HA for determining which posts should be*

filled by temporary staff instead of permanent staff; and

- (c) *the criteria adopted by the HA for determining the renewal of contract of temporary staff and the range of adjustment of their salary?*

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

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

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

Space Shortfall of Hong Kong Polytechnic University

14. **MR ERIC LI** asked (in Chinese): *The University Grants Committee Secretariat has earlier recognised that the Hong Kong Polytechnic University has a shortfall of space totalling some 9 700 sq m. In this connection, will the Government inform this Council:*

- (a) *what measures have been adopted to solve the problem of space*

shortage at the Polytechnic University; and

- (b) *whether consideration will be given to allocating the land adjacent to the Polytechnic University, which is now occupied by the Gun Club Hill Barracks, to the Polytechnic University after the withdrawal of the British garrison; if not, why not?*

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

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

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

JP's Service as Witness to Signature

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

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

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

East Kowloon Ambulance Services

16. **MR FRED LI** asked (in Chinese): *It is mentioned in the Consultancy Study on Emergency Ambulance Services that the ambulance services in East Kowloon fall short of the targets set in the Performance Pledge by a wider margin when compared with other districts. In this connection, will the Government inform this Council:*

- (a) *of the reasons why the ambulance services in East Kowloon fail to meet the targets set in the Performance Pledge; and*
- (b) *what immediate measures have been put in place to improve and reinforce ambulance services in East Kowloon in order that the targets set in the Performance Pledge can be met?*

SECRETARY FOR SECURITY: Mr President,

- (a) According to the survey conducted by the Consultant, emergency ambulance services in East Kowloon in the first quarter of 1995 met 89.2% of all calls within the target travel time of 10 minutes, which came close to the overall performance of the territory in the same period (that is, 89.8%). The reasons for failing to meet the performance target are mainly due to the increased number of emergency calls, deteriorating traffic conditions, and disruptions caused by bad weather.
- (b) The Director of Fire Services is already taking action on those measures recommended by the Consultant to improve ambulance services that can be implemented quickly. The measures include: the stationing of ambulances in fire stations to extend emergency ambulance coverage; streamlining of operational procedures for ambulance deployments; transfer of residual non-emergency cases to another agency; and the redeployment of ambulances and their crews from stations with relatively adequate manning to those where manning is inadequate to meet local demand.

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

Child Sexual Abuse

17. **MR IP KWOK-HIM** asked (in Chinese): *Recently, there has been an upward trend in the number of sex abuse cases on children and the extent of sex abuse is also becoming more and more serious. In view of this, will the Government inform this Council:*

- (a) *of the reasons for the upward trend in such cases;*
- (b) *whether it is a common phenomenon that such cases go unreported because the abusers and the abused are direct relatives; and*

- (c) *whether, apart from the establishment of the special investigation team by the Police and the Social Welfare Department in December, any specific measures have been put in place to help the abused children?*

SECRETARY FOR HEALTH AND WELFARE: Mr President,

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

for victims of child abuse;

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

Government Policy on Energy Conservation

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

- (a) *of its policy on energy conservation;*
- (b) *whether it knows of the specific energy conservation measures taken by the China Light and Power Company Limited and the Hongkong Electric Company Limited; if so, what are the details of those measures; and*
- (c) *whether consideration has been given to establishing an energy management council to handle all matters relating to the supply and demand of energy in the territory?*

SECRETARY FOR ECONOMIC SERVICES: Mr President,

- (a) The Government's policy on energy efficiency and conservation is to promote such practices as far as possible without impeding either economic growth or improvement in the community's standard of living. This involves promoting public awareness of, and providing advice on, energy saving opportunities and benefits through education and publicity programmes and establishing energy saving standards for the design of buildings and building services.
- (b) The two power companies have either undertaken, or are drawing up, various pilot energy conservation schemes as precursors to large-scale demand-side management programmes. These include pilot schemes to introduce energy-efficient lighting to housing estate residents, schools and the commercial sector. The companies have also revised their tariff structures so as to phase out incentives to consume more electricity and to provide incentives to shift electricity demand to off-peak hours as a means of deferring purchase of additional plant to meet growth in peak demand for electricity. They also provide energy audit services to commercial and industrial customers seeking to save energy. In addition, the two power companies are promoting public awareness of energy efficiency and conservation. They have prepared teaching kits for use in primary schools, visited secondary schools and donated \$11 million to the Urban Council for developing an Energy Efficiency Display Centre, which will be opened later this year. As members of the Energy Efficiency Advisory Committee, they have provided useful advice on development of energy codes and sponsorship of various energy efficiency campaigns and schemes developed by the Committee.
- (c) The Government has decided that an Energy Advisory Committee should be set up this year to advise it on energy policy and other related matters referred to it by the Government. The new committee will absorb the functions of the Energy Efficiency Advisory Committee, be chaired by a non-official and be composed of professional, academic and business people knowledgeable about energy management in their respective fields as well as other interested persons. The Government will review the need for an

energy commission after several years of working experience with the Energy Advisory Committee.

Progress of Bus-only-lane and Freight Transport Studies

19. **DR SAMUEL WONG** asked: *Will the Government inform this Council of the present progress of the Bus-only-lane Study and the Freight Transport Study now being carried out by the Transport Department, as well as the expected completion dates of these studies?*

SECRETARY FOR TRANSPORT: Mr President,

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

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

- (b) The Freight Transport Study was completed in June 1994. It identified key problems in the freight transport industry and recommended both short- and long-term measures to improve the efficiency of that industry, together with an implementation programme. Many of these have land and planning implications and need to be carefully assessed by the Government. Following consultation with the freight trade and other concerned parties on

the study's recommendations, a Freight Transport Strategy is now being drafted which we aim to finalize by around the middle of this year.

Supply and Demand of Paramedical Personnel

20. **DR JOHN TSE** asked (in Chinese): *Regarding the supply and demand of paramedical personnel such as clinical psychologists; educational psychologists, physiotherapists, occupational therapists and speech therapists, will the Government inform this Council:*

- (a) of the current supply and demand, as well as the projected supply and demand over the next three years, of the above-mentioned paramedical personnel in the territory; and whether the supply of such paramedical staff will be sufficient; if not, what is the shortfall;*
- (b) of the criteria adopted by the Government in assessing the demand for such paramedical personnel; and*
- (c) whether the Government has any comprehensive plan or measures to meet the demand for such paramedical personnel?*

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

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

The Health and Welfare Branch (HWB) has set up a working group to study problems stemming from a shortage in the first three professions mentioned and to propose solutions. A working group has been set up under the Education and Manpower Branch to review the supply and demand situation of speech therapists. The working groups comprise representatives from the relevant

professions, non-governmental organizations and government branches and departments. The HWB working group has completed its study on clinical psychologists and reported its findings to a joint meeting of the Legislative Council's Panels on Welfare and Health Services on 8 December 1995. The studies on physiotherapists and occupational therapists are in progress. The working groups aim to finalize proposals on all the professions by this summer.

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

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

While the studies on the allied health personnel are still in progress,

the Government has already taken certain steps to tackle problems so far identified. For example, at the request of the Government, the University Grants Committee has provided necessary funding to the University of Hong Kong and the Chinese University of Hong Kong to expand the number of places for their Master Degree courses for clinical psychologists for 1996-97. The University of Hong Kong has also, in view of community demand, initiated an increase in the number of first-degree places for speech therapists. The Government is now discussing with the Hong Kong Polytechnic University the feasibility of expanding the number of places for its physiotherapy degree course. The Social Welfare Department has, for the first time, co-ordinated the recruitment of clinical psychologists from overseas for both itself and for non-governmental organizations. Action is also in hand to identify appropriate sources of funding for training scholarships.

MOTION

PUBLIC FINANCE ORDINANCE

THE SECRETARY FOR THE TREASURY to move the following motion:

"That -

1. Authority is hereby given for a sum not exceeding \$49,596,849,000 to be charged on the general revenue in advance of an Appropriation Ordinance for expenditure on the services of the Government in respect of the financial year commencing on 1 April 1996.
2. Subject to this Resolution, the sum so charged may be expended against the heads of expenditure, and expenditure for each such head shall be arranged in accordance with the subheads, shown in the draft Estimates of Expenditure 1996-97 or, where such estimates are

changed under the provisions of the Public Finance Ordinance as applied by section 7(2) of that Ordinance, in accordance with such estimates as so changed.

3. Expenditure in respect of any head shall not exceed the aggregate of the amounts specified in respect of each subhead in that head, by reference to percentages, in section 4(a) and (b).
4. Expenditure in respect of each subhead in a head shall not exceed -
 - (a) in the case of a Recurrent Account subhead, an amount equivalent to -
 - (i) except where the subhead is listed in the Schedule hereto, 20% of the provision shown in respect of it in the draft Estimates;
 - (ii) where the subhead is listed in the Schedule hereto, that percentage of the provision shown in respect of it in the draft Estimates which is specified in relation to that subhead in the Schedule; and
 - (b) in the case of a Capital Account subhead, an amount equivalent to 100% of the provision shown in respect of it in the draft Estimates,

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

SCHEDULE

[s. 4]

		<i>Percentage of provision shown in draft Estimates</i>	
<i>Head of Expenditure</i>	<i>Subhead</i>		
22 Agriculture and Fisheries Department	452 Royal Society for the Prevention of Cruelty to Animals (Hong Kong)	25	

		456	World Wide Fund for Nature (Hong Kong)	25
26	Census and Statistics Department	149	General departmental expenses	70
28	Civil Aviation Department	170	Airport insurance	100
31	Customs and Excise Department	292	Seizure management	39
34	Internal Security: Miscellaneous Measures	195	Defence Costs Agreement: cash contribution	30
40	Education Department	325	Direct Subsidy Scheme	30
		326	Kindergarten Subsidy Scheme	30

*Head of Expenditure**Subhead*

*Percentage
of provision
shown in draft
Estimates*

		330	Assistance to private secondary schools and bought places	35
		350	Refund of rents and rates to kindergartens, private schools and study rooms	30
		489	Miscellaneous educational services	30
46	General Expenses of the Civil Service	013	Personal allowances	40
50	Government Land	225	Traffic accident victims assistance	100

	Transport Agency		scheme - levies	
60	Highways Department	273	Highways maintenance	30
76	Inland Revenue Department	002	Allowances	25
		007	Job-related allowances	25
		149	General departmental expenses	25
		189	Interest on tax reserve certificates	25
90	Labour Department	280	Contribution to the Occupational Safety and Health Council	25
		295	Contribution to the Occupational Deafness Compensation Board	25
91	Lands Department	221	Clearance of Crown land - ex gratia allowances	50
				<i>Percentage of provision shown in draft Estimates</i>
	<i>Head of Expenditure</i>		<i>Subhead</i>	
92	Legal Department	234	Court costs	25
		243	Hire of legal services and related professional fees	25
106	Miscellaneous Services	253	Expenses of refugees not in Correctional Services institutions	22
120	Pensions	015	Public and judicial service pension benefits and compensation	30
		017	Surviving spouses' and children's pensions, widows' and orphans'	30

		pensions and increases	
		021 Ex gratia pensions, awards, allowances and increases	50
		026 Employees' compensation	30
130	Printing Department	002 Allowances	25
170	Social Welfare Department	176 Criminal and law enforcement injuries compensation	25
		177 Emergency relief	100
		179 Comprehensive social security assistance scheme	25
		180 Social security allowance scheme	25
		184 Traffic accident victims assistance scheme	40
			<i>Percentage of provision shown in draft Estimates</i>
	<i>Head of Expenditure</i>	<i>Subhead</i>	
		412 Refunds of rates	30
176	Subventions: Miscellaneous	437 Hong Kong - Japan Business Co-operation Committee	25
		446 Duty Lawyer Service	25
		475 Outward Bound Trust of Hong Kong	25
		502 Hong Kong Archaeological Society	30
		503 Subventions to voluntary agency	25

		camps	
		504 Hong Kong Council on Smoking and Health	25
		521 Skills centres	25
177	Subventions : Non-Departmental Public Bodies	429 Consumer Council	25
		441 Hong Kong Productivity Council	25
		443 Hong Kong Tourist Association	25
		444 Hong Kong Trade Development Council	25
		520 Vocational Training Council	25
		525 Hong Kong Arts Development Council	50
			<i>Percentage of provision shown in draft Estimates</i>
	<i>Head of Expenditure</i>	<i>Subhead</i>	
178	Technical Education and Industrial Training Department	001 Salaries	25
		002 Allowances	29
188	Treasury	002 Allowances	30
		163 Write-offs	50
		187 Agents' commission and expenses	84
		190 Other miscellaneous items	100
		191 Payment to Cross-Harbour Tunnel	100

Company Ltd.				
		192	Refunds of revenue	100
190	University Grants Committee	002	Allowances	25
		149	General departmental expenses	55
		169	Visitation	40
		492	Grants to UGC-funded institutions	28
		496	Refund of rates - UGC-funded institutions"	25

SECRETARY FOR THE TREASURY (in Cantonese): Mr President, I move the motion standing in my name in the Order Paper.

The purpose of this motion is to seek funds on account to enable the Government to carry on existing services between the start of the new financial year on 1 April 1996 and the enactment of the Appropriation Bill. This motion follows the procedure long established in this Council.

The funds on account sought under each subhead has been determined in accordance with paragraph four of the resolution, by reference to percentages of the provision shown in the draft Estimates. If the draft Estimates are changed by the Finance Committee or under delegated powers, the provision to which the percentages are applied will also change accordingly. Thus the provision on account under each head is not fixed but may vary, with every increase in any one head being matched by an equal decrease in another head. The initial provision on account under each head is shown in the footnote I submitted on 1 March. The aggregate total under all heads is fixed at \$49,596,849,000 and cannot be changed without the approval of this Council.

In addition, in accordance with this resolution, the Financial Secretary may vary the funds on account under each subhead provided that these variations do not cause any excess over the amount of provision requested for that subhead in the draft Estimates or an excess over the amount of funds on account for the head.

The Financial Secretary will issue a vote on account warrant to the Director of Accounting Services authorizing him to make payments up to the amount specified in this motion and in accordance with its conditions. Upon the enactment of the Appropriation Bill, the vote on account will be subsumed and the general warrant issued in accordance with the Ordinance will replace the vote on account warrant.

Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

BILLS

First Reading of Bills

EVIDENCE (AMENDMENT) BILL 1996

KADOORIE AGRICULTURAL AID LOAN FUND (AMENDMENT) BILL 1996

LEVERAGED FOREIGN EXCHANGE TRADING (AMENDMENT) BILL 1996

SECURITIES AND FUTURES COMMISSION (AMENDMENT) BILL 1996

BANKRUPTCY (AMENDMENT) BILL 1996

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

Second Reading of Bills

EVIDENCE (AMENDMENT) BILL 1996

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

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

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

Obtaining of evidence for overseas jurisdictions

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

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

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

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

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

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

Corroboration rules in respect of sexual offences

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

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

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

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

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

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

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

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

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

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

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

KADOORIE AGRICULTURAL AID LOAN FUND (AMENDMENT) BILL 1996

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

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Mr President, I move that the Kadoorie Agricultural Aid Loan Fund (Amendment) Bill 1996 be read a Second time.

The purpose of this Bill is to improve the administration of the Kadoorie Agricultural Aid Loan Fund.

The Kadoorie Agricultural Aid Loan Fund Ordinance was enacted in 1955 to establish the Kadoorie Agricultural Aid Loan Fund. The Fund consists of funds donated by the late Lord KADOORIE, the late Sir Horace KADOORIE and the Government for the purpose of encouraging or improving agriculture in Hong Kong through loans to farmers or farmer organizations.

The Ordinance provides for the Fund to be administered by a committee of six members, the composition of which includes Lawrence KADOORIE and Horace KADOORIE. The passing away of Lord KADOORIE and Sir Horace KADOORIE removed the link between the KADOORIE family and the loan fund committee and reduced the number of members of the committee from six to four. Consequently, the loan fund committee is unable to function as effectively as before.

The Bill proposes that the membership be increased to seven by the addition of one member nominated by Sir Elly Kadoorie & Sons Limited and two other new members to be appointed by the Governor. The Bill also provides for the term of office of members appointed by the Governor to be reduced from three years to two. These amendments will ensure that the link between the KADOORIE family and the loan fund committee is re-established and that there will be more opportunities for different representatives of the agricultural sector to participate in the work of the committee.

In addition, the Bill also amends the definition of "agriculture" in the Ordinance, which already includes fish culture, to include all forms of aquaculture, so as to make it clear that both pond fish farmers and mariculturists may apply for loans from the Fund.

Mr President, the proposals in the Bill will improve the arrangements for approving loans to farmers from the Kadoorie Agricultural Aid Loan Fund, thereby promoting the development of agriculture and aquaculture in Hong Kong. I commend the Bill to this Council.

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

Debate on the motion adjourned and Bill referred to the House Committee

pursuant to Standing Order 42(3A).

**LEVERAGED FOREIGN EXCHANGE TRADING (AMENDMENT) BILL
1996**

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

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Mr President, I move the Second Reading of the Leveraged Foreign Exchange Trading (Amendment) Bill 1996.

The Bill seeks to require a trader licensed under the Leveraged Foreign Exchange Trading Ordinance to obtain the consent of the Securities and Futures Commission (SFC) prior to the sale or issue of substantial holdings in shares. The Bill also seeks to amend the Ordinance so that the making of orders by the High Court under section 13 of the Ordinance will apply to any person, and not just to the licence holders only. Also, any such order may specify assets other than currency.

Under the Ordinance, a licence to operate leveraged foreign exchange trading can only be granted to limited companies and their representatives, while traders who are in business prior to the introduction of the Ordinance are allowed to continue their businesses pending processing of their applications by the SFC. At present, the Ordinance does not explicitly and expressly prohibit a company which is considered not "fit and proper", including a company which has been refused a licence to be a trader, from acquiring shares of a licensed trader thereby gaining control of that licensed company. The proposed amendment in the Bill is intended to plug this possible loophole.

In addition, section 13 of the Ordinance empowers the High Court to make orders against a licence holder who has contravened or is about to contravene the provisions of the Ordinance and its subsidiary legislation or any conditions of its

licence. An order made under section 13 can only apply to a licence holder, but not to an applicant. Furthermore, the same section 13 also empowers the High Court to make orders restraining a person from acquiring, disposing of, or otherwise dealing with any currency specified in the order. For better protection of investors, the word "currency" should be extended to cover assets which may have been obtained by the traders by fraudulent misappropriation of clients' monies. It is necessary for the Administration to amend the relevant provisions so that an order made under section 13 will apply to any person, and any such order may specify assets instead of currency.

Mr President, the overall objective of the Bill is to strengthen the relevant risk management system and to enhance protection for investors.

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).

SECURITIES AND FUTURES COMMISSION (AMENDMENT) BILL 1996

THE SECRETARY FOR FINANCIAL SERVICES to move the Second Reading of: "A Bill to amend the Securities and Futures Commission Ordinance."

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Mr President, I move the Second Reading of the Securities and Futures Commission (Amendment) Bill 1996.

The Bill seeks to amend the Securities and Futures Commission Ordinance to require a company registered with the Securities and Futures Commission

(SFC) as a dealer in securities or commodities or as investment adviser to obtain the consent of the SFC prior to the sale or issue of substantial holdings in shares.

The proposed amendments to the Securities and Futures Commission Ordinance stems from the same considerations as in the case of similar amendments to the Leveraged Foreign Exchange Trading Ordinance as contained in the Bill which I moved a moment ago. In other words, currently there are no provisions in the Securities and Futures Commission Ordinance to explicitly and expressly prevent a person who is not "fit and proper" from acquiring shares in, and thereby gaining control of, a company registered as a dealer or investment adviser. The Bill seeks to plug this loophole.

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).

BANKRUPTCY (AMENDMENT) BILL 1996

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

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

The Bankruptcy Ordinance is based on obsolete English legislation of 1914. It embodies procedures and practices that are cumbersome and outmoded. In the United Kingdom and in certain other jurisdictions the insolvency legislation of which has had similar origins, such as Singapore, insolvency laws have been modernized.

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

with the changing needs and expectations of the community.

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

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

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

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

Mr President, this Bill also generally will streamline the procedures associated with insolvencies and will help to reduce the time and costs involved in their administration.

Thank you, Mr President.

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

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

Resumption of Second Reading debate on Bills

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

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

Question on Second Reading proposed.

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

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

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

First, Members seek clarification on the definition of "vicinity" as it appears in "works in the vicinity of gas pipes" in regulation 23A of the proposed Gas Safety (Gas Supply) (Amendment) Regulation. They request the Administration to consider providing, in the Code of Practice, some objective references (for example, distances) to define what works are considered to be "in the vicinity" of gas pipes. In response to their request, the Administration agrees to put in the Code of Practice a table stating a range of safety distances for various types of work in the vicinity of gas pipes.

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

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

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

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

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

After considering Members' views, the Administration maintains the view that, taking into account the potentially serious consequences (explosion, fire, damage to property and personal injury) of an offence under the proposed regulation 49(1A)(b), the court should be able to impose up to the proposed maximum penalty (a fine of \$200,000 and imprisonment for 12 months) for a first offence; and that the proposed penalties should remain unchanged.

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

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

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

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

Thank you, Mr President.

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

Bill read the Second time.

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

PNEUMOCONIOSIS (COMPENSATION) (AMENDMENT) BILL 1995

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

Question on Second Reading proposed.

DR LEONG CHE-HUNG: In July 1993, this Council passed the Pneumoconiosis (Compensation) (Amendment) Bill 1993. During the passage of the Bill then, it was obvious that the details of the amendments did not meet all the aspirations or the needs of those sufferers. Yet, the consensus then was

that the Bill should be passed as soon as possible to ensure that the pneumoconiotics be given as much assistance as early as possible, and that the Government should review the situation and come forth with further amendments in the near future.

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

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

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

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

The Bills Committee has sought clarification on why lung functions of some pneumoconiotics were found to have improved by the Forced Vital Capacity (FVC) test and raised concern whether the monthly compensation to such patients would be reduced accordingly. The Administration has explained that their lung functions could be improved if they were to recover from complications which they might have had during the initial tests. Thus in some cases, and its improvement will be shown, the pneumoconiotic's lung functions were actually found to be better than originally assessed. The Administration, however, assured the Bills Committee that such improvement in lung functions will not constitute a reduction in the monthly compensation. I do hope the

Administration will further confirm this in their reply.

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

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

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

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

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

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

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

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

The Administration has agreed to discuss with the Pneumoconiosis

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

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

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

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

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

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

MR TSANG KIN-SHING (in Cantonese): Mr President, at the end of last year, the Secretary for Education and Manpower introduced the Pneumoconiosis (Compensation) (Amendment) Bill 1995 (hereinafter referred to as the Bill) to

the Legislative Council. This is the second amendment following the promulgation of the legislation in November 1980 and its first amendment in 1993.

It would be fair to say that this can be considered an "initiative" by the Government to conduct review in a quicker way to improve labour rights. The Democratic Party hopes that, for the benefit of the labour sector, the Government in adopting the executive-led system would take the advice of all parties and take similar bold and efficient steps in amending all obsolete and unreasonable ordinances as well as ordinances taking care of the aged, feeble, widowed, handicapped and the people at risk so that Hong Kong, besides being admired for its economic miracles, can also be an enviable model for others in respect of the protection of labour rights.

This time amendments are to be made to different aspects of the Bill the majority of which have proceeded from improving the compensation which includes, *inter alia*, the monthly standard compensation amount for pain, suffering and loss of amenities; compensation for the families of the deceased pneumoconiotics; assessment of incapacity and the provision of a rehabilitation scheme for pneumoconiotics. All these improvement proposals will be of great assistance to the pneumoconiotics.

Notwithstanding this, the Democratic Party and myself are of the view that the Government should continue to review and amend the Ordinance so that the legislation and measures would fully and fairly meet the needs of pneumoconiotics. The major points for improvement should include: (1) the compensation scheme, (2) participation of pneumoconiotics, (3) rehabilitation scheme and (4) stop digging caissons manually.

(1) *The Compensation Scheme*

Mr President, the biggest loophole in the current compensation scheme is that the amount of compensation is different for pneumoconiotics contracting the disease at different times. If we categorize pneumoconiotics in a simple way, they could be divided into those who contracted the disease before 1981, from

1981 to July 1993 and those who have contracted it from July 1993 to the present.

According to the provisions of the current legislation those contracting the disease before 1981 could only get a lump sum compensation payment (from several thousand to tens of thousands dollars) and a quarterly *ex gratia* payment of some ten thousand dollars, that is an average of about \$3,000 monthly.

Secondly, with the amendments made in July 1993, the compensation for those who contracted the disease from 1981 to July 1993 is their average monthly income plus \$2,100 depending on whether their illness has deteriorated or not. In the past, 40% of the cases which were assessed to have no further deterioration in incapacity were not entitled to any portion of the compensation amount. Thus when compared with those who contracted the disease before 1981, they have received far less compensation. Now the separation of the compensation amount intended for pain, suffering and loss of amenities can be regarded as a major improvement on the part of the Government. However, the current proposal has no retrospective effect and thus the standard payment for pain, suffering and loss of amenities is of little help to this group of workers.

As for those who contracted the disease in July 1993 and afterwards, their compensation amount is based on their average monthly income times their degree of incapacity plus compensation for pain, suffering and loss of amenities.

Mr President, this sort of "one disease, three systems" compensation scheme will undoubtedly lighten the financial burden of the Compensation Fund but it is extremely unfair to those who contracted the disease before 1981. In fact, their ailing time is the longest among the three categories of pneumoconiotics and their health condition is the worst. But they are not protected by the amendment Bill. Though they are not covered under the Bill, the Secretary for Education and Manpower should propose concrete protection measures immediately to adjust the amount of quarterly *ex gratia* payment. The factors to be taken into consideration should include the inflation rate, the cost of living index and the medical expenses involved.

In addition, there is a great difference between the previous lump sum compensation payment and the current payment based on average monthly

income. Thus, the Secretary for Education and Manpower should introduce other protection for those two categories of pneumoconiotics before 1981 and those from 1981 to July 1993 to make good the unfairness.

(2) *Participation of Pneumoconiotics*

Mr President, pneumoconiotics did not take part in the discussion in relation to the compensation amount in the past and they are not represented in the current Pneumoconiosis Compensation Fund Board. Thus their needs are not reflected. As an organization that reviews and proposes policies, it should in no case exclude people whom the policy is aimed at from its system. In the past, the legislation and the compensation amount often gave rise to controversy and there was the phenomenon of "policies coming from different departments" which reflect the loophole of no participation of the pneumoconiotics. Therefore, through their actual participation, the pneumoconiotics should be able to present their views in the Board, thereby facilitating discussion and emphasis on their importance.

(3) *Rehabilitation Scheme*

Mr President, the rehabilitation scheme is very important. Sympathy from the community should in no way affect the health of pneumoconiotics and bar them from getting the appropriate compensation. The Government should be committed to introducing rehabilitation scheme for them with the necessary planning. Just shouting the slogan of the rehabilitation scheme is useless. The rehabilitation scheme could only be carried out with concrete planning and financial commitment. With no financial commitment, the "rehabilitation scheme" is just a slogan. The Democratic Party hopes that the Education and Manpower Branch could show some sincerity and make some concrete planning for the rehabilitation scheme. At the same time sufficient financial resources should be apportioned so that pneumoconiotics could re-establish themselves and re-integrate into the society to lead a dignified life.

(4) *Stop digging caissons manually*

Mr President, in order to stop our people from contracting pneumoconiosis, all manual digging of caissons should be stopped. The Democratic Party is of the view that the sole way to ensure the occupational safety and health of the

workers is for the Government to take an "prevention is better than cure" approach. We all know that manual digging of caissons is the main work procedure that causes pneumoconiosis. If the Government thinks that the private sector should not resort to manual digging of caissons, it should take the lead in stopping that procedure. It should in no way take the contrary action. However, up to now the Government has still not agreed to stop all manual digging of caissons. The Government should pay attention to the blood and sweat shed by the workers and their loss of lives, and stop all manual digging of caissons immediately. If manual digging of caissons is allowed to go on, it is tantamount to neglecting the safety and health of the workers. If the Government still does not exercise self-regulation, that is to stop the manual digging of caissons, no matter what protection is provided to taken to cover workers suffering from pneumoconiosis, the disease will continue to prevail in Hong Kong. Thus, if a Bill to stop the manual digging of caissons is proposed by any Member, please lend him support.

These are my remarks. Thank you, Mr President.

MISS CHAN YUEN-HAN (in Cantonese): Mr President, the Legislative Council resumes its Second Reading debate of the Pneumoconiosis (Compensation) (Amendment) Bill 1995 today. I hope that the Bill will be passed as soon as possible so that pneumoconiotics can get better compensation the soonest.

As for details of this Bill, the Chairman of the Bills Committee has already explained them. I would like to make some concrete proposals now.

Firstly, I fully support the Bill in making the compensation amount for pain and suffering a separate compensation item for the benefit of about 1 800 pneumoconiotics. At the same time, the Administration is willing to consider the views expressed by various parties and they took the advice of a body of pneumoconiotics to peg the compensation amount to inflation, thereby increasing it from \$2,100 to \$2,570. This is a correct approach. However, while these good deeds are done, it is a pity that such improvement in the compensation amount for pain and suffering is not extended to those who contracted the disease before 1981 so that they can have the same compensation for loss of amenities. In fact, the ailing time of those who contracted the disease before 1981 is the longest and their health condition is the worst. Their suffering is by no means

less than those who contracted the disease after 1981. With the present amendment to the Pneumoconiosis (Compensation) (Amendment) Bill 1995, the Government should review and consider giving better protection to those who contracted the disease before 1981 so that they can get better care and protection from our society.

Secondly, I have consulted the relevant trade unions and the body of pneumoconiotics on the way to determine whether a pneumoconiotic really died of pneumoconiosis when considering the compensation. Generally they are of the opinion that pneumoconiosis usually will trigger off other complications and thus it is difficult to determine whether a pneumoconiotic died of silicosis or not. Thus, I hope that the Government would adopt a more lenient policy in this respect. In other words, any pneumoconiotic irrespective of his cause of death should be given death compensation when he dies.

Thirdly, as to the way to reassess the degree of incapacity of pneumoconiotics, the present assessment is based on the standard Forced Vital Capacity. According to the views expressed by people in the trade and the relevant body, the health condition of those who have contracted the disease will usually go "from bad to worse". The present forced air test to assess the lung function loss of pneumoconiotics is not objective as the result will usually vary depending on the weather. Thus I am concerned that when pneumoconiotics are reassessed, their monthly compensation amount may be reduced as a result of an error in the test results.

All in all, the trade unions and the body of pneumoconiotics welcome the amendments to the Ordinance. To a certain extent, the Government has accepted the views of the workers and unions in the trade and the improvements proposed in the Bill are supported by us. However, there is still room for improvement and on-going efforts should be made by the Government to make further improvements. Our major concern is that those pneumoconiotics who contracted the disease before 1981 do not get the same degree of care and protection. I would like to point out that there are about 400 pneumoconiotics who contracted the disease before 1981. They are generally older and their health condition is worse than those who contracted the disease after 1981. The pain, suffering and pressure they have encountered is by no means less than those who contracted the disease after 1981. I have no intention to make a comparison of those who contracted the disease before and after 1981. I just want to tell the Government the fact that the problem of those who contracted the

disease before 1981 should not be neglected. I hope that the Government would give them equal treatment so that they would be taken care of in respect of their pathological treatment as well as death compensation. I hope that the Government would review this Bill in the near future so that they could enjoy the same rights.

These are my remarks.

MR LEE CHEUK-YAN (in Cantonese): Mr President, I welcome the present amendments by the Government on behalf of the Hong Kong Confederation of Trade Unions.

In fact, the pneumoconiotics have been waiting for the present amendments for a very long time. Nevertheless, we still hope that the Secretary for Education and Manpower and the relevant policy making departments would do one thing as soon as possible, and that is the problem of those pneumoconiotics who contracted the disease before 1981 as mentioned by many Councillors just now. These people only get about \$3, 000 a month but have no other medical protection and death compensation. Thus we hope that the Government will give them the same protection as those who contracted the disease after 1981 as soon as possible so that they could enjoy the same level of medical protection and death compensation.

Just now when I talked to the victims petitioning outside, they mentioned a major problem: Previously they had a few hundred members but now the number is decreasing because many members passed away as their health deteriorated. What I do not want to see is that by the time the protection to the pneumoconiotics who contracted the disease before 1981 is improved, the situation is that the 400 pneumoconiotics just now mentioned by the Honourable Miss CHAN Yuen-han have all passed away. If that happens, all the work will be meaningless. I do hope that the Government will act really quickly and I look forward to a reply to this later from the Government.

Thank you, Mr President.

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, first of all, I am grateful to Members for their support of this important Bill which seeks to make improvements to the Pneumoconiosis Compensation Scheme in a way which is broadly acceptable to both employers and employees. I should also

like to thank the Chairman, Dr the Honourable LEONG Che-hung, and Members of the Bills Committee for their careful examination of the Bill and for their valuable views on it.

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

In the course of examining the Bill, Members expressed concern that in a number of cases, the family members of the deceased pneumoconiotics were not eligible for compensation because the PMB had determined that the pneumoconiotics in those cases did not die of pneumoconiosis. Members considered that the criteria adopted by the Board in determining the cause of death of pneumoconiotics might have been too stringent. While we appreciate Members' concern, I wish to stress the importance of ensuring that the compensation for death under the Scheme is strictly confined to family members of only those deceased persons whose death was really caused by pneumoconiosis. Nevertheless, we have conveyed Members' concern to the PMB, which will continue to take account all factors relating to pneumoconiotics in their assessment of the cause of of the deceased pneumoconiotics.

In addition to supporting this Bill, Members of the Bills Committee expressed the wish to see improvements to the Pneumoconiosis Ex-Gratia Scheme, which is a separate administrative scheme providing benefits to persons who were diagnosed before 1981 to be suffering from pneumoconiosis. At present,

the Scheme provides this group of pneumoconiotics with compensation payments which comprise quarterly *ex gratia* payments at the current rate of \$10,560 which are payable until death, and reimbursement of funeral expenses in respect of a deceased pneumoconiotic, subject to a maximum, which was increased from \$12,000 to \$14,000 from 1 January this year.

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

Following the passage of a resolution by this Council on 13 December 1995, the amount of \$2,100 in the formula for the calculation of the monthly compensation for total incapacity in Part II of the First Schedule of the Pneumoconiosis (Compensation) Ordinance was increased to \$2,570 with effect from 1 January 1996. It is therefore necessary to adjust the amount of \$2,100 in clause 12(b) of this Bill correspondingly to \$2,570. I shall move an amendment to effect this change at the Committee stage.

Thank you, Mr President.

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

Bill read the Second time.

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

Committee Stage of Bills

Council went into Committee.

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

Clauses 1 and 3 to 6 were agreed to.

Clause 2

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

The purpose of the proposed amendment is to define more comprehensively the type of works which may give rise to damage to gas pipes by defining such works to include works on footpaths, the extraction of material from the land or the seabed, landfill works and reclamation works.

Mr Chairman, I beg to move.

*Proposed amendment***Clause 2**

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

- "(a) building works within the meaning assigned to that term in section 2(1) of the Buildings Ordinance (Cap. 123), and for the purposes of this paragraph reference in that section to "ground investigation in the scheduled areas" shall be read as a reference to "ground investigation";
- (b) the laying out, construction, alteration or repair of any road, footpath, tunnel, airport runway, canal, reservoir, pipe-line, railway or tramway;

- (c) trench works carried out by or for any public utility;
- (d) the extraction of material from land or the seabed;
- (e) landfill works;
- (f) river training works; or
- (g) reclamation works."

Question on the amendment proposed, put and agreed to.

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

PNEUMOCONIOSIS (COMPENSATION) (AMENDMENT) BILL 1995

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

Clause 12

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

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

First Schedule of the Ordinance, this compensation amount should be revised correspondingly to \$2,570.

Mr Chairman, I beg to move.

Proposed amendment

Clause 12

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

Question on the amendment proposed, put and agreed to.

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

Council then resumed.

Third Reading of Bills

THE SECRETARY FOR ECONOMIC SERVICES reported that the

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

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

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

Bill read the Third time and passed.

THE SECRETARY FOR EDUCATION AND MANPOWER reported that the

PNEUMOCONIOSIS (COMPENSATION) (AMENDMENT) BILL 1995

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

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

Bill read the Third time and passed.

MEMBER'S MOTIONS

HONG KONG ROYAL INSTRUCTIONS 1917 TO 1993 (NOS. 1 AND 2)

DR LEONG CHE-HUNG to move the following motion:

"That the Standing Orders of the Legislative Council of Hong Kong be amended -

- (1) in Standing Order No. 36(4) by adding ", subject to Standing Order No. 37(4)-(7) (Divisions)," after "and";
- (2) in Standing Order No. 37 by adding -

"(4) Immediately after the President has declared the result of a division on an amendment to a motion, or the Chairman has declared the result of a division on an amendment to a bill, a Member may move without notice that in the event of further divisions being claimed in respect of the motion or any amendments thereto, or in respect of any amendments to the bill, the Council or the committee of the whole Council do proceed to each of such divisions immediately after the division bell has been rung for one minute. Thereupon the President or the Chairman shall propose the question on that motion.

- (5) When a motion under paragraph (4) has been agreed to the President or the Chairman shall order accordingly in respect of each of such further divisions, if any.

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

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

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

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

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

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

Question on the motion proposed, put and agreed to.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MR RONALD ARCULLI to move the following motion:

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

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

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

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

Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

PRESIDENT: I have accepted the recommendations of the House Committee as to the time limits on speeches for the two motions to follow and Members were informed by circular on 11 March. The movers of the motions will have 15

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

PREPARATORY COMMITTEE OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION

MR LEUNG YIU-CHUNG to move the following motion:

"That, considering that members of the Preparatory Committee (PC) of the Hong Kong Special Administrative Region (SAR) appointed by the Chinese authorities do not represent the people of Hong Kong, and that the PC, operating behind closed doors under the principle of "we take the initiative" of the Chinese Government, is thus degenerating into an instrument under manipulation; this Council expresses its strong condemnation; furthermore, since the establishment of a provisional legislature being considered by the PC will throttle the democratic election of the Legislative Council, thereby enabling the Chinese Government to gain full control of the legislature, this Council firmly objects to the formation of the provisional legislature."

MR LEUNG YIU-CHUNG (in Cantonese): Mr President, I move the motion standing in my name on the Order Paper.

The puppet role

Mr President, I have with me a caricature which might be taken as an introduction to today's debate.

Honourable colleagues might recall that after Governor PATTEN proposed the constitutional reform package in 1992, there were disputes between China

and the United Kingdom over the issue concerning the seven diplomatic letters between the Chinese Foreign Minister and the British Foreign Secretary in the year concerned. However, what I wish to point out is that in 1992, some of the then members of the Basic Law Drafting Committee (DC) admitted publicly that in the drafting process of the Basic Law, they only assumed the role of a "rubber stamp" and that after the secret agreement was reached between China and the United Kingdom, they stamped the Basic Law. The role of the DC members, like the clown in this caricature, was reduced to that of a tool and puppet manipulated by its master.

I believe that in a couple of years, the satire embodied in this caricature could be still valid simply by substituting the words "DC members" with "Preparatory Committee (PC) members"! The only difference, however, is that the era of the Sino-British secret agreement has been replaced by an era dominated by China's concept of "we take the initiative".

Dominating position

The PC of the Hong Kong Special Administrative Region (SAR) set up early this year stepped into the political arena with an air of "dominating position" to lead the preparations for the SAR after 1997, with many of the decisions closely associated with the democratic and human rights of the Hong Kong people. Accordingly, I feel a need to "determine the nature" of the PC and to expose the fact that the PC is hardly working for the Hong Kong people and is manipulated by China!

Some colleagues told me that as the PC had just started operation, so we should give them more time and see what they could achieve before making our evaluation, instead of "strongly condemning" them so soon. My response is that judging from the PC's composition, its working principles as pronounced by China, the *modus operandi* characterized by the confidentiality rule and the collective responsibility system as well as its performance in the past two months, we have every reason to arrive at the conclusion reached in my motion!

Composition of the PC

There are 150 members in the PC of the SAR, and all of them were appointed by the Chinese Government. Although 94 of them are Hong Kong residents, we must not be deceived the misconception that they are representatives chosen by the Hong Kong people!

The Hong Kong member of the PC are essentially led by the industrial and commercial sector. China went so far as to state that most of the PC members should come from the industrial and commercial sector because Hong Kong would be practising capitalism. Such a reason really hurts. If China is serious in this, it will only indicate that it has seriously misinterpreted capitalism, mistaking that capitalism is still in the crude form of the 18th and 19th centuries in which workers were forced to work like slaves, as depicted in *The Manifesto of the Communist Party*. If China really considers that this is not capitalism, or that to allow Hong Kong to have too much welfare is not capitalism, then we really could not help thinking that in having the industrial and commercial sector to lead the PC, China actually aims at roping in the big capitalists and businessmen, making up excuses for the maintenance of sole control by the industrial and commercial sector.

There is another problem concerning the composition of the PC. Most of the Hong Kong members are former members of the Basic Law DC and Preliminary Working Committee (PWC), but it is widely known how unacceptable the past performance of these DC and PWC members was. Judging from their words and deeds, we can well imagine what the performance and achievement of the PC will be like!

"We take the initiative"

The biggest problem with the PC is the so-called "we take the initiative" approach proclaimed by China. The "we" might or might not include the Hong Kong people, but those Hong Kong people not in China's favour are definitely not included. The problem is that this "we" can be very flexible. If China considered someone being disobedient, he would no longer come under the category of "we" and definitely would not be the Hong Kong people they side with and rely on! The "we take the initiative" approach has become the basis on which dissident views are suppressed wantonly by those in power. Under the "we take the initiative" concept, the words and deeds of the one in charge shall become perfectly rational. Anyone who is disobedient shall be labelled "unpatriotic to the country and to Hong Kong" and become the main target of

attack. The right of interpretation shall entirely be in the hands of those in power in China!

The black-box operation

Under the "we take the initiative" approach, the operation of the PC is governed tightly by the confidentiality rule and collective responsibility system. In short, everything is first decided by the Central Government and then as a rule, endorsed by the PC. The black-box practice of the PC is seen time and again. Not only the agenda of the subcommittee was classified, but the date of group meeting of the Selection Committee (SC) under the PC was also shrouded in mystery and kept secret. In "A Letter to Hong Kong" published last month, the Honourable Frederick FUNG pointed out that the decisions endorsed at the first plenary meeting of the PC were not open to discussion at all. This clearly reflects that the PC is nothing more than a rubber stamp!

Atrocity against the law

The most obvious proof of the PC's being reduced to a tool of manipulation is the establishment of the Working Group on provisional legislature. Miss Dorothy LIU and Miss Elsie LEUNG, Hong Kong deputies to the National People's Congress (NPC), pointed out that without the authorization of the NPC, the provisional legislature remained an illegal organization, while the Honourable CHENG Yiu-tong, who although considered that no further authorization of the NPC was necessary, pointed out that since the PC had not yet adopted a resolution accepting the recommendation of the PWC, the status of the Working Group on provisional legislature was rather dubious. It is obvious that both the PWC of yesterday and the PC of today are but China's tools. As long as China considers it necessary to set up the provisional legislature, the PC should as a matter of rule have it "stamped". May I ask those PC members who claimed themselves independent members a question. When it was decided at the first plenary meeting of the PC that the Working Group on the provisional legislature should be set up, were they ever allowed to raise any objection?

"Actions speak louder than words". The PC by nature is a tool used by the Chinese Government in strengthening its control over the future SAR Government and affairs. There is absolutely no reason for us the people of Hong Kong to be willingly cheated and remain silent. We must strongly condemn the PC manipulated by China! Honourable colleagues, if you still "lie

brazenly" and shout "tomorrow shall be better" while you are well aware of the nature of the PC, I could only tell you I am very disappointed. But do not forget that people nowadays are no longer foolish and stupid. Do not have any illusion that a lie told a hundred times will become truth! As to those friends who stoop to compromise, seeking an opportunity to reform the established system in the PC, I could only feel heartbroken about their "capitulationism". Existence determines one's consciousness. I believe that the people of Hong Kong are by no means the only ones who would not expect the minority in the PC could change the situation. Even for the PC members themselves, I hope you would ask yourselves honestly whether you can or dare come forward and say that the PC definitely will not act to the wishes of China but will work faithfully in the interests of the Hong Kong people!

Democracy retrogressing

Mr President, the provisional legislature seems no longer a new topic. In the past 10 years, the legislature of Hong Kong has been progressing gradually towards democratization. The general public have begun to enjoy the right of electing legislators under the one man, one vote system. Although we consider that the prevailing pace towards democratization is too slow and that the entire legislature should be created under the direct election system of one man, one vote in place of the original functional bodies and Election Committee, which are no more than political coteries working against the principle that all men are equal, the establishment of the provisional legislature further deprives the general public of the right to elect their representatives to the legislature. In fact, democratization is experiencing a great stride backward. This is an undeniable fact!

I have no intention of disputing the authenticity of the "election" of the 60 provisional legislature members by the 400 SC members. In fact, the four major groupings of the 400 SC members are themselves far from being democratic. For example, why should there be 100 seats for the industrial and commercial sector, 100 seats for the professionals, 100 seats for the grassroots and 100 seats for the former political sector? Such a composition ratio absolutely cannot reflect fully and reasonably the wishes of all the Hong Kong people, not to mention its being "widely representative", as it claims. A monster in any outfit is still a monster and can never be described as human!

Full manipulation

All in all, the reason for the establishment of the provisional legislature, thereby smothering the possibility of a locally elected legislature, is precisely that the Chinese Government wants to exercise full control over the SAR legislature after 1997! With the provisional legislature created by the SC, which lacks representativeness and itself created by the PC controlled by China, how can the people of Hong Kong be convinced that members of the provisional legislature would not become China's "own buddies", who would allow the operation and decisions of the provisional legislature to be subject to the manipulation of the "black hands" in the background? The harm done by the provisional legislature is not likely to be confined to the first year of establishment of the SAR because the provisional legislature, which is to be manipulated by China, will at least lay down the election law for of the first SAR Legislative Council. How then can we expect that election of the future SAR Legislative Council will be a democratic, fair and reasonable one!

Hence I urge this Council to state clearly such a stand and express our unequivocal objection to the establishment of the provisional legislature!

The power of the people

Mr President, may I ask, from the talks on the future of Hong Kong to the formulation of the Joint Declaration and the Basic Law, the formation of the PC, the establishment of the future SC, the selection of the Chief Executive and the setting up of the provisional legislature, which of the decisions and representative bodies closely related to the future and interests of all the people of Hong Kong were made and formed with the democratic participation of the people of Hong Kong? No. None of them. The future of Hong Kong used to be decided by the colonial chief in the past and will be controlled by the bureaucrats of China in future. The right of democracy of the people of Hong Kong (by "the people of Hong Kong", I do not mean the 94 or 400 "buddies") has been tramped on and taken away by force. It is time we woke up and got back the rights we deserve to have! I will say that again: The political system of Hong Kong must be decided in a democratic way by the people of Hong Kong. The Chief Executive and all the members of the legislature must be returned by the equitable one man, one vote election system.

People fighting for democracy do not hide their viewpoints and intentions. We must declare openly that our intention is to establish a full democracy

covering Hong Kong, China and even the whole world. We do not mind being abused by bureaucrats who are afraid of democracy. What we will lose in the course of democratic movement is only our chains, but what we will gain in return shall be the whole world!

People, and only people, are the driving force that pushes history forward.

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

Question on the motion proposed.

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

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

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

"To delete all the words after "That, considering that" and substitute with "the Preparatory Committee (PC) of the Hong Kong Special Administrative Region (SAR) has been formed and has commenced work, this Council urges the PC to widely consult and listen to the people of Hong Kong, enhance the transparency of its operation and decision-making process and, in accordance with the provisions of the Basic Law, to set up a broadly representative Selection Committee for the selection of the first Chief Executive in a democratic way, as well as to form the first Government and the first Legislative Council of the SAR so that there is no need for the establishment of a provisional legislature; furthermore, this Council urges the Hong Kong Government to fully co-operate with the PC and provide it with the necessary assistance".

MR BRUCE LIU (in Cantonese): Mr President, I move to amend the motion of the Honourable LEUNG Yiu-chung as stated in my name on the Order Paper.

Mr President, I have put forward the amendment on behalf of the Hong Kong Association for Democracy and People's Livelihood (ADPL). There are three main points. Firstly, about the Preparatory Committee (PC), the stand of the ADPL is that "there are still expectations and there are still requests".

The PC, being a body created in accordance with the Basic Law, is different from the Preliminary Working Committee. Its establishment has marked the final stage in the return of Hong Kong to China. Its mission is to prepare for the establishment of the Hong Kong Special Administrative Region (SAR) pursuant to the Basic Law, which stipulates the specific ways for the creation of the first SAR Government and legislature.

In the course of the reversion of sovereignty, the most difficult challenge is to win the support of the people. What the ADPL insists is "a return in a democratic way" and "Hong Kong people ruling Hong Kong democratically".

Of the six million population, the majority will remain in Hong Kong after 1997. Most of them want to live and work here contentedly as usual after 1997. Towards China, we should fight righteously for the people of Hong Kong and for the realization of "a high degree of autonomy" under the principle of "one country, two systems", thereby turning Hong Kong into a snug home with democracy and freedom.

There are many areas in which the ADPL is not satisfied with the existing composition and operation of the PC. We did point out that the entire composition of the PC lacks representativeness, that the representatives of businessmen and the grassroots are not in proportion, with the former heavily represented while the latter in the minority, and that it fails to represent all the people of Hong Kong.

In spite of this, it would be improper for us to announce beforehand the death of the PC and predetermine that it would end up in failure. To view the

PC with such an attitude is neither healthy nor positive. If the entire community viewed the PC with such pessimism that it was destined to fail, and gave up the right to fight, then what eventually fails would be the future of the entire community and not just the PC. It is of no avail at all to refuse to compromise and resort to condemnation passively.

The ADPL advises that the PC should seriously listen to the views of the people of Hong Kong, respect their interests, enhance the transparency of its operation and decision-making process, allow the press to cover every meeting, hold press conference and issue press releases after each meeting, make known in advance the proceedings of the PC so as to give members of the public adequate opportunity to express their views. The Hong Kong Office of the Preparatory Committee Secretariat should also work out a meet-the-public scheme and conduct public hearings and public opinion polls to collect people's views in width and in depth.

From his original motion, it can be seen that Mr LEUNG Yiu-chung's attitude towards the PC is that he "has no expectation and has lost all hopes" and like the old saying that "one is punished before being given the chance to see the magistrate", the PC is strongly condemned before he bothers to wait and see how the PC performs and put forth any demand to it. However, what positive effect would such a motion in which condemnation precludes any chance of trial have on the PC's preparation for the SAR?

The second point is about the issue of the "through train". It seems that the rails of the "through train" have already been destroyed, but the ADPL has not lost all hopes. It will continue to fight for an "alternative through train". The ADPL does not consider that there is any need to set up a provisional legislature.

The provisional legislature can be said to be the worst of the worst options. The PC should reconsider some better alternatives and listen to any possible recommendations of the Hong Kong people on how the absence of a "through train" can be overcome. There is no need to regard the establishment of a provisional legislature as the only solution to this problem.

The option of an "alternative through train" put forth boldly by the ADPL

was presented in accordance with the decision endorsed by the Seventh National People's Congress (NPC) on 4 April 1990. In summary, it is "to confirm those legislators qualified under the Basic Law and to fill by election the vacancies left by those not qualified under the Basic Law". It is in line with the provisions and spirit of the decision of the NPC, ensures maximum smoothness in the transition, forestalls any political concussion and precludes any need to establish a provisional legislature.

Confirming legislators qualified under the Basic Law

In the 1995 Legislative Council elections, all the legislators elected directly and as representatives of functional bodies are all in compliance with the provisions of the Basic Law. As long as they are willing to affirm their allegiance to the SAR, they should be allowed to board the "alternative through train".

Filling vacancies left by legislators not qualified under the Basic Law

In the 1995 Legislative Council elections, there were 10 legislators elected by the Election Committee formed by all the district board members in Hong Kong. In the package put forward in 1993, the ADPL pointed out that this "Election Committee" was not the same as the Election Committee stipulated in the Basic Law. It had the same name, but the composition was different. Accordingly, the proposed solution is to re-elect the 10 legislators by an election committee which is in compliance with the Basic Law. They shall mount the "alternative through train" for a smooth transition in 1997.

The ADPL considers that the first Selection Committee being formed for the SAR may assume the role of the above-mentioned "Election Committee". Ten legislators should be re-elected to the first SAR Legislative Council through democratic means. All the 10 incumbent legislators may stand as candidates.

From the original motion of Mr LEUNG Yiu-chung, we can see that his attitude towards the "through train" is one of "chanting a slogan and dreaming the impossible dream without having regard to political reality".

The ADPL's amendment is to fight for an "alternative through train",

striving for a chance of survival which might materialize.

I have only one point to add regarding the creation of the Selection Committee and that is to call upon the PC to set up a Selection Committee with genuinely wide representativeness through a pattern which would encourage the greatest participation of the Hong Kong people, including the election of Selection Committee members within their sectors, and then select the first Chief Executive in a democratic way. At the same time, the ADPL also urges the Hong Kong Government to co-operate fully with the PC and provide it with the necessary assistance.

Mr President, the existence of diversified political stands in a democratic society is a normal phenomenon. I hope the PC would take into consideration the various views of my colleagues expressed today, seriously listen to the minds of the people of Hong Kong, work positively and take the welfare of Hong Kong people as the main consideration in its work.

With these remarks, I move the amendment on behalf of the ADPL.

Question on the amendment proposed.

MR DAVID CHU (in Cantonese): Mr President, the Honourable LEUNG Yiu-chung's motion is not only groundless but also lacks substantive and constructive ideas.

For all these years, it can be seen that the "one country, two systems" concept is a guarantee for Hong Kong's future success. It is based on this spirit that the Basic Law was formulated and it has gained wide support. The Basic Law has already provided for the way to set up the Preparatory Committee (PC). I cannot understand why Mr LEUNG should strongly condemn that the PC, which is set up in accordance with the provisions of the Basic Law, is a tool of the Chinese Government.

Furthermore, Mr LEUNG seems to have mixed up the nature of the PC

with that of the Legislative Council. The Legislative Council is a council, while the PC is an executive body, like the Executive Council of Hong Kong or the cabinet of a government, or the board of directors of a listed company. Its work is to assist the sovereign country to prepare for the formation of the first Hong Kong Special Administrative Region Government. Its work is entirely different from that of the Legislative Council in nature. In fact, as the PC has one quarter of the legislators in this Council and the heads or vice-chancellors of four universities as its members, I believe it has a certain degree of representativeness.

Mr LEUNG also stubbornly opposed the establishment of the provisional legislature, accusing it of smothering democratic elections. In fact, the idea of "through train" was brought up by China, but it has also explicitly stated that if Governor PATTEN's constitutional reform package was passed without full consultation with the Hong Kong people and discussion with the Chinese Government, the three tiers of our councils would not have its way through. Accordingly, what Mr LEUNG ought to condemn should be those colleagues who voted for Governor PATTEN's package that day.

In fact, provisional bodies are set up for many organizations in Hong Kong before they are fully developed, such as the Provisional Airport Authority, Provisional Hospital Authority and so on.

Hardly had the PC started working when Mr LEUNG considered it to be "operating behind closed doors" and "manipulated by the Chinese Government". And before the provisional legislature is actually formed, Mr LEUNG is accusing it of "smothering the democratic election of the future legislature" and "enabling the Chinese Government to manipulate the legislature". Mr LEUNG's deduction is unfair to both China and the Hong Kong people.

Recently, there are signs that China and the United Kingdom are patching up in their relationship, which is something we all like to see. Hong Kong's past success is the result of people's hard work and mutual accommodation, and development on the basis of a stable society. As a legislator, I hate to see Hong Kong people living in disputes and fear.

We should be realistic and face our future. According to a survey

conducted by the Home Affairs Department in January 1996, our greatest concern was the labour problem. The respondents also said that the most effective way to boost the confidence of the Hong Kong people was "to maintain a good relationship with China". I sincerely hope that Mr LEUNG would listen to the views of the people and maintain a good relationship with China with foresight and in a middle-of-the-road and co-operative manner, because it is only then that the people of Hong Kong would have confidence in the future and that there would be a promising prospect for Hong Kong!

As to the amendment of the Honourable Bruce LIU, I support his spirit in encouraging co-operation between the Hong Kong Government and the PC. The PC is also consulting the people of Hong Kong. Nevertheless, the establishment of the provisional legislature is an inevitable fact. Any further discussion on whether it should be set up is not practical at all.

Accordingly, I shall vote against Mr LIU's amendment and Mr LEUNG's motion.

Mr President, these are my remarks.

DR YEUNG SUM (in Cantonese): Mr President, I speak in support of the Honourable LEUNG Yiu-chung's motion, which considers that this Council should strongly condemn the Preparatory Committee (PC) tasked with the preparation for the formation of the Hong Kong Special Administrative Region (SAR) Government, because its members do not represent the Hong Kong people and it has been reduced to a tool manipulated under the Chinese Government's "we take the initiative" approach and the closed door operation. The motion also proposes that this Council should firmly resist the establishment of a provisional legislature because it would smother the democratic election of the SAR Legislative Council.

Mr President, of the 150 PC members, there might be some who are willing to stand up for the interests of Hong Kong and to reflect the views of the people of Hong Kong. In concluding that all of them are being reduced to a tool of manipulation, Mr LEUNG's motion tends to form the same judgement on everybody arbitrarily.

Mr President, to be fair, the benefit of the doubt should go to the PC, but

as a representative of public opinions, I have not been able to learn from media coverage how many of them could really speak for the interests of the Hong Kong people. Before the official meeting of the PC was held, I learned from the media that some PC members had expressed certain aspirations and made suggestions with a view to increasing the transparency of the PC, but when the resolution was made at the first official meeting of the PC, none of the members voted against the mode of operation of the PC.

Mr President, the Democratic Party has great reservation about the composition, rights and responsibilities as well as operation of the PC. Firstly, about the composition. The Democratic Party did publicly point out that the composition of the PC was essentially led by the industrial and commercial sector. What is most regrettable is that the PC rejected those with different political views. Furthermore, the formation process was hardly democratic. No wonder people still have a high degree of distrust over the representativeness and credibility of the PC today.

As for the rights and responsibilities, the Basic Law provides that the PC should be responsible for preparing for the formation of the SAR Government, but throughout the period from the Preliminary Working Committee to the PC, the PC's rights and responsibilities seem to have been greatly inflated, in contravention of the limit set by the Basic Law. Sources say that the PC would still operate for a period of time after 1997, as a result of which, the Government led by the future Chief Executive, the provisional legislature and the PC would coexist after 1 July 1997. This illustrates clearly that the rights and responsibilities would be all mixed up and serious duplication would arise.

Mr President, apart from the lack of representativeness, the main criticism against the PC since its inception has been its black-box mode of operation. The 150-member PC has resorted to the collective responsibility system and confidentiality rule of the "cabinet style", and even the normal press conferences are not held. There is absolutely no chance for the residents to learn about the operation of the PC as well as the words and deeds of the PC members, or monitor the operation of the entire PC.

Mr President, now the PC probably could only abide by the Chinese

Government's principle of "we take the initiative" and is responsible solely to China. It could not and dare not face the people of Hong Kong. This is really regrettable.

Mr President, there are views that since the Democratic Party has acknowledged the legality of the PC and has indicated its willingness to co-operate and communicate with the PC, to support Mr LEUNG Yiu-chung's motion in this Council this time is no less than depriving itself of the route for retreat.

Mr President, for the Democratic Party to acknowledge the PC's legality and indicate its willingness to co-operate and communicate with the PC is one thing, but to have reservation about the composition, rights and responsibilities as well as operation of the PC and pass condemnation of it is another. The Democratic Party judges a case entirely on its own merits and definitely will not adopt the attitude of "looking but not seeing and hearing but not listening" towards the shortcomings of the PC simply because it has acknowledged the PC's legality and indicated its willingness to co-operate and communicate with it. As to whether such an action would block the route for retreat, it is by no means something that the Democratic Party can control.

Mr President, while the Chinese Government has all along stressed the need for a smooth transition, it is ready to overthrow the Legislative Council created through democratic and open means in 1995. This is indeed self-contradictory. The provisional legislature is an illegal body, with its composition violating the Sino-British Joint Declaration and the Basic Law. The Democratic Party's stand on the provisional legislature remains unchanged. The Democratic Party is against the establishment of the provisional legislature.

Mr President, during the period from the Preliminary Working Committee to the PC, the problems of the Chinese Government's principle of "we take the initiative" have surfaced. If the Chinese Government continue to maintain this self-centred approach with no regard for other people's responses, the consequences would be very distressing even though it can resume its sovereignty over Hong Kong after 1997. Although the Chinese Government can regain its sovereignty over Hong Kong, but it might not necessarily win the Hong Kong people over. This is something that deserves to be deliberated by the Chinese Government and the PC.

Mr President, looking ahead, the Democratic Party proposes to fight for "a

high degree of autonomy", implement the system of "Hong Kong people ruling Hong Kong" and uphold the direction of "no retrogression and no backing away". We will work together with the Hong Kong people and encourage each other.

Mr President, I so submit. Members from the Democratic Party support Mr LEUNG Yiu-chung's motion.

Mr President, as the Democratic Party hopes that the first Chief Executive can be produced by popular election while the Honourable Bruce LIU's amendment only aims at a democratic selection of the Chief Executive, his amendment is not supported by the Democratic Party.

MR NGAI SHIU-KIT (in Cantonese): Mr President, the great British novelist, Charles DICKENS, writes in his masterpiece, *A Tale of Two Cities*, "It was the best of times, it was the worst of times". This is really the most appropriate description of the prevailing political scene of Hong Kong.

To most of the Hong Kong people who love China and Hong Kong and yearn for a stable and prosperous Hong Kong, the best moment will soon come. In less than 500 days, Hong Kong will be returned to the motherland. The people of Hong Kong are actively involved in the transition work and are making every effort to prepare for the formation of the post-1997 Hong Kong Special Administrative Region (SAR). To make our contribution towards the realization of a smooth transition is entirely in keeping with the interests and wishes of all the people of Hong Kong.

The Preparatory Committee (PC) of the SAR was set up in accordance with the Basic Law and has been authorized by the National People's Congress to assume the important historic mission of preparing for the formation of the SAR government. Within the short span of a month or so since its establishment, the people of Hong Kong have provided a lot of constructive and valuable views to the PC. Many sectoral bodies are enthusiastically discussing the nomination of representatives to join the future Selection Committee. There are even more people who generally care about and take part in the transition work. This proves that the work of the PC has made a good start.

At this critical moment, those who claim themselves to be "democrats" are

probably facing their worst scenario. Under the protection of the "three violation" constitutional reform package, the so-called "democrats" who have all along been hostile to the Basic Law and are fond of stirring up trouble have for a moment, indulged themselves in complacency and got carried away. They have politicized every issue discussed in this Council, turning the whole world up side down. What they have done is entirely against the overall interests of the people of Hong Kong and has ignored their wishes.

These self-seekers have almost come to the end of the foul path they have followed. Recently, Sino-British relations have somewhat improved and the British Government has indicated its willingness to resume friendly co-operation with the Chinese side over the Hong Kong issue. With the way for the transition of Hong Kong mostly paved, these people turn around and suddenly realize that their situation is as precarious as standing at the edge of a cliff, from which they might fall into the abyss and be destroyed. No wonder that at this very last moment, they are so scared as to have lost all control. Some go on the rampage, unleashing abuses and attacks. Some beg around on their knees, while some stake everything on one single action, attempting to put up the last fight.

Mr President, the Honourable LEUNG Yiu-chung's irrational "smearing" of the PC is weak and groundless, clearly indicative of the political ignorance of this "political novice". As the PC is a power organ authorized by the National People's Congress to make a number of major decisions on the preparation for the formation of the SAR, there are operational needs for it to implement the system of collective responsibility and confidentiality to enable it to effectively formulate policies. The accusation of "closed operation" is groundless and is meant to mislead the people of Hong Kong. What is most important is that the internal operation of the PC is entirely democratic in that members are free to put forth different views. Any decisions made are announced and explained in detail to the people of Hong Kong.

As to the issue of the provisional legislature, Mr LEUNG should know the reason too well. It is widely known that in proposing unilaterally the political reform package by Governor PATTEN, the British side destroyed the original "through train" mechanism with her own hands. It was on the major premise of ensuring a smooth transition for Hong Kong that the proposal for a provisional legislature was made. That Mr LEUNG should upset the sequence of events

and blatantly propose a direct election of the SAR Legislative Council in violation of the Basic Law only shows that he has harboured evil intentions.

At this time when the people of Hong Kong are yearning for social stability and economic prosperity, Mr LEUNG is making a vain attempt to go against the so-called democrats are jumping at every opportunity to claim themselves to be representing the people of Hong Kong and put on farces with themselves as the play-wright, director and actors, making a lot of noises and using the interests of the people of Hong Kong as their stakes. They are indeed contemptible wretches stirring up trouble. I feel sad and pity for them.

As for the Honourable Bruce LIU amendment, it is devoid of an essential principle in its attempt to please both sides. I will not support it either.

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

MR NGAN KAM-CHUEN (in Cantonese): Mr President, my speech will focus on discussing the issue of the provisional legislature.

The original motion accuses the provisional legislature of "smothering the democratic election of the Legislative Council of the Hong Kong Special Administrative Region (SAR), thereby subjecting it to the full manipulation of the Chinese Government" and therefore, firmly opposes it. We must first of all clarify the background against which the provisional legislature is to be created. We must not make groundless criticism.

As Governor PATTEN put forth the constitutional reform package which was against the Sino-British Joint Declaration, the Basic Law as well as the diplomatic exchanges between the Chinese Foreign Minister and the British Foreign Secretary concerning the election arrangements for Hong Kong during the transition period, the National People's Congress (NPC) announced that the formation of the last Legislative Council under British rule was at variance with the "Method for the Formation of the First Government and the First Legislative Council of the SAR" in the Basic Law. Accordingly, all the Legislative Council Members returned by the 1995 election cannot become members of the first SAR Legislative Council via a "through train". The importance of the legislature to the operation of the SAR Government is not to be questioned, but since the

"through train" arrangement could not be realized, thereby making it impossible for the first SAR Legislative Council to be elected in time before 1997 to start operation on 1 July 1997, the Preliminary Working Committee could but suggest the formation of a provisional legislature to resolve the problem. In other words, it can be said that the formation of the provisional legislature was forced by the British side.

Unless we want to see an unpredictable span of "legislative vacuum" after 1997, we must set up a provisional mechanism to attend to urgent legislative issues from the time the SAR is set up until the first Legislative Council officially starts operation. Such is the practical way forward. In fact, the options open to us in solving the problem are limited. They are: (1) To allow the NPC to legislate on behalf of the SAR; (2) To allow the Preparatory Committee (PC) to legislate on behalf of the SAR; (3) To let the SAR Chief Executive to legislate together with the Executive Council; and (4) To set up a provisional legislature.

The above four options can be assessed as follows. The assumption of legislative duties by the NPC on behalf of Hong Kong would give the people of Hong Kong a wrong impression that Beijing is making legislation on behalf of Hong Kong and that the principle of "a high degree of autonomy" will not be implemented. The assumption of legislative duties by the PC would be *ultra vires* on its part and would subject it to criticisms because its members are not all Hong Kong people. As for the assumption of legislative duties by the SAR Chief Executive together with the Executive Council, although it should not contradict the principle of "a high degree of autonomy", it is still not desirable because it would set a dangerous precedent of the Chief Executive's legislating on behalf of the legislature.

The Democratic Alliance for the Betterment of Hong Kong considers the establishment of a provisional legislature to be the only alternative. It is obviously more desirable than the other options too, but what must be noted is that the creation and tenure of the provisional legislature must be explicitly and reasonably defined and that its legality must be based on the "principle of necessity". Once the provisional legislature is set up, its functions should be confined to the handling of matters which are "urgent" and which "extremely necessary". In other words, it should only attend to urgent matters and those which can only be solved by the legislature.

Although there are criticisms that the formation of the provisional legislature has been covered in the Basic Law and the decision of the NPC concerning the creation of the first SAR Government and Legislative Council, the second clause of the decision of the NPC does stipulate that the PC should be responsible for preparing "matters related to" the establishment of the SAR. Accordingly, the alternative adopted in the absence of a "through train" should come within the category of "matters related to" and the formation of the provisional legislature is in line with the spirit of the Basic Law and the decision of the NPC.

The amendment proposes that the PC should be asked to "set up a broadly representative Selection Committee for the selection of the first Chief Executive in a democratic way as well as to form the first SAR Government and the first Legislative Council so that there is no need for the establishment of a provisional legislature". There were suggestions that Hong Kong should hold an election for the first SAR Legislative Council before 1997 and its term should begin from 1 July 1997. However, as the 1995 Legislative Council election regulation was not in compliance with the Basic Law, the Chinese Government could only decide "to set up another stove". This, coupled with the lack of full co-operation between the Chinese and British sides, has minimized the possibility of an election of the first Legislative Council before 1997.

We absolutely cannot tolerate a "vacuum" of any degree in the SAR. Legislative "vacuum" is quite different from the legislature in recess. At present, all the Hong Kong laws are still effective when the Legislative Council is in recess and the Council can resume anytime to take care of urgent business. However, in the circumstances that the SAR Legislative Council has not been created, it would be impossible for any urgent and necessary legislative business to be duly and quickly attended to. Moreover, there are some ordinances which might no longer be effective after 1997 because they are in violation of the Basic Law, and the lack of any replacement in time might give rise to a period of "gap" in the law.

In light of the above analysis and the expectation of the people of Hong Kong towards the realization of the principle of "a high degree of autonomy" after 1997, the formation of a provisional legislature is the only practical solution.

These are my remarks.

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

Preparatory Committee lacking representativeness

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

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

Working under a "Godfather" system

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

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

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

Legislative Council Members in Preparatory Committee should not forget their accountability

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

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

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

Objection to setting up Provisional Legislature

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

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

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

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

Mr President, whilst I support the need of Hong Kong and the frustration of the Hong Kong people as signified by the motion, I cannot at this initial stage condemn the integrity of the members of the PC especially those who are elected Members of this Council. I would therefore abstain from voting.

MR CHOY KAN-PUI (in Cantonese): Mr President, the Hong Kong Special Administrative Region (SAR) Preparatory Committee (PC) was set up in accordance with the Basic Law and the Decision of the National People's Congress (NPC). The PC is an organ of power under the NPC, responsible for the establishment of the SAR. The formation of the PC is entirely in line with the established legal procedure. Over 60% of the 150 members of the PC are Hong Kong members who are considerably representative of the various sectors, strata and community groups. Therefore, the PC is broadly representative. Through these Hong Kong members, views of the various sectors and strata will be effectively reflected in the PC.

When the PC was formed, Vice-Premier and Chairman of the PC, Mr QIAN Qichen, stressed that the work of the PC would be to implement the principle of "we take the initiative" which is targeted against the British. He pointed out that it was naturally hoped that the work of the PC would have full co-operation from the British side, but there should be no fanciful hope in that direction, all work would be the combined effort of all our compatriots, the 6 million Hong Kong people included.

Now that the PC has begun its work, I call upon all my colleagues in this Council to work together with all Hong Kong people in a positive manner, to reflect the wishes of Hong Kong people to the PC through the various channels available. Notwithstanding our different attitudes towards the PC as dictated by our different standpoints, the Sino-British Joint Declaration has made it amply clear that China will resume the exercise of sovereignty over Hong Kong after 30 June 1997 and that the PC is appointed by the highest of the Chinese authorities, that is the NPC, to be a working body for the establishment of the SAR. If we take a passive or negative view of the PC, we will only be forfeiting our right to voice our opinions and be blind to reality, totally useless in the smooth transition of Hong Kong and in realizing "Hong Kong people ruling Hong Kong".

Furthermore, I would like to take this opportunity to say a few words about the provisional legislature. During the time when the Basic Law was drafted, China, in accordance with the spirit that made possible by the Sino-British agreement, accepted the British proposal that the "through train" mode of

transition for the Legislative Council should be considered. Very regrettably, the British side changed its policies towards China and Hong Kong, in contravention of the understanding reached between the two nations, introduced the so-called "Patten political reform package", demolishing the track for the "through train" and thus denying the political system of Hong Kong of the "through train". It is in such unfortunate circumstances that the Chinese side could not but "build a new stove", to form the Hong Kong SAR legislature under the relevant provisions of the Basic Law. In order to avoid a legislative vacuum and to avoid having the Central Government to make laws for the SAR which will affect the spirit of "Hong Kong people ruling Hong Kong", forming a provisional legislature during the short period after the establishment of the SAR is after all a preferred compromise.

Mr President, these are my remarks.

MISS EMILY LAU (in Cantonese): Mr President, I speak in support of the Honourable LEUNG Yiu-chung's motion, and in opposition to the Honourable Bruce LIU's amendment.

When Mr LEUNG spoke just now, he showed us a cartoon. I also wish to mention a cartoon which was published in a newspaper towards the end of last year when the Preparatory Committee (PC) was about to be formed. I think a good cartoon is worth thousands of words. The setting of the cartoon was the closing ceremony of the Preliminary Working Committee (PWC), with a banner carrying the words "Closing Ceremony of the Preliminary Working Committee". These words however were crossed out and in their place were written the words "Inauguration Ceremony of the Preparatory Committee". Naturally, in several weeks' time when the PC was formed, we could see those who sat on the PWC were almost all there, only a few new faces were added.

Mr President, we always talk about PWC members, what does that really mean? It simply means "predesignated membership" of the PC, with other memberships to come in the future. They as a group have embarked on a smooth journey up the political hierarchy, many opportunities await them. The problem is that we are very much worried right now whether these people will represent the wish of the people of Hong Kong. In point of fact, if they wish to make money, wish to do anything, there is nothing bad about that. However, if they sell out the interests of Hong Kong people, say something that will make Hong Kong people feel much offended, we will then be extremely angry. Mr

President, we therefore will support Mr LEUNG's motion today.

Though it has been said the PC finds its basis in the Basic Law, we can see that it is only the reincarnation of the PWC in a new body, with a few new members. Many of the undesirable proposals, such as the reinstatement of the draconian colonial laws and the formation of a provisional legislature, were made by the PWC. The Chinese Government also remarked that such proposals were a manifestation of the Chinese stand. I think that the PC will probably accept these proposals in total. We will know soon enough whether my opinion is right or wrong.

Still other people try to have us believe that the PC has its own brain, it will do things its own way. I for one also hope that you can prove what I think is wrong. If the PC really works for the good of Hong Kong people, is truly independent, and is capable of overruling the proposals of the PWC and convincing the Chinese Government, Mr President, I will come out to make an apology and to admit that I have been wrong. However, at present, the various developments as witnessed have made us pessimistic, and made us feel that these PC members are just a collective rubber stamp, rubber-stamping at least 99.1% of PWC proposals, if not all 100% of them. This has us very much worried. That is why even at this early stage we already feel that we can support the motion of Mr LEUNG Yiu-chung, so as to express our extremely pessimistic views regarding this group of people. Therefore, I hope that members of the PC can show us that this view of ours is wrong, and show us that you will not be

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

MISS EMILY LAU (in Cantonese): Mr President, I hope that through you members of the PC can hear this. They can show the people of Hong Kong that they will not be led by the nose by the Chinese communist authorities; that they have their independent views and independent brains; that they are not an instrument of anybody; and that they will really reflect the wishes and interests of the people of Hong Kong. I hope that, through you, Mr President, this group of PC members can hear very clearly and will in the several weeks, months ahead prove with their words and deeds that our pessimistic thinking today is totally wrong.

Mr President, I wish to mention the representativeness of the PC. Just now, Mr LEUNG Yiu-chung observed that the absolute majority of the members of the Committee are from the business and professional sectors, and I do not think I need to say any more. However, I wish to point out that at present all their attention is focused on "gaining a seat", hoping to join the 400-member Selection Committee, and the contest among professional bodies has, in particular, already become very heated. Nevertheless, some members of these professional bodies recently said that the Chinese authorities had told them not to put forward openly their proposals about how this 400-member Selection Committee should be formed. Therefore, they felt rather disheartened. They had thought that they were working in an active way, but the Chinese Government wanted them not to have any open discussion on the issue. They as a result think that there is probably not much they can do, because the order of the day is to receive orders from the top. Though these people had the privilege of being appointed, they have surprisingly said that they are disheartened.

Furthermore, the PC has said that it will listen to the views of Hong Kong people and will launch a consultation exercise around April. But we also heard that the PC would arrive at a formal decision on the issue of the provisional legislature in this very month. On the one hand they said they would listen to views, but on the other hand things are said to have been decided. What would the people of Hong Kong think? If this turns out to be true, would they still want to listen to the opinions of Hong Kong people? I believe that the PC members in fact can have a lot of things to do. I hope that in the several months to come, they will put in some solid efforts to show us that all our remarks today are shooting at nothing, and all our worries are unnecessary. In that case I believe the people of Hong Kong would admit sorry, would admit that what we said was wrong, and we did make premature criticism. And then you will not be what we now say you are.

Mr President, I also oppose the amendment of Mr Bruce LIU. His amendment in fact has the same intent as the motion I put forward in January that the Chief Executive and the legislature be elected by universal suffrage. To be honest, the Association for Democracy and People's Livelihood (ADPL) only works under the cloak of democracy. It softly criticizes the Chinese Government but helps in a big way in securing the acceptance of the totally undemocratic policies of the Chinese Government. The ADPL chairman once said he was the only democrat among democrats. Therefore, I have to condemn the ADPL here: Do not ever lie to the people of Hong Kong

PRESIDENT: Miss LAU, please retract the last phrase.

MISS EMILY LAU (in Cantonese): Is that the phrase about condemning the ADPL? Well

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

MISS EMILY LAU (in Cantonese): I said they put on the cloak of democracy and cheated the people of Hong Kong. If you think it was not proper for me to say so, I can only say sorry. I would like to continue now as my speaking time is running short. Since you have used a few minutes of my speaking time, may I respond now to the opinions raised by Mr NGAI Shiu-kit?

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

MISS EMILY LAU (in Cantonese): If that is really what I think, Mr President, what else can I say? Do you want me to lie in the Legislative Council?

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

MISS EMILY LAU (in Cantonese): Just now the Honourable NGAI Shiu-kit condemned us democrats, saying that by doing something to fight for democracy, we fell into an abyss, and we are now making our final struggle or deathbed struggle. I can tell Mr NGAI that among us democrats, many do not have political ambition as some people do. We sleep peacefully every night, because we work for the people of Hong Kong. We are all composed and have a clean conscience. If you people feel that you can represent Hong Kong people as we are, you are welcome to run against us in an election once more.

With these remarks, I oppose the amendment and support the original motion.

MR LO SUK-CHING (in Cantonese): Mr President, the Preparatory Committee of the Hong Kong Special Administrative Region (SAR) was established in accordance with the Basic Law to, on behalf of the Chinese Government make preparations for the establishment of the SAR. The preparations for the establishment of the SAR include the preparatory work in the three aspects of the legislature, the executive and the judiciary. Members of the Preparatory Committee (PC) were appointed by the Standing Committee of the National People's Congress (NPC), the standing organ of the highest authority in China. In other words, the PC is an institution of authority under the Standing Committee of the NPC.

Under normal circumstances, the peaceful transfer of political power is discussed and decided by the two governments involved and be executed by the relevant government departments. In view of the fact that after the transfer of political power in 1997, Hong Kong is to practise the "one country, two systems" arrangements, and to fully realize the promise of "Hong Kong people administering Hong Kong", the Basic Law provides that Hong Kong members constitute over half of the membership of the PC. As a matter of fact, Hong Kong members not only represent over half of the membership, but over three-fifths.

Mainland members are mostly officials of the relevant departments in the Central Government concerned with the taking over of the political power, and

on the other hand Hong Kong members are people of certain standing and representativeness in various trades and sectors, social strata and community groups. This composition will ensure the PC has sufficient capability to establish the SAR on the one hand, and on the other hand ensure that in each and every decision process there are adequate channels to fully reflect the wishes and views of the people of Hong Kong. I sincerely hope that members of the local community will actively express their views to the PC; that the Hong Kong members of the PC will spare no effort in collecting the views and truly passing on the wishes of the trades and sectors to which they belong, and those of the majority of the people of Hong Kong; and that decisions of the PC will be made having full regard for such wishes and views. This will build a solid cornerstone for "Hong Kong people administering Hong Kong" and "a high degree of autonomy" after 1997.

I would also like to talk about the issue of "we take the initiative" as stressed by the Chinese side. This principle has been targeted at the British. It is a policy the Chinese side formulated after getting experience from dealing with the British. Since the signing of the Sino-British Joint Declaration, the Chinese side used to hold a sincere and co-operative attitude towards discussing the various issues and arrangements involving the transition with the British, including the arrangement of a "through train" for the political institutions. We still recall that the Basic Law Drafting Committee deferred its decision on the part on political structure at the last moment when the Basic Law was being finalized so as to await an agreement between China and Britain on political system, so as to realize a transition with "through train". As a result, there is no specific provision in the Basic Law for the constitution of the first legislative council. Unfortunately, the British turned out to be perfidious and, against the spirit behind the agreement reached between the two nations, the Basic Law and the Sino-British Joint Declaration, proposed a political package that was a "triple contravention". Even in the face of such perfidy, in order to achieve a smooth transition in Hong Kong, the Chinese side still tried to negotiate with the British with the utmost sincerity and co-operation. When a first agreement was about to be reached, the British overturned the negotiation table, and submitted its political package intact for adoption by the Legislative Council. In the circumstances, the "through train" arrangement was destroyed by the British. This experience made the Chinese side realize again that the British were not reliable. It was thus up to China alone to ensure a smooth transition in Hong Kong, and up to all the Chinese, including the 6 million compatriots in Hong Kong, to work together to achieve such goal. This is the story behind the principle of "we take the initiative". Naturally, under this principle of "we take

the initiative", the British and all people concerned are still welcome to work together for the smooth transition and continued stability and prosperity of Hong Kong.

Hong Kong has always been Chinese territory. According to the Sino-British Joint Declaration, the political power of Hong Kong will be handed over by the British to China direct, and the 6 million compatriots in Hong Kong will return to the fold of the big family of the Chinese nation. This is not to be stopped, or interfered, by any force, any people. I would call upon all my colleagues not to ignore this fact, not to unwisely seek to act against the Joint Declaration. It is hoped that we all will work positively together with the PC for the smooth transition of Hong Kong, for the well-being of the 6 million people of Hong Kong.

Mr President, these are my remarks.

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

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

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

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

on.

The motion asserts that, because of its unrepresentativeness, its unfortunate mode of operation and this phrase "以我為主", the PC is degenerating into an instrument of manipulation, and that this Council should therefore condemn the PC. I also agree with Dr the Honourable LEONG Che-hung that perhaps this is just going a little too far at this moment. It may be preferable if the motion had expressed the public's fear that the PC could become an instrument of manipulation and hold off condemning it for the time being. There are Members of this Council, including myself, and many community groups who are actively lobbying the PC sub-groups and the members to put their views across. It may be that on some of these issues at least, and I certainly hope that will be the case, the PC will make decisions which are in accord with public opinion. It seems inappropriate, therefore, to me to condemn the PC now when it is still at a fairly early stage of its deliberation.

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

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

MR CHIM PUI-CHUNG (in Cantonese): Mr President, today's motion may be regarded as one of a series of motions. It follows the motion on 60 directly-elected seats on 29 June 1994 and the one on the election of the Special Administration Region Chief Executive which had a tie of 26 votes to 26 votes. This is Part Three, and there may a Part Four or even Part Five, for all I know.

I originally did not want to say too much on these issues, because all our stands and views are already amply clear, and known to members of the public. However, if I, being a Member of the Legislative Council, refrain from speaking on all things, people would say that CHIM Pui-chung is keeping too low a profile. Therefore I would like to express my views again.

First, we have to orientate ourselves to the latest international situation, including the issue of Taiwan. Undeniably, since the Chinese Communist Party liberated China, Taiwan has been under the direct rule of the Kuomintang for 47 years. Before that, the island was under Japanese rule for almost 50 years. Therefore, some of the Taiwanese do not have any root in China. They lack any feeling towards China, and they also lack a sense of being Chinese. Thus in order to succeed in the election on 23 March, Mr LEE Teng-hui had to adjust his policy towards the thinking of an independent Taiwan. This we can understand.

As far as Hong Kong is concerned, we also understand that the political reality is that British rule has been here for as long as over 150 years and that many people came here by various routes after the Chinese Communist Party liberated China, either by smuggling themselves across the border, or by making lawful applications. This has caused a psychological imbalance. Apart from this, the education some young people have received is colonial education. Many people and the younger generation all say they are Hongkongers. But we must not forget that Hong Kong, like Taiwan, is beyond any doubt an inseverable part of the Chinese sovereign territory. We are different from Singapore in that though most of the people there are ethnic Chinese, they can justly claim that they are Singaporeans. Therefore, the young people of Hong Kong should learn from this historical lesson and this fact, as this will enable them to get a more proper and direct perspective that is closer to fact when they

start their future careers or in analyzing various things and social issues.

Democratic aspiration is no doubt very strong worldwide, and I believe that Hong Kong people are definitely not against it. However, we must at the same time have a more thorough understanding of human rights and the various aspects of China. Only thus can we be a bit happier in the future, and have a better and more correct understanding of the future. Those who devote themselves to insignificant endeavours, those who embrace idealistic political policies, and those who think that they have mass support are all being fanciful, and cannot stand the test of reality.

I once had an analytical discussion with the Chinese leaders concerned and concluded that after 1997 Hong Kong would face three problems. The first is political, the second is economic and the third is financial. Naturally, on the political front, Hong Kong after 1997 is already in the pocket of the Chinese Government, because the British Government will hand over the governance of Hong Kong to China, but not direct to Hong Kong people as referred to in the so-called "Hong Kong people ruling Hong Kong" or those who hope to be those Hong Kong people ruling Hong Kong. After the handing over of the power to China, it will be up to China as to whom that power will be given. If there are Hong Kong people cannot accept, or cannot bear, or cannot understand this fact, then leave Hong Kong, leave Hong Kong together with the great British Government that has governed Hong Kong for over 150 years. The Chinese Government will definitely not want to retain those who are against China in thought or in ideology. But the Chinese Government will definitely be willing to listen to dissenting views of Hong Kong people on certain matters, but not to vicious attack or slanderous comments.

Even the American Government, reputed to be the strongest political power in the world, dare not attempt to pull political tricks on China. In its recent military exercises, the United States could only demonstrate that its military might was superior to that of China. She only dares to confront China with military power or economic might; but it would never dare to confront China politically. So what chance will Hong Kong people have? Those who claim to be politicians in Hong Kong should not take this approach and annoy the people of Hong Kong. We should clearly tell the Chinese Government where the problems lie, offer views of goodwill, and not, as some newspapers have suggested, make criticisms, irrespective of their possible acceptance by the

Chinese Government, because, they say, they are here to criticize and not to offer suggestions. How would such rashness be anything dreaded by the Chinese Government? Even if all the 6 million people are really united, they constitute only a mere 0.5% of China's population of 1.2 billion. So what good can this bring?

Secondly, on the economic front, since China adopted its open policy 17 years ago, some Hong Kong people have benefited from it tremendously, and they will work better in the future to match the development. What we are concerned or worried about are the future financial matters. We are worried that foreign governments will establish, financially, an "alternative colony" in Hong Kong.

Coming back to today's motion debate, the Honourable LEUNG Yiu-chung has ignored the views of his two colleagues from the labour sector. Among Members of the Legislative Council, 14 are also members of the Preparatory Committee (PC), representing over 15% of this Council's membership. To propose such a motion is not to exchange views, but to attack each other. What does he hope to gain? I am not a PC member and thus not a target of the arrows aimed at the 14 Members, and therefore I do not feel hurt. Nevertheless, in political reality, it is detrimental to the future of Hong Kong to stir up too much unnecessary hostility in our community. It is not good also to the relationship among Members of this Council.

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

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

The cornerstone of Hong Kong's success is founded on the bedrock of the rule of law. This current legislature is based on the law passed by the legislature in 1994. Some Members of this Honourable Council today were also Members of that Council in 1994. It is my belief that the law currently in force today is entirely compatible with the Sino-British Joint Declaration and the Basic Law. The Sino-British Joint Declaration is a treaty lodged with the United Nations. It should be honoured. As provided under that treaty, we should all accept the transfer of sovereignty from Britain to China and also accept the

concept of "one country, two systems" under the high degree of autonomy promised under the Basic Law. I submit that the proposed establishment of a provisional legislature is not provided for under Hong Kong Law or the Basic Law, and if accepted it will toss out the rule of law. This will be the worst of times.

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

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

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

MR ALBERT HO (in Cantonese): Mr President, I recall that some 10 years ago in the early 1980s, many of the democrats and myself were the first to stand out to support the democratic return of Hong Kong to China. At that time, the agreement on the future of Hong Kong was not yet reached between the Chinese

and British Governments. At that time, Hong Kong was in chaos and a huge shadow hung over its future. Many people went to the supermarkets to stock up rice, and the Hong Kong dollar exchange rate fell to \$9.5 against US \$1. At that time, many people did not approve of our action, they even lashed at us, saying that we were leftist, naive, and were trying to undermine the prosperity of Hong Kong; they even labelled us as pro-Communist and currying favour with the Communists. We are still hearing a lot of such attacks up to the present time. I have a feeling that those who are condemning us in the most vicious way are the same people who attacked us in the early 1980s. Perhaps they have now turned into patriots. But during those days in the early 1980s when Hong Kong faced its biggest ever challenge, its biggest ever crisis, they bought US dollars, or sought a foreign passport. Is it that once they have become patriots, as they do now, they feel that we are disrupting Hong Kong or that we are not patriotic? Honourable Members, I believe the people of Hong Kong are fair and know better.

During the past decade or so, we have been firmly supporting the democratic return of Hong Kong to China, believing that "one country, two systems" and "a high degree of autonomy" must be built on the bedrock of a democratic political structure, because only such a structure can protect human rights and the rule of law, can ensure the operation of, and fair competition in, the capitalist market economy in Hong Kong, can produce the talents for our autonomous government, can safeguard the form of society and legal system we so uniquely possess under the "one country, two systems" arrangement. We have all along been striving for the gradual establishment of a democratic structure during the transition period with a view to implementing the provisions in the Sino-British Joint Declaration. The process of democratization should proceed in parallel with the process of decolonization and they should conclude at the same time in leading the return of Hong Kong to China on a democratic base.

However, we regret that during this period of time, the road taken by the Chinese Government has not only been deviating from the above goals, but it has been actually falling backwards, and even going in the opposite direction. Starting from the mid-1980s the Chinese Government has criticized us for resisting communism with democracy, or for trying to build an independent political entity. It then progressed to opposing the direct election in 1988, and formulated the undemocratic Basic Law. In the early 1990s, the Preliminary Working Committee (PWC) went a step further in proposing the repealing of the

Bill of Rights, the reinstatement of the draconian colonial laws. Very lately, the Preparatory Committee (PC) started its operation in a conservative way and behind closed doors. Now they again insist on demolishing the "through train" to form a provisional legislature that is both against the Joint Declaration and the Basic Law. All these moves have made us very indignant.

Actually, no matter how it is interpreted, what the approach of "we take the initiative" reflects is a mentality of "we are the greatest" and "being extremely conceited". This "we" is a "we" who cannot accommodate people with different political views and the masses of the public, and even, I believe, those within their system but who cannot follow closely enough the leadership and will of the central authorities. The secretive and conservative style of the PC and its mode of operation have been castigated by people of various sectors, and I do not wish to repeat the words of many of my colleagues here. The collective responsibility system has stifled dissenting views that would otherwise continue to make constructive contribution as positive criticism, with the result that wrong policies that have temporarily gained a majority support would not be reconsidered, reviewed and revised. The collective responsibility system in fact acts counter to the spirit and principle of their so-claimed democratic operation.

The work of the PC is for all to see, and I do not need to make any more criticism here. But let me ask a question, what can we expect from such a PC that lacks representativeness? What sort of a Selection Committee will it produce? Can the Chief Executive and the provisional legislature it so produces really win the trust and support of the people of Hong Kong? Can they safeguard the interests of Hong Kong people? Will any election conducted in the future be really an election in the true sense of the word? Therefore, to sum up, I must say that no matter how it works and how it is constituted, the provisional legislature will definitely be a product that is against the Joint Declaration. If we support the rule of law, we will find ourselves unable to support such a body.

Honourable Members, in "one country, two systems", I would stress that the "two systems" must be based on an institutionalized relationship, and not on personal relations. Unfortunately, the system instituted by the Chinese side has clearly ruled that they can only accommodate those people who love the country, love Hong Kong, and are acceptable to the Chinese side. In point of fact, they are only choosing those who they can rely on, can trust, and believe to be friendly and politically acceptable partners. More frankly speaking, they need

the leadership in Hong Kong, that is those they have chosen, to understand the will of the central authorities, to toe closely the line of the central authorities and to abide by instructions from the central authorities at some crucial moments and over some significant issues. How, may I ask, can such leadership possibly build Hong Kong and safeguard "one country, two systems"?

The biggest problem is, can such leaders of Hong Kong who have been the products of such personal relationship have the courage, wisdom and capability to make decisions on significant issues that involve social, political and economic conflicts? It is possible that in the future everything will be submitted to the Central Government, and all local political conflicts must be reported to the Central Government for resolutions. In that case, the Central Government will be terribly busy indeed. On the other hand, if there happens to be any political disagreement in the Central Government, then many things will be without a decision. Thus, politics in the Central Government will then unfortunately affect our Special Administration Region that is supposed to have a high degree of autonomy. What we do not want to see is a situation that no decision could be made here and everything has to be decided by the Central Government.

Mr President, for the above reasons, I support the motion of the Honourable LEUNG Yiu-chung and oppose the amendment of the Honourable Bruce LIU.

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

MR CHAN WING-CHAN (in Cantonese): Mr Deputy, since the start of the current Legislative Council session last October, there have been no fewer than three motion debates on the Preliminary Working Committee (PWC) and the Preparatory Committee (PC) of the Hong Kong Special Administrative Region (SAR), namely the Honourable Albert HO's motion on the PWC Legal Sub-group's proposals, the Honourable Miss Emily LAU's motion on the shadow government and today's motion on the PC of the SAR. Whether by coincidence or otherwise, the three motions are all couched in terms designed to put the PWC

and the PC in a negative light. And the present motion moved by the Honourable LEUNG Yiu-chung is premised on a series of presumptions into the bargain.

The motion says "members of the PC do not represent the people of Hong Kong". PC chairman Mr QIAN Qichen already emphasized at the inaugural meeting of the PC that the PC represents the State in carrying out the preparatory work in respect of the SAR. The decisions the PC members make and the functions they discharge should be based on the overall interests of the State and of Hong Kong and proceed from the practical needs attendant on the resumption of sovereignty. They should have regard to the overall long-term interests of the State and of Hong Kong. Mr QIAN also proposed at the closing session of the PWC the principle of "we take the initiative". He further pointed out that, throughout the preparation process in respect of the SAR, the PC must "face and rely on Hong Kong people" in order to create conditions for "participation by Hong Kong people".

The statement by the Chinese Government regarding the principle of "we take the initiative" is addressed to the British side. The "we" refers to the Chinese people, including Hong Kong people. The meaning of this statement is: "In preparing to set up the SAR, we have to rely mainly on ourselves and the co-operation between Hong Kong people and the Chinese Government. We cannot rely on the British." In proposing this principle, Chinese officials emphasized that they were not against co-operation with the British side. They conceded that co-operation with the British side would be conducive to Hong Kong's smooth transition but they said they could not pin all their hopes on the British Government. I believe Members of this Council will agree with this. Mr LEUNG Yiu-chung has construed the statement "we take the initiative" to mean that the Chinese Government is disregarding and slighting Hong Kong people. This is a distortion of the original meaning of the statement.

As regards the reconstitution of the legislature, I would like to clarify here again that the constitutional status of our present legislature derives from the Letters Patent. After the setting up of the SAR next year, its legislature will be constituted and will operate according to the Basic Law. The post-1997 legislature will be different in nature from its predecessor that has existed before the handover of sovereignty in 1997. Its powers and functions will also be different. For example, the system of checks and balances between the future SAR legislature and the Chief Executive will be different from the existing

system of checks and balances between the present Legislative Council and the Governor. Therefore, it will be impossible for the pre-1997 Legislative Council to automatically carry on as the first legislature of the SAR.

The British Government knows full well that the Joint Declaration has not provided for a "through train" for the legislature. However, during the drafting process of the Basic Law, the concept of a "through train" was proposed out of a genuine desire to have a smooth transition. If the pre-1997 Legislative Council in its last term was constituted in such a way as to converge with the Basic Law and its Members could meet the requirements specified in the Basic Law, then they would become, subject to a confirmation procedure, Members of the first legislature of the SAR. This would avoid having to hold elections to the legislature immediately after the setting up of the SAR.

Unfortunately, as we all see, the course of events during the past few years has blighted our genuine desire to have a "through train". In 1993, the Chinese and British Governments held 17 rounds of talks on the transition of the three-tier councils but no agreement was reached. Under these circumstances, the British side absolutely has no right to fix for the Legislative Council constituted under British rule a term that goes beyond 1997. After the setting up of the SAR, the first legislature must be elected according to the provisions of the Basic Law.

The National People's Congress (NPC) of China has proclaimed that the way the last Legislative Council of Hong Kong was constituted in 1995 under British rule is in breach of the provisions of the Basic Law regarding the constitution of the first Government and legislature of the SAR. Therefore, no Member elected to the Legislative Council in 1995 shall ride the through train to become a Member of the first legislature of the SAR.

Since the "through train" arrangement cannot be implemented and since the first legislature of the SAR cannot be set up on 1 July 1997, the PWC, having regard to the fact that a new government cannot function without a legislature, proposed that a provisional legislature be put in place in order to enact legislation during the inception of the SAR. That being the case, it can be said that the provisional legislature is the result of the British side taking unilateral action in respect of the electoral arrangements. There being no other alternative, the provisional legislature will have to be set up.

The Democratic Alliance for the Betterment of Hong Kong (DAB) has all along identified smooth transition as one of its prime targets of endeavour. The DAB called upon the Chinese and British sides to co-operate and, during the course of Sino-British talks, actually put forward a package of proposals aimed at achieving convergence. Regrettably, those who are stridently crying for a "through train" today did not support convergence. They were even against it and against talks held between the Chinese and British sides. When the Sino-British talks broke down, they clapped their hands in applause.

Mr Deputy, the NPC has vested the PC with powers to make preparations for the setting up of the SAR. Whether it can smoothly carry out this task will determine if "one country, two systems" and "Hong Kong people ruling Hong Kong" will have a good start. Mr LEUNG has premised his arguments on distorted facts and adopted a confrontational attitude towards the PC. This is absolutely not in the interests of Hong Kong people.

There are 475 days to go before Hong Kong will revert to the motherland. On the road to this eventual reversion, the most pressing task now is to prepare for the setting up of the SAR. As Hong Kong people who love the motherland and Hong Kong, we should positively and zealously support the PC in relation to its multifarious tasks and duties.

Thank you, Mr Deputy.

MR YUM SIN-LING (in Cantonese): Mr Deputy, the Preparatory Committee (PC) of the Special Administrative Region (SAR) has been the subject of criticism from various quarters since it was set up last January.

In terms of its composition, the PC suffers from some congenital defects. It is because its members are appointed by the Chinese side and the committee itself lacks broad-based representation. It is a known fact that Chinese representatives on the committee, of whom a few are from the Hong Kong and Macau Affairs Office, will not go against the wishes of their master. The other members will probably adopt a relatively conservative stance. And of the 94 PC members from Hong Kong, most are wealthy businessmen, or pro-China professionals and political figures. Most of them have direct or indirect

business or personal interests in the Mainland and they tend to speak to please the Chinese side in disregard of the wishes of the majority of Hong Kong people. Many of these members are busy people and will probably have no time to listen to views from various sectors of society. Also, because of their limited contacts, they may not have adequate communication with the grass-roots people. A case in point was that when social welfare services were still glaringly inadequate, some people presented their one-sided views to the Chinese side and this gave rise to the theory of "a car crashing and people getting killed". We can infer from this that there is indeed a cause for worry lest the views of Hong Kong people as reflected by the PC should be biased.

In terms of its operation, the PC suffers from maladjustment right from its inception. Strict rules of confidentiality apply to its meetings and sometimes even its agenda are not made public. After the meetings, no information is released. Neither the media nor the general public have any means of knowing how the PC, which is vested with substantive powers to shape Hong Kong's future, will decide their future, let alone carrying out monitoring of any sort.

According to press reports, some PC members have confirmed that they have been warned not to leak or divulge information. But other members have indicated that if the rule of confidentiality is to apply to just about everything, it will be impossible to seek and collect public views. It can thus be seen that this strict rule of confidentiality is open to question. Of course, some people may point out that the Hong Kong Executive Council also adopts the system of collective responsibility. But the Executive Council functions within a framework which is to a large extent transparent. Members of the public know of the subjects being discussed by the Council, their implications, their bearing on government policies and the final proposals. Therefore, the PC and the Executive Council are not comparable bodies.

Chinese Foreign Minister Mr QIAN Qichen has stated that the PC should extensively consult the public and proposed the slogan "We take the initiative and face the people of Hong Kong". But what the PC appears to be doing now is "We take the initiative, turn our back on Hong Kong people and keep everything under wraps". This *modus operandi* can hardly manifest the spirit and principle of "one country, two systems; Hong Kong people ruling Hong Kong; and a high degree of autonomy".

PC member the Honourable Frederick FUNG of the Hong Kong

Association for Democracy and People's Livelihood (ADPL), keenly aware of the daunting task before him, nevertheless accepted the offer of appointment. His courage is most commendable. He attempted to break the close-knit nature of the PC's organizational structure in order to present views of a different shade or colour. But it seems that he has been unsuccessful. Is the failure due to his lack of expertise in this regard or to the undemocratic and closed nature of the PC's structure and mode of operation? I believe it is the latter.

The Honourable Bruce LIU is proposing an amendment to the Honourable LEUNG Yiu-chung's motion. He has taken great pains to phrase his amendment which attempts to tone down the rather vitriolic wording in the original motion. We agree that this mellowed way of expression has its practical consideration. However such a mellowed style should be reserved for use after 1997. Before 1997, we would do well to deliver our advice in direct and point-blank language. Of course, point-blank advice is often not too pleasing to hear, or can even be harrowing to the ear. But Chinese history teems with personalities who were bold enough to offer point-blank advice to their superiors. In today's world where democracy is holding sway, Mr LEUNG and his likes who offer point-blank advice are indeed people we cannot do without.

As a matter of fact, on the one hand the proposed amendment urges the PC to listen to the people of Hong Kong and enhance the transparency of its operation and decision-making process but on the other hand it avoids pointing out the shortcomings of the PC. The way the amendment is worded is indicative of the painstaking effort the proposer took in framing it. I am not against the ADPL's adroitness in attempting to score a victory on a technical point. But the reference in the ADPL's amendment to the provisional legislature is vague in that it only says there is no need to set up a provisional legislature without stating the specific grounds of objection. This omission is particularly glaring because a Hong Kong deputy to the National People's Congress (NPC) has publicly pointed out that the NPC has not vested the PC with the power to set up a provisional legislature and hence the provisional legislature may be illegal. Be that as it may, Mr Bruce LIU has proposed a fresh ideal. But if, in

establishing the Selection Committee, the PC should follow the line taken by the Preliminary Working Committee then the "medication" would be more or less the same with little substantive change in it.

Therefore, I will abstain on the ADPL's proposed amendment. Mr LEUNG Yiu-chung's motion, though couched in rather vitriolic terms, is nevertheless worth supporting.

Thank you, Mr Deputy.

MR AMBROSE LAU (in Cantonese): Mr Deputy, there are 475 days to go before sovereignty reversion. A lot of preparatory work associated with the setting up of the Hong Kong Special Administrative Region (SAR) still requires Hong Kong people's participation. We should be united and in a positive manner assist the Preparatory Committee (PC) in setting up, pursuant to the Basic Law, an SAR which will cater to the best interests of Hong Kong people.

The PC is a decision-making organ set up by the National People's Congress (NPC). It is charged with the responsibility of preparing for the setting up of the SAR. The PC's terms of reference and manner of operation are within the domains of China's internal affairs. The Legislative Council of Hong Kong is constituted pursuant to the Letters Patent and its function is to assist the Governor in enacting laws for the territory.

The subject canvassed in the present motion goes beyond the powers of Members of this Council in that it seeks to interfere with matters which lie within the domains of Chinese sovereignty and internal affairs. This is tantamount to stirring up trouble where none existed, attempting to sow seeds of discord between Hong Kong people and the Chinese Government and attempting to create grudges among Hong Kong people and between Hong Kong people and the Chinese Government. A literary figure of the Song Dynasty, SU Zhe, once said, "He who does not understand the paramount truth will be bewildered and act indiscriminately. This will cause trouble where none existed and close relatives will become enemies." This saying is an apt description of the present motion.

"Might will determine who is more powerful over the short term; but truth will determine who is the victor over the long term". The British government, banking on its power of governance over Hong Kong before 1997, unilaterally terminated the Sino-British talks on Hong Kong's political system and scuppered the "through train" arrangement. The Chinese Government and the SAR PC are left with no alternative but to adopt the principle of "we take the initiative" in preparing to set up the SAR. And this orientation will cover the manner in which the PC will set up the provisional legislature. I am of the view that it is unwise of the British Government to refuse to co-operate with China by taking advantage of its own power of governance over Hong Kong in the short term. This is in breach of the Joint Declaration which provides that China and the United Kingdom must closely co-operate for the purpose of a smooth transition and handover of government authority.

I hope that Members of this Council will view the matter from the angle of Sino-British co-operation for the purpose of a smooth transition and refrain from stirring up trouble where none existed. It is a known fact that the "we" in the principle of "we take the initiative" adopted by the Chinese side refers to all the Chinese people including Hong Kong people. Members of this Council should actively present their views and suggestions to the PC in their capacity as Hong Kong people, not in the capacity as Members of this Council. People who want to exclude themselves from the "we" in the "we take the initiative" maxim do not really understand the implicit meaning it bears on the state and the nation.

As regards the system of collective responsibility and confidentiality adopted by the PC, this is a decision arrived at having regard to the PC's status as a power organ. The adoption of the system will avoid the scenario of no resolution being taken on the subjects discussed, or resolution not being acted on, or diverse and conflicting views being expressed simultaneously. The system should not be likened to "a closed mode of operation". The Executive Council of Hong Kong also adopts the system of collective responsibility and confidentiality. This is a universal system adopted by power and decision-making organs throughout the world. It should not be randomly carped at, should it?

The PC is studying ways and means of setting up a provisional legislature. This is because the British Government scuppered the "through train" arrangement which has made it difficult for the first Legislative Council of the SAR to be set up on 1 July 1997. The legislature will have the responsibility to

carry out a number of tasks in the course of preparing for and setting up the SAR, such as making joint nominations of Hong Kong members to the Basic Law Committee, approving the appointment or removal of judges of the Court of Final Appeal and the Chief Justice of the Supreme Court, scrutinizing and adopting the Budget, approving revenue measures and public expenditure, and enacting laws necessary to ensure the smooth transition and normal operation of the Government. Before the first Legislative Council comes into being, if the aforesaid tasks are performed by the NPC Standing Committee, the PC or the Chief Executive, certain problems will arise. On balance, the setting up of a provisional legislature will be the most appropriate option to manifest "Hong Kong people ruling Hong Kong" and "a high degree of autonomy". To give effect to "one country, two systems" and "Hong Kong people ruling Hong Kong", we must rely on mutual communication and solidarity. Knowing the paramount truth, we will understand that negative criticism will only turn "relatives into enemies". I hope Members of this Council and the general public will positively assist the PC and jointly build a promising tomorrow.

I so submit, Mr Deputy.

MR FREDERICK FUNG (in Cantonese): Mr Deputy, with regard to the present motion, the Honourable Bruce LIU has basically stated, on behalf of myself and the Hong Kong Association for Democracy and People's Livelihood (ADPL), our stance, views as well as what we expect of the Preparatory Committee (PC) and China.

I would like here to respond to the criticisms levelled by some Members against the ADPL and myself and also those against my views. I hope Members will keep cool and look at this matter in an objective and rational manner. First, I would like to respond to the comment made by the Honourable LEUNG Yiu-chung when he delivered his speech moving the present motion. He said he hoped those who join the PC would not become capitulationists by bending over backwards to do the committee's bidding. But as a matter of fact, has this degenerated so quickly into a question of capitulationism and bending over backwards to do another's bidding? Some Hong Kong people, including us, the democrats, have joined the Housing Authority, the Social Welfare Advisory Committee of the Hong Kong Government, the Education Commission and the Legislative Council. These are all British colonial committees, boards, councils, institutions and decision-making bodies. We all know that a few years ago,

before Mr LEUNG Yiu-chung decided to run for a district board seat, he had had a long-drawn-out debate with members of his group as to whether he should join the power establishment, whether he should join the colonial government, whether it would be capitulation to join the colonial government, and whether it would mean surrendering to colonialism. I believe Mr LEUNG is all too familiar with questions of this sort and knows full well what to do. He eventually opted to join the district board and the Legislative Council. Why is it that a person who joins a system could be so quickly labelled a capitulationist and accused of bending over backwards to do another's bidding? I hope Mr LEUNG will ponder over this before restating his argument. As a matter of fact, all questions hinge on whether we would recognize this system. If yes, should we join it? If we do not join it, what should we do? If we join it, what should we do? If one can answer these questions, one can offer an answer as to why some choose to join and others do not. Those who do not join will have work to do which they will do in their own way, whilst those who join will also have work to do which they will do in their own way. This does not mean capitulation and bending over backwards to do another's bidding.

The next Member I would like to respond to is the Honourable Miss Emily LAU. She repeatedly said that if a Member thought what he was saying was democratic then he would do well to stand for election again in her constituency. Whoever won would be deemed to have been right. That is the gist of what she said though those might not be her exact words. I find this remark rather improper. It betokens a domineering attitude, and can be likened to the sending of a naval task force by the United States to the Taiwan Straits or the firing of missiles on Taiwan by the Chinese communists. "The victor becomes king and the vanquished becomes a bandit". Sometimes, the truth is not manifested in this way. Jesus was crucified to death. Is Jesus the truth? To all Christians, Jesus is the truth. Jesus died but he rose from the dead. He did not die after all. If Miss Emily LAU thinks she herself is the truth, she should win in whatever electoral constituency she chooses to stand. I would welcome Miss LAU to come to Sham Shui Po and stand for election there. I hope to see her in Sham Shui Po in 1998. Miss LAU has criticized the ADPL for making minor criticisms on the one hand but rendering enormous help on the other". She has also alleged that we dress ourselves up as democrats to cheat the Hong Kong public

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

MR FREDERICK FUNG (in Cantonese): She is of course free to criticize. But the ADPL has all along made it clear that one is free to agree or disagree with us, and one is free to accept or reject us. But would it be right to "label" in emotive and sensational terms a person or party? What sort of democratic aspiration would that be? At least, I have never used such abusive terms against Miss LAU. I have never said Miss LAU is anti-communist, nor have I said she is pro-Britain, nor have I said she is Governor PATTEN's "minion". I have never said things of this sort. Why? As a matter of fact, the whole meaning of democracy lies in our being free to express our views. I hope this will become a basic principle which demands that we show respect to other Members in the course of parliamentary proceedings. I hope this Council will develop democracy, not a domineering ethos.

The third Member I would now like to respond to is the Honourable YUM Sin-ling. With regard to his remark about good advice being unpleasant to the ear, I would say that good advice may not necessarily be tactfully phrased and, conversely, tactful terms may not necessarily constitute good advice. If any of the Members have read *Shi Shi Shu*, they will know that the Chinese chronicle of *Shi Shi Shu* contains sound advice on affairs of the state. Though the advice is couched in tactful terms, yet there are hidden barbs that aim at the improprieties committed by the emperor. I am not saying that I am using *Shi Shi Shu* to illustrate my argument in respect of the power establishment or that I am likening the power establishment to the emperor. I only want to let Members know that good advice depends not so much on its form of expression but on its content. However, I am sure that mere slogans or cynical criticisms do not constitute sound advice, because the other party will not listen to it. How then can it be unpleasant to the ear? I believe that, since the setting up of the PC, a lot of things said or done by the ADPL might not have pleased the people concerned or the powers-that-be even though they constituted sound advice. The things said or done ranged from suggestions on the establishment and mode of operation of the PC to criticisms, campaigns and comments on how to break through or improve the PC's system of collective responsibility and confidentiality. Of course, Mr YUM Sin-ling's comment or advice is well-intentioned. But whether his advice can be acted upon will depend on the degree of technical difficulty involved and on what past experience we have had that can stand us in good stead. We hope to hear Members' views in this regard.

Lastly, I would like to respond to the views put forward by the Honourable NGAN Kam-chuen. Mr NGAN said there are only four ways to deal with a legal vacuum. In fact, there are three more ways.

The first is the ADPL's proposal as mentioned by Mr Bruce LIU, that is to say, an alternative through train.

The second is the transitional legislature scheme proposed by National People's Congress deputy LIU Yiu-chu for the latter part of the transition period. Because of the time constraint, I shall not elaborate on this.

The third is the proposal covered in the newspapers, that is to say, all the 60 incumbent Legislative Council Members shall ride the through train with a "trailer" added.

These are all feasible proposals. Why is it that people have come to the hasty conclusion that a provisional legislature will be feasible? Why are other proposals not considered? This is precisely the stance of the ADPL. I hope I can convince my Honourable colleagues to support the ADPL's proposal. Thank you.

THE PRESIDENT resumed the Chair.

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

MR FREDERICK FUNG (in Cantonese): Mr President, I am sorry. When you were not in this Chamber moments ago, I quoted Miss Emily LAU's criticism of the ADPL. She had remarked that the ADPL made minor criticisms on the one hand but rendered enormous help on the other and that we dressed ourselves up as democrats to cheat Hong Kong people. I was responding to this criticism when the President's Deputy reminded me it had been ruled that this would be

deleted from the Hansard and he requested me not to quote it. Now that you have decided not to delete this from the Hansard, I hope you will allow me to quote it.

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

MR FREDERICK FUNG (in Cantonese): Mr President, with regard to Miss Emily LAU's criticism that the ADPL made minor criticisms on the one hand but rendered enormous help on the other and that we dressed ourselves up as democrats to cheat the people of Hong Kong, I feel that this is just because we hold different views. I would like to add this to my foregoing speech.

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

MR LEE CHEUK-YAN (in Cantonese): Mr President, as the Honourable LEUNG Yiu-chung said a while ago, the era of Sino-British secret accords has given way to the era of "we take the initiative" on the part of China. What worries people even more is whether the post-1997 years will be an era of "China playing lord and master in haughty disregard of Hong Kong people". Be it the era of Sino-British secret deals or the era of "we take the initiative" on the part of China, the general public in Hong Kong could have no say whatsoever in the arrangements before and after 1997. Although the Sino-British Joint Declaration and the Basic Law repeatedly emphasize "Hong Kong people ruling Hong Kong and a high degree of autonomy" after 1997, yet I believe the majority of Hong Kong people know deep down in their hearts what this is all about. They know that this is no more than empty talk!

In terms of arrangements for the transition — the drafting of the Basic Law, convergence of political systems, establishment of the Preliminary Working Committee (PWC) and the Preparatory Committee (PC), and handling of economic and livelihood questions such as infrastructure development, formulation of the 1997-98 budget, social welfare, and holding an international conference by the Lutheran Church — we can clearly see where the crux of the problem lies. The Chinese Government is applying the same old style of

administration — the principle of "we take the initiative" — to its conduct of affairs relating to Hong Kong's sovereignty reversion. The Chinese Government only considers the interests of the powers-that-be in total disregard of the wishes of Hong Kong people. The mode of governance is one of "He who supports me prospers and he who opposes me withers". Those who do the Chinese Government's bidding are promoted and are getting rich. They are appointed to the Basic Law Drafting Committee, the PWC, the PC and the Selection Committee; or they will successfully straddle 1997 and retain their positions as policy secretaries or Legislative Council Members. Those who refuse to follow orders are not offered appointments to committees; if they happen to be councillors they will have to "disembark"; and if they happen to be government officials they will have to quit and quickly switch to positions where they will not be required to "disembark". This principle of "we take the initiative" adopted by the Chinese side has undermined public confidence and jeopardized Hong Kong's smooth transition.

As a matter of fact, it is precisely the Chinese Government's principle of "we take the initiative" that has caused today's tension across the Taiwan Straits. The Chinese Government is piqued at Taiwan President LEE Teng-hui's refusal to do at its bidding and his repeated attempts to develop Taiwan's international contacts contrary to the wishes of the Chinese communist leaders. What shocked people and made them cry shame was that China even went so far as to intimidate the Taiwan people by conducting missile tests and live-ammunition military exercises. But it is not President LEE Teng-hui who will eventually suffer from these punitive measures; it is the Taiwan people who will pay a heavy price as a result of the blow dealt to Taiwan's economy.

Let us not suppose that the way China deals with the Taiwan question will have no bearing on Hong Kong. If we ponder over this, we shall find that if China applies the same "we take the initiative" style to its conduct of affairs relating to Hong Kong, it will be the interests of the Hong Kong public (both economic and political interests) that will ultimately suffer, not Governor Chris PATTEN, whom China wants to hit.

Mr President, the question of the provisional legislature has been discussed numerous times in this Council. However, I would like to reiterate here that the proposal to have the PC set up the provisional legislature is in breach of the Basic Law. The resolution passed by the National People's Congress (NPC) in 1990 clearly states that the PC established in 1996 will have to prepare for the setting up of the first Legislative Council of the SAR, not a provisional

legislature. The NPC resolution has not stipulated a "through train" for the first Legislative Council either. Obviously, this was a double-barrelled measure devised by the Chinese side at that time to meet future contingencies. Therefore, the Chinese side has no valid grounds to say that since there is not going to be a "through train" it will be impossible to set up the first Legislative Council in July 1997 and that a one-year term provisional legislature has to be set up!

As a matter of fact, the proposal by China to set up a provisional legislature has stemmed solely from political considerations in line with its paramount guiding principle of "playing lord and master". There is really no practical need for a provisional legislature. If the Chinese Government insists on having its own way and sets up a provisional legislature in disregard of opposition from Hong Kong people, that will be a retrograde step in the democratic development process of Hong Kong. It will seriously impair China's promise of "a high degree of autonomy". Furthermore, the Chinese side has been favouring the business sector and neglecting the views of the labour sector and grassroots people. The proposal concerned will have an adverse effect on people's livelihood and the welfare and interests of the labour sector and grassroots people.

With these remarks, I support the motion.

MR LEE WING-TAT (in Cantonese): Mr President, I would like to respond, on behalf of the Democratic Party, to some of the views expressed by some Members. Just now some Members alleged that people from the democratic camp in Hong Kong and the Democratic Party were making trouble, sowing seeds of discord between Hong Kong people and China and creating division among Hong Kong people with regard to the return of Hong Kong to the motherland. Sometimes, I feel that those who make such allegations should re-examine whether the allegations are really true. As Hong Kong people, are we so gullible? Is it true that a few words uttered by people from the democratic camp or the Democratic Party can lull others into believing in falsehoods? I would be surprised if people from the democratic camp or the Democratic Party had such clout. We believe that everyone has his own independent thinking. According to surveys conducted by newspapers, respondents tend to think that the existing policies of the Chinese Government and the way the Preparatory Committee (PC) goes about its work are "not too

good". This clearly shows that it is not the words uttered by people from the democratic camp or the Democratic Party which have worried the Chinese people in Hong Kong. I hope Members will ponder over this: Is it because of some shortcomings in the Chinese Government's policies towards Hong Kong and in the PC's work that Hong Kong people are filled with misgivings? It may be that some people have used to ascribing responsibility to bodies or individuals who are frank and forthright in expressing their views.

Moments ago some Members said that, far from bickering among ourselves, we should be united and address issues in a positive manner. Some individuals, bodies and political parties also want to face up positively to the work now being performed by the PC. The Democratic Party has written to the PC secretariat and the PC chairman to express our hope to put forward our views in the capacity as Hong Kong citizens. However, up to now, we do not seem to have heard the PC encouraging groups or individuals who cherish dissenting views to do so. Of course, the Democratic Party has not received any reply from the Chinese Government or the PC secretariat. We are seeking to express our views in the capacity as Chinese persons. We are not begging nor are we bent on doing something in order to get the attention of the Chinese Government.

As a political party devoted to democracy and as representatives of Hong Kong people, we hope to discharge our obligation by doing this. Unfortunately, up to now, there has been no response to our positive overtures. Of course, we shall continue to put forward our request and we hope that people from the democratic camp will also make a similar request.

Should a government, should an organization listen to other people's views or advice? Or should it take the stance of "we take the initiative", as noted by many PC members? Does this "we" include the 6 million Chinese people in Hong Kong? This is not solely a matter of expression or slogan. It is a matter of whether, in actual practice, the views of every Chinese person living in Hong Kong are being heeded. If the PC invariably rejects people with dissenting political views, it will be no surprise that this "we" is being interpreted to mean the Communist Party or its followers. It is because the PC actually does not listen to the views of other people.

As a matter of fact, is it very difficult to listen to Hong Kong people's views? Since the 1980s, when political reforms were first broached, we have

had numerous discussions of this topic. Officials seated on the Government bench opposite had numerous debates with Members of this Council with regard to the question of public consultation. The methodology is simple enough — to listen to views from bodies or organizations, to conduct surveys and researches, to hold public hearings, to collect and collate views, and then to find out the majority view and accept it, or if it is not accepted to explain the reason. I believe the 60 Members seated here, government officials and civic bodies all know how to describe this standard procedure for collecting public opinion. But the question now is not one of "describing" it but of whether it has been put into practice. It is learnt that certain major figures of the PC will be visiting Hong Kong next April or May. We hope the maxim "we take the initiative" as proposed by them will mean a readiness to listen to views on a more extensive basis so that Hong Kong people will believe that they are included in the word "we".

Finally, I would like to comment on a remark by the Honourable CHIM Pui-chung. Mr President, sometimes I feel that we need to clarify certain ways of thinking. Some Members may say those who dislike the Chinese Government are free to leave for the United Kingdom or the United States. In fact, this way of thinking is wrong. A state or government without its citizens is no state or government at all. "The citizenry forms the basis of a state." "Citizenry" means the people. A regime or state not welcomed by the people should not require its people to leave. On the contrary, it should carry out a self-examination to find out why the people dislike it. This is the central thought of the maxim "the citizenry forms the basis of a state".

There is another point I would like to make. The Honourable Frederick FUNG and I are members of the Housing Authority (HA). I do not quite agree with the remark Mr FUNG made a while ago in respect of the PC and the HA. But I have only 45 seconds left and cannot really elaborate on my grounds of objection. I feel that the PC and the HA are bodies with different powers and functions. Whether one can play an effective role within the power establishment is an important consideration which will determine if one should stay. Mr FUNG represents the public opinion. His PC membership carries a definite measure of representativeness and legality. But if one cannot accomplish anything, one should start thinking whether what one is doing will only benefit the other party rather than the people at large. Consideration should be given to

this question and it is not solely a question in relation to the power establishment.

Thank you, Mr President.

MR IP KWOK-HIM (in Cantonese): Mr President, there are some 400 days to go before Hong Kong will revert to China. With regard to the setting up of the future Special Administrative Region (SAR), Hong Kong people, including Members of this Council, are expressing a diversity of views and there have been more and more discussions. This should be understandable. So long as the views presented are reasonable, the Chinese side should heed and follow them. But groundless and emotive censures or criticisms are unacceptable. The Honourable LEUNG Yiu-chung is today proposing to reprove the Preparatory Committee (PC) for being unrepresentative of the wishes of the Hong Kong people and for adopting a closed style of operation. The Democratic Alliance for the Betterment of Hong Kong (DAB) and, I believe, the majority of Hong Kong people will disagree.

Mr President, a lot of people have criticized the PC for adopting the system of collective responsibility and confidentiality. They call it "black-box operation". But the DAB thinks that this style of operation as adopted by the PC is not inconsistent with the democratic mode of broad-based public consultation. The PC is different in nature from the Preliminary Working Committee. The former has to make decisions in relation to the setting up of the SAR and to implement them. Having discussed a subject through the exercise of its collective wisdom, the PC must make a resolution. After a collective decision has been taken, if the PC members still expressed disparate views of their own, the public would find it hard to understand the significance and rationale of the decision taken by the PC. This would also hinder the smooth implementation of the decision. Therefore, there is a practical need for the PC to discuss matters in a democratic spirit but to be collectively responsible after a decision has been taken. We absolutely cannot misinterpret this as a closed mode of operation. The DAB agrees that the PC should, as far as possible, enhance its transparency in terms of its operation and decision-making process so that Hong Kong people will understand the way the PC sets about organizing and establishing the SAR Government.

Mr President, pursuant to the resolution passed on 4 April 1990 at the Third Session of the Seventh National People's Congress (NPC), "the PC is

charged with preparing and carrying out the relevant matters in connection with the setting up of the Hong Kong SAR". Now that the Legislative Council cannot straddle 1997, the adoption of other necessary measures should come within the definition of "relevant matters" in the aforesaid NPC resolution. Therefore, the setting up of a provisional legislature will be consistent with the Basic Law and the NPC resolution. Some Members of this Council are strongly opposed to the setting up of a provisional legislature. Now we are being asked to express our strong protest. But I believe many "discerning" Members will know who the culprit is in this issue which has today come to a head. With the implementation of Governor PATTEN's political reform package, the derailing of the Legislative Council "through train" is now a certainty. Chris PATTEN often stresses that the rule of law is the paramount factor contributing to Hong Kong's success today. Therefore, it is necessary for the Chinese side to propose the setting up of a provisional legislature to resolve the question of a legislative vacuum that will arise before the first SAR Legislative Council is in place following the handover of political authority. This is, in relative terms, an appropriate option in the absence of other feasible options.

However, some Members of this Council and government officials still fail to see reason and are adamant that there is no reason why the incumbent Members should not be allowed to straddle 1997. A Member has even said that if the Legislative Council is dissolved in 1997 he will stay put. All this is meant to deceive oneself as well as others. It will not alter the reality that a provisional legislature will be set up. When the Chinese and British sides held 17 rounds of talks on the arrangements for the three-tier councils to straddle 1997, who pointed out then that China and the United Kingdom were selling Hong Kong people down the river and disregarding their rights and interests? Now that the talks have broken down and the "through train" has been derailed, the detractors are criticizing the Chinese side for having conceived the idea of a provisional legislature to fill the legislative vacuum. Not to put too fine a point on it, they really want to have it both ways by fair means or foul.

To enable Hong Kong to implement after 1997 the principle of "Hong Kong people ruling Hong Kong" and "a high degree of autonomy", every Hong Kong person should take a positive stand with regard to the PC's work and actively present his or her views to the PC to contribute to the setting up of the SAR. Hong Kong is our home. Each one of us must make an effort so as to ensure that we will continue to enjoy today's freedom, stability and prosperity.

With these remarks, I oppose the original motion of Mr LEUNG Yiu-chung and the amendment of the Honourable Bruce LIU.

MR HOWARD YOUNG (in Cantonese): Mr President, I find that the motion proposed by the Honourable LEUNG Yiu-chung today, apart from being a distortion of facts, is based on shaky grounds and divorced from reality. I feel that the motion as it is worded and the way some Members are advocating division and confrontation through such means as distortion of facts, smearing and wanton attacks will in no way help our present situation. Not only is it useless in helping the Hong Kong people in their concerted effort to secure a smooth transition in the absence of a "through train", but it also goes against the spirit of co-operation with the Preparatory Committee (PC) as recently emphasized by the Hong Kong Government and the British Government.

The motion accuses the PC and its members of being manipulated like puppets. I feel that such an allegation is a biased comment made by people who are looking at things through tinted lenses. It is a gross affront to the PC and its members. The PC is set up according to the Basic Law. I believe even the mover of the motion cannot deny that the PC is a work organ set up under the Basic Law. Of course, people can argue that the PC has its shortcomings or deficiencies in terms of representativeness. I feel that it would be excessive to say outright that the PC does not represent Hong Kong people at all. If it is argued that none of the people represents Hong Kong people, then every member of the PC, including myself, will question the validity of this argument. After hearing the speech moving the motion, I say to myself: I am also a PC member; as pointed out by a number of newspapers, I am not a deputy to the National People's Congress (NPC), nor a member of the Chinese People's Political Consultative Conference, nor a Preliminary Working Committee member, nor a Hong Kong Affairs Adviser; I am from the tourism sector; and I have been working in a British-owned company for many years; yet I am appointed a PC member. If my representativeness should come under question, I would be glad to tell the mover of the present motion this: You and I are both from functional constituencies; you, as mover of the motion, are from the textiles sector while I represent the tourism sector; I do not believe that in regard to the tourism sector my representativeness is any less than that of Mr LEUNG Yiu-chung in regard to

the textiles sector.

As a matter of fact, I find that many PC members genuinely want to face Hong Kong people and extensively consult their views. This is not only the wish of the PC itself but is also the wish of many members including myself. To realize this wish, I would like to respond to the allegation made a moment ago to the effect that the PC engages in "black-box operation" and does not consult the public. I would like to point out that on 9 March I sent out a questionnaire to all Legislative Councillors, district board members and municipal councillors to tell them that I would be serving on the Selection Committee and to ask them what views they would like to express to me so that I could present them to the committee. I listed nine questions in the questionnaire which covered the views expressed by quite a number of people, such as the way the Selection Committee would be constituted, the size of its membership, and the manner of selection or election. My secretary has confirmed to me just now that a questionnaire was sent to Mr LEUNG Yiu-chung through the Legislative Council Secretariat. I have received responses from a number of Members to whom I am grateful. These respondents include Members who hold different political views, the Honourable Miss Emily LAU for one. Though my political views might not be the same as Miss LAU's, she was at least gracious enough to reply and give me her views. And I am grateful to her. With regard to the PC or the future provisional legislature or the Selection Committee, we should continue to enlist members who are devoted to serving the people. My aspirations have in fact been enhanced in this respect. How could it be alleged that I was doing things my way without caring to consult others? Mr LEUNG obviously received my questionnaire, only that he chose not to respond.

As regards representativeness, a Member said a moment ago that the PC rejected people with different political views. How is it that he perceived it that way? Two Members, one from the Hong Kong Association for Democracy and People's Livelihood (ADPL) and the other from the New Hong Kong Alliance, are seated here. Do they hold different political views? I think most of the time they do. But they are PC members nevertheless. Therefore, I feel that the allegation is unfounded. Of course, I also hope that the future Selection Committee will be more representative. If its detractors should want to question its representativeness, they had better tell me how to make it more representative.

In relation to the question of the provisional legislature, I was glad to hear a Member mention an "alternative through train" a moment ago. As a matter of

fact, we had broached this concept of an "alternative through train". During the debate on the 1994 political package one and a half years ago, if the ADPL had, as it does today, maintained that the Selection Committee was inconsistent with the Basic Law, we might not have been defeated by one vote when our proposed amendment was voted upon. Our defeat then meant that today we would have no through train and would have to find an alternative to it. This is the Liberal Party's stand with regard to the provisional legislature. We feel that in the absence of a better option, this is the only way to do it. But I hope that all Members elected to the Legislative Council in 1995 will qualify for membership of the provisional legislature. If it is argued that the provisional legislature is illegal, would Members please suggest how to make it legal? This would be better than attacking it for being illegal. Would Members suggest that the NPC pass another resolution to confer legality on the provisional legislature? If yes, would the provisional legislature still be attacked for being illegal? Or should the NPC authorize the PC to formally pass a resolution to set up a provisional legislature? During my recent trip to the United Kingdom, I met a number of government officials. I suggested to them that they should keep arguing for the case of Members elected in 1995 to ensure that the latter would continue to serve the people. In fact, we could keep striving for this. Indeed this is what I hope to do. But there is really no need to attack the provisional legislature. Come 1997, most of the Members of this Council will have joined the provisional legislature. Even if some other Members would want the Council to sit, there would be no quorum. Would Members please read the Basic Law which provides that the quorum for a Legislative Council sitting after 1997 shall be half of the number of Members, not the present 20. Therefore, Mr President, I feel that we should strive for our goal in an active as well as positive manner. We should not bury our heads in the sand like an ostrich does. We should adopt a responsible rather than a censoring attitude. We should not stay put but should co-operate with the PC.

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

MR LEUNG YIU-CHUNG (in Cantonese): Mr President, first of all, I would like to thank those senior and veteran Members for accusing us of being ignorant and naive in our analysis of the political situation. I sincerely thank them for

their accusations and lessons, but I hope they would not teach me to be profit-seeking and be driven by one's own selfish interests

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

MR LEUNG YIU-CHUNG (in Cantonese): Mr President, with regard to the amendment of the Honourable Bruce LIU, I consider that under most circumstances, he cannot achieve the possibilities that he has proposed. I would like to ask Mr Bruce LIU, looking at the amendment alone, are we really able to have it implemented? Just now Mr Bruce LIU has said that my views and demands may only be my dreams. To tell the truth, I really had such a dream in which I saw with my own eyes a democratic election took place in Hong Kong with I myself taking part in it. In that dream I witnessed many Hong Kong residents actively taking part in the election and everybody seemed so happy and enthusiastic. I had this dream probably because I am always dreaming and hoping that Hong Kong will have a democratic election some day. I would like to ask Mr Bruce LIU, by raising those facts of yours, are you not like the pot calling the kettle black? Being a member of the Preparatory Committee (PC), the Honourable Frederick FUNG has said publicly that the PC is in fact a closed-door operation which lacks transparency and democracy. I would like to ask Mr Frederick FUNG: how do you submit your requests and raise your views in the PC? I remember someone had told the media that he disagreed with the system of collective responsibility and closed-door operation. Unfortunately, from what I can see about the whole operation of the PC, particularly in the voting process, there is not even one negative vote. How can we be convinced that the PC can really serve the Hong Kong people without bowing to will of the Chinese Government?

I very much agree to what the Honourable Miss Emily LAU has said. Some said we have distorted the facts without speaking the truth. Just now I have counted and found four or five Members said I had distorted the facts, but none could produce evidence to show how I had distorted the facts. I very

much wish to know, if people really think that I have distorted the facts, please submit your evidence! Please do not think what I have said is merely my own side of the story, and say that this is only my wishful thinking with the intention of stirring up a storm. As a matter of fact, I hope every Member of this Council and every member of the PC would speak the truth, point out what is wrong in my suggestion, and how correct the views of Mr Bruce LIU are.

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

MR LEUNG YIU-CHUNG (in Cantonese): Mr President, I wish to ask Mr Bruce LIU, what is the democratic election that he has mentioned in his amendment?

I have heard that the Chinese Government even regards consultation as democratic election. I do not know whether such is the stance of the Hong Kong Association for Democracy and People's Livelihood (ADPL). If it is, I feel sorry for it. The democratic election that I fight for is a one-man-one-vote direct election; it does not mean public consultation, or a democratic election under the appointment system. I very much hope my friends of the ADPL will ask themselves, while claiming to be a champion of democracy on the one hand, what have they done in the PC to fight for democracy? How are you going to achieve your goal so that the PC will be as transparent and open to the public as you said, and accepted by the people of Hong Kong?

As to the formation of the Selection Committee, not only that the proposal raised by the ADPL is undemocratic from the outset, I believe the selection procedure approved by the PC will be even more conservative and undemocratic. We should not have wild wishes that the PC or the Selection Committee will be broadly representative. My dear friends of the ADPL, I hope you will not fish in the air.

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Mr

President, the Honourable LEUNG Yiu-chung's motion and the Honourable Bruce LIU's amendment touch on four issues in respect of transition of government, namely:

- work of the Preparatory Committee (PC);
- question of the provisional legislature;
- creation of the Special Administrative Region (SAR) legislature; and
- selection of the first Chief Executive.

These are all familiar topics: Just six weeks ago on 31 January, this Council had an extensive debate on these matters. At that time I stated clearly the Government's stance on these issues. Now let me reiterate our stance.

Firstly, about the operation of the PC. By resolution of China's National People's Congress on 4 April 1990, the PC was to be responsible for making arrangements for the setting up of the Hong Kong SAR Government, including the creation of the first SAR legislature. So heavy is its burden and so important is its mandate that it is natural for the people in Hong Kong to monitor the work of the PC closely. For this reason, although it is true that the PC will make its own decisions as to how it will carry out the tasks, we earnestly hope that the PC will consider fully the aspirations of the people in Hong Kong with a view to achieving a smooth transition and establishing a truly credible SAR Government and a truly representative machinery. In this regard, we are glad to know that Chinese Vice Premier QIAN Qichen has said that the PC should widely amass the opinions of the Hong Kong people. This has become one of the guiding principles for the work of the PC, and Chinese officials have also invited Hong Kong people to take part in preparations for the transition.

There are a total of 94 Hong Kong members in the PC, of which 14 are Members of this Council. We trust these 94 members will perform their functions to reflect the views and concerns of the Hong Kong people, and that they will be responsible to the Hong Kong people for their behaviour in the PC.

As far as the Hong Kong Government is concerned, we shall endeavour to work closely with the PC. As a matter of fact, both the Chinese and the British Governments have agreed that the Liaison Office of the Hong Kong Government and the Preparatory Committee Secretariat (including its office in Hong Kong) can begin their liaison work. As I have explained to this Council before, the Liaison Office of the Hong Kong Government will co-operate with the PC in three basic aspects. I am not going to repeat our basic principles here.

Moreover, we are determined to be open and transparent in our dealings with the PC, and we shall report our work in this respect to this Council and the public.

As soon as the Chief Executive designate is selected, we will also provide our instant and practical co-operation.

Mr LEUNG Yiu-chung's motion also raises the issue of the provisional legislature. The stance of the Hong Kong Government in this matter is crystal-clear and consistent. Our present Legislative Council is elected strictly in accordance with the provisions of openness and fairness under the Joint Declaration and the Basic Law. People in Hong Kong hope that the existing representative government machinery will survive after 1997 and has credibility. The election arrangement of 1994-95 is fully consistent with the wishes of the people. As the British Prime Minister said a week ago, "Those Members who were elected by universal suffrage by a record number of people of Hong Kong should be allowed to remain for four years until their term expire. Such is the wish of the Hong Kong people, and it is something that the world is looking forward to happen." In this way, by 1 July 1997, there will be an experienced legislature trusted by the people of Hong Kong. And this is the best way to avoid chaos and interruption in the legislative business in Hong Kong.

For the above reasons, we do not think there is a need for making new arrangements for 1997.

I would like to talk about two different but closely related problems, namely, the formation of the first and future legislatures, and the selection of the

first and future Chief Executives. The relevant ways and procedures have been stipulated in the Basic Law and the resolutions passed by the Chinese National People's Congress on 4 April 1990. The implementation or amendment of these stipulations is the responsibility of the Chinese Government and the future SAR Government. In this regard, I would like to point out one fact. Concerning the means by which the Chief Executive is created, Article 45 of the Basic Law states: "The ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures." Regarding the formation of the legislature, Article 68 of the Basic Law also stipulates, "the ultimate aim is the election of all the Members of the Legislative Council by universal suffrage."

I do not have to deliberately stress that the procedures for the creation of the legislature and the selection of the Chief Executive are very important. The people of Hong Kong, and the international community at large, are all looking forward to openness, fairness and transparency in this process. The Hong Kong Government also holds the same hope. Those who are responsible for the selection of the Chief Executive and the creation of the legislature, and who really wish to form a credible and truly representative SAR Government, should fully take into consideration the wishes of the Hong Kong people.

Lastly, let me assure this Council and the public, the Hong Kong Government is committed to achieving a smooth transition. We will continue to take up the responsibility of administering Hong Kong and maintain the prosperity and stability of Hong Kong. We are fully prepared to provide the PC with the necessary assistance, and we would also provide our support as soon as the Chief Executive is selected. I hope other people will work hand in hand with us and contribute to this solemn and historical event.

Question on the amendment put.

Voice vote taken.

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

Mr Frederick FUNG and Mr Bruce LIU claimed a division.

PRESIDENT: Council shall proceed to a division.

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

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

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

Mr Martin LEE, Mr NGAI Shiu-kit, Mr SZETO Wah, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Dr LEONG Che-hung, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Michael HO, Dr HUANG Chen-ya, Miss Emily LAU, Mr LEE Wing-tat, Mr Eric LI, Mr Fred LI, Mr James TO, Dr Philip WONG, Dr YEUNG Sum, Mr Howard YOUNG, Mr WONG Wai-yin, Mr James TIEN, Mr LEE Cheuk-yan, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Andrew CHENG, Mr Paul CHENG, Mr CHENG Yiu-tong, Dr Anthony CHEUNG, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr David CHU, Mr Albert HO, Mr IP Kwok-him, Mr LAU Chin-shek, Mr Ambrose LAU, Mr LAW Chi-kwong, Mr LEE Kai-ming, Mr LEUNG Yiu-chung, Mr LO Suk-ching, Mr NGAN Kam-chuen, Mr TSANG Kin-shing, Dr John TSE and Mrs Elizabeth WONG voted against the amendment.

Mr YUM Sin-ling abstained.

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

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

MR LEUNG YIU-CHUNG (in Cantonese): Mr President, I would like to reiterate one point. Just now a Member instructed us not to be too naive and ignorant when we look at things. I very much wish I could take the advice. But I have to emphasize that I cannot accept the advice of those people who teach me to go for nothing but private gains, to ignore the interests of the entire society for the benefit of oneself or a small group of people, as well as to speak obsequiously. I remember a patriot of the Chinese democratic movement, Mr LIU Qing, who wrote in his diary while he was in jail, "To be a man, one has to be an unyielding person and should not submit to authority." Now that the transfer of sovereignty is about to take place, I feel that if we do not have the courage to face this fact and speak the truth, we shall have to bear the name of sinners in history. I hope Members of this Council will not yield under such circumstances.

Secondly, I would like to ask, why did the Hong Kong Government issue this identification to Legislative Council Members? The valid period stated on this document is 1995 through 1999. As the Government is already working for the Preparatory Committee (PC) now, and the latter will soon set up the provisional legislature, what are we going to do next? On the one hand, the Government says we can continue our term "through" 1999, but on the other hand, the Government is working for the PC. I would like to ask what should we do then? After helping the PC to set up the provisional legislature, what would happen to us? I just do not know what to do.

In addition, I would like to reiterate one thing. For more than 20 years, I have been fighting together with other democrats for democracy in Hong Kong

under the premise of love of Hong Kong and our motherland. In fact, we have succeeded in fighting for the democratization of the Legislative Council, so that people with different voices and coming from various strata are admitted to this Council. Through this channel, the rights, views and wishes of the people can be reflected. This is a significant transformation, and it is also the result of our past efforts. It shows that we have been doing our best to promote the stability and prosperity of Hong Kong by working in line with the aspirations of the people of Hong Kong. It is not that we do not love Hong Kong; we deeply love Hong Kong. And it is also not true that we do not love our country. We merely hope that things like the arrest and detention of WEI Jingsheng will not happen too often. We hope that China can convince everyone to have confidence in her, have hope in her, be a part of her and be faithful to her. Unfortunately, the present-day China is not like that. We are willing to pay any price for the future of China. We hope to be able to fight for democracy and a highly autonomous Hong Kong after 1997 for the Hong Kong people from the Chinese Government and members of the PC sitting in this Council. We do not wish to see Hong Kong people administering Hong Kong under the manipulation of the Chinese Government.

Mr President, what was said above may sound familiar to us all, but if we do not speak it out, other people may think we have accepted the fact.

Mr President, thank you.

Question on the original motion put.

Voice vote taken.

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

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

PRESIDENT: Council shall proceed to a division.

PRESIDENT: I would like to remind Members that they are called upon to vote

on the motion moved by Mr LEUNG Yiu-chung. Will Members please register their presence by pressing the top button and then proceed to vote by choosing one of the three buttons below?

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

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

Mr NGAI Shiu-kit, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr CHIM Pui-chung, Mr Eric LI, Dr Philip WONG, Mr Howard YOUNG, Mr James TIEN, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Paul CHENG, Mr CHENG Yiu-tong, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr David CHU, Mr IP Kwok-him, Mr Ambrose LAU, Mr LEE Kai-ming, Mr LO Suk-ching and Mr NGAN Kam-chuen voted against the motion.

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

HARBOUR RECLAMATION

MISS CHRISTINE LOH to move the following motion:

"That this Council recognizes, and urges the Government to recognize, that Victoria Harbour is a unique and irreplaceable public asset, that excessive depletion of the harbour is irreversibly damaging both to the natural and

human environment of Hong Kong, and that all Hong Kong people have a rightful interest in the harbour; and this Council further urges the Government to withdraw its grossly excessive plans for reclamation in the harbour and to take urgent measures instead to protect and preserve the harbour and to ensure that further development in the harbour, if any, will be strictly limited, openly planned and accountably carried out."

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

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

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

Government's rationale

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

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

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

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

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

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

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

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

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

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

Kong.

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

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

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

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

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

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

We have one of the answers from *The shape of Things to Come*. The Government wants to create land quickly, it seems. The fastest way is to create it by filling up the harbour. Under the current law, embodied in the Foreshore and Seabed (Reclamations) Ordinance, only the Governor in Council's approval is needed before landfill begins. The Government admits that its reluctance to

undertake development in the New Territories is that land there has to be acquired by negotiation and resumption, which is a much more time-consuming process than simple executive fiat.

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

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

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

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

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

Faulty decision-making process

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

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

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

Way forward

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

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

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

The Bill provides that all reclamation plans in the inner harbour will be put to the Town Planning Board. The Government has already said it will do this,

so it should not hesitate to agree to legally obligating itself to do so.

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

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

Mr President, I beg to move.

Question on the motion proposed.

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

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

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

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

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

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

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

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

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

It is extremely difficult to say where the limit of future reclamation should

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

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

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

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

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

MR ALBERT CHAN (in Cantonese): Mr President, within a short span of 50 years after the war, Hong Kong has transformed itself into an affluent metropolitan city and a financial centre from a small port surviving on entrepot trade. It was also ranked by *Fortune* magazine last year as the best city in the world to do business. People in Hong Kong should all be proud of this achievement. In many aspects, such as the handling capacity of container ports, rents of office buildings and so on, Hong Kong is among the highest in the world.

But in terms of the scale of reclamation, I believe Hong Kong is certainly at the top of the list.

Owing to the rapid development of Hong Kong, it is undeniable that reclamation has brought wealth and development opportunities for Hong Kong. While we are reaping the fruit of this economic success, we have to admit that drastic reclamation has also brought about negative effects for Hong Kong, such as narrowing of the fairway, and as a result our natural mooring areas for our vessels are lost. A bigger problem is, since the additional land areas created by drastic reclamation are all concentrated on the old commercial districts, there is an over-concentration of commercial development, resulting in a lack of balance of city development. This explains the imbalance of city development of Hong Kong in the past, and it also reflects that our town planning in the past fell short of a long-term strategy. These, together with the lack of public monitoring and public participation in our planning legislation, have resulted in the present chaotic situation.

Nowadays, people in Hong Kong are more civic-minded, and they have also witnessed the effects of reclamation. There exists a strong view in society with a strong voice in particular raising concerns about reclamation projects. The detrimental effects of reclamation are vividly displayed before the eyes of the Hong Kong people.

I am of the opinion that because our town planning in the past had not made a distinction between long-term and short-term land demand, and because the Hong Kong Government lacked a long-term policy for industrial and commercial developments, all commercial and domestic developments have clustered round the Central District. And because the transport network falls far short of demand, there is serious traffic congestion during rush hours, creating great chaos. It is only in these recent years that the Government has realized the seriousness of the problem, and hence conducted the Territorial Development Strategy Review and commenced the study and consultation of the Metroplan to re-define the town planning programme of Hong Kong.

As a matter of fact, in order to minimize unnecessary reclamation, I think that it is very important to achieve co-ordination in overall planning. In this regard, I would like to put forward two concrete proposals as follows:

1. The Government must revise the Town Planning Ordinance completely to allow the public to have more participation in the

decisions of the town planning process. At present, both territorial and regional development strategies are controlled by the Government. The public has no chance to take part in the decisions. Only in district planning do people have the right to submit its views for consideration by the Government, and I emphasize, for consideration only. Relatively speaking, the Government tends to be more willing to listen to these views. However, the final decision still rests with the Government.

In order to rectify the situation in which the public is kept out of the overall town planning process, it is incumbent upon the Government to open up channels for the public to participate in the decisions of the planning process for land development, so that town planning, in particular those projects connected with reclamation, would be more consistent with the wishes and needs of the public rather than just looking after the interests of a few real estate developers.

2. The Government should seriously consider developing more commercial centres and should not merely put our commercial centres around the Central District and Wan Chai. The Government should make use of the Airport Railway and North-west Railway to develop commercial premises along the railway systems so as to alleviate the demand for commercial premises and the pressure for more reclamation. It can also prevent the over-concentration of the working population which may make it impossible for our mass transit system to cope with.

Mr President, the proverb says, "It is never too late to lock the stable door after the horse has been stolen". Victoria Harbour and the harbours in Tsuen Wan, Kwai Chung and Tuen Mun are all unique natural harbours in Hong Kong. They are our priceless assets and we should value these resources. I sincerely hope that the Government will not sacrifice the long-term interests of the Hong Kong people, in particular the long-term interests of Hong Kong, for the sake of short-term commercial benefits, or else it will regret forever.

Mr President, these are my remarks. The Democratic Party supports the motion.

MR NGAN KAM-CHUEN (in Cantonese): Mr President, Victoria Harbour is a natural deep water port. It provides excellent conditions with which Hong Kong has become a top ranking shipping centre in the world and an international financial centre. Thus, Victoria Harbour has always been a symbol of prosperity in Hong Kong. However, in recent years, the Government has embarked upon massive development programmes and carried out a number of major reclamation projects in the territory, with the result that the width between the two sides of the harbour has become increasingly narrower. If we do not take action to protect our harbour, we would soon lose our advantage.

Sites on which reclamation is being carried out or near completion include Hung Hom, Central District, Wan Chai, Kellett Bay, Belcher Bay, West Kowloon and Stonecutters Island, with a total area of 447 ha. On top of the 632 ha to be created under various other reclamation projects proposed by the Government, some 1 000 ha of new land would be added to both sides of the harbour. It is worrisome that, once the fairway of Victoria Harbour becomes narrower as a result of reclamation, it would induce stronger currents and hence bigger waves on the sea. This will create a dangerous situation for those small- and medium-sized vessels passing through Victoria Harbour. In addition, because the vessels have less room for activity, it would be easier for them to bump into each other.

One thing that needs to be questioned is whether reclamation can really solve the problems of the lack of recreational facilities in the urban areas and urban redevelopment. The Government stresses that, one of the goals of reclamation is to provide more land for community facilities, as well as to settle residents affected by redevelopment. But the fact is, all along the Government has not given priority of land use to residents affected by redevelopment. In view of the high value of land created by reclamation, it is likely that the Government will give up the original plan of designating the reclaimed land for recreational use, and convert it into commercial or residential developments to gain more revenues from land sale.

On the other hand, reclamation may not be able to reduce the density of urban population. The Government said another aim of the reclamation projects was to increase land provision to cope with population growth and economic development, as well as to improve the road network. But in fact, development along Victoria Harbour has already become saturated. Even if all the proposals of the "Metroplan " are implemented, I believe it may not reach the

goal of lowering the density of urban population. On the contrary, urban population would certainly increase and traffic flow would also be much heavier. If that happens, it will not be difficult to imagine that our urban areas would be busier and the problems of pollution and traffic congestion would be aggravated.

In fact, the Government has always been autocratic as far as reclamation is concerned. The Town Planning Board can only give advice to the Government on land use; it has no authority to overturn reclamation projects initiated by the Government. Without sufficient information provided by the Government, the Town Planning Board simply cannot raise questions on reclamation matters. Even if it raises an objection, it will not be accepted by the Government.

The Government has repeatedly stressed that it had conducted extensive consultations on the "Metroplan " during the period from 1988 to 1990, and that no one raised any objection when the Executive Council passed the plan in 1991. Nevertheless, I have to point out that the information provided to the people by the Government was very limited. Apart from reclamation, it did not provide any alternative proposals to increase land supply. In the absence of sufficient information, how is the general public able to find out that in fact there are serious doubts behind this plan?

Since reclamation has created so many problems in various aspects, do these projects still have to be implemented? The Democratic Alliance for the Betterment of Hong Kong is of the view that the Government should consider other feasible ways to increase land provision, such as redefining industrial areas in the urban environment, developing land in the New Territories and complementary facilities to infrastructural developments, as well as speeding up the process of urban redevelopment. The Government has expressed that it would require a large capital for land resumption in order to develop the New Territories, and that over-concentration on developing land in the New Territories would have a negative effect on the natural scenery and ecology of the area. But has the Government seriously assessed the land development strategy for the New Territories? The Government should at least provide more information on land development in the New Territories so that the public can have a full debate on it.

Victoria Harbour is a unique and asset commonly owned by the people of

Hong Kong. The Government has a duty to conduct extensive consultations on the reclamation of Victoria Harbour, such as publication of a consultative document to introduce the various options for increase of land provision, and invite the public to engage in extensive discussions on it. Or it can hold public hearings on the subject, and listen to the views of the public on matters concerning reclamation and their priorities in land development. Before deciding on which option to adopt, the Government should explain the economic advantages of different options, their impacts on ecology and environment, and whether they can satisfy the aspirations of the public, so that the latter can understand the advantages and disadvantages of the various options.

Furthermore, although the Government promised last November to introduce new measures which would enable the Town Planning Board to review the draft plans of land use zoning before the commencement of any reclamation project, turn down any reclamation project that is against the public interest and return it to the department concerned for amendment. But it is doubtful whether the Government would provide sufficient information to the Town Planning Board. For this reason, I suggest that the Government should enhance the role of the Town Planning Board and set up an effective monitoring and deliberation mechanism, especially one which would empower the Town Planning Board to review territory-wide strategic planning. Moreover, I also hope the Government will increase the transparency in matters related to town planning decisions.

Although the Government has reiterated that between now and 1 July 1997, it would not commence work on those reclamation projects which have not yet started, however, because the reclamation projects concerned extend beyond 1997, it is incumbent upon the Government to submit these projects to the Joint Liaison Group for discussion.

These are my remarks.

MR MOK YING-FAN (in Cantonese): Mr President, I agree that what we are discussing today is very important. Although I do not know much about town planning, I am going to discuss this question from a layman's point of view.

When I was a child, my parents used to take me to Hong Kong Island by

motor-boat to spend a day at the Zoological and Botanical Gardens or the Peak. It was a short voyage of only eight or 10 minutes, but it was a memorable experience though. I can still remember it now, because it was the only chance for me to travel by boat when I was small.

When I went on dates with my wife before we were married, we also liked to take a ferry to Hong Kong side from Kowloon. It was economical; and we could enjoy the sea breeze on the one hand, and admire the beautiful harbour view on the other. It was such a magnificent sight, particularly at sunset.

But now every time I travel by ferry to the other side of the harbour to attend meetings, I have a heavy heart about what I see. I do not deny that there are foreign visitors taking pictures of the harbour jubilantly, but for those of us who have been witnessing the development of Victoria Harbour, there is a different feeling among us.

Faced with a harbour that has become increasingly narrower, the Government is still planning to undertake major reclamation projects between 1997 and 2003. I myself and perhaps the Hong Kong Association for Democracy and People's Livelihood (ADPL) are not in favour of these projects. I hope, therefore, that we can join hands together and adopt this motion. What makes us annoyed is that the Government says reclamation is not the final choice. No matter how fast the economy may grow and despite the astronomical surplus Hong Kong may accumulate, once the environment of Victoria Harbour is destroyed, no great amount of money can compensate the loss.

Now I would like to analyze in three perspectives why we, the ADPL, are not in favour of undertaking any more reclamation projects on Victoria Harbour.

From the perspective of urban development strategy, the Government has persistently claimed that reclamation is necessary in order to cope with population increase, extend the traffic network and infrastructure, as well as to develop new towns. In fact, the Government's rationale is not convincing. In the first place, if the Government has to cope with population increase, it can consider developing the New Territories, or it can concentrate on some long-term targets or places on Lantau Island, which is actually bigger than Hong Kong Island. It should not resort to reclamation as the only means to increase land provision quickly. The Government has noted that after the reclamation works in the Central District and Wan Chai have been completed, there will be a hollow portion along the coast of Queensway which cannot become part of the sea

passage anyway. It is therefore necessary to straighten the coastline. More importantly, however, the Government plans to build a four-lane highway on the reclaimed land from Central District to the Eastern Corridor to ease traffic. It has argued that if the hollow portion is not reclaimed, the highway cannot be built. The ADPL cannot accept such an argument. I do not think all coastlines in the world are in a straight line. If the Government has to reclaim land, it only needs to reclaim a small part of the coastline in order to make way for the road network. There is no reason to reclaim and stretch out by 300 m. Everyone knows that Hong Kong is an island. We could have a lot of beaches along the coastline. If we do not continue to destroy it indiscriminately, our beaches can be compared to those of Hawaii.

Let me turn to the economic impact of reclamation. Of course, I understand that the Government wants to use the land reclaimed to develop infrastructure, transport and harbour facilities, and also to build new towns, in order to gain a bigger economic return. However, the Government does not know that its reclamation projects will probably bring economic loss instead of economic gains in the long run. Victoria Harbour is well known for its deep water port so that ocean-going liners with a huge tonnage use Hong Kong as a depot for supply. When the port becomes narrower, the seabed rises and the displacement capacity decreases. Many cargo vessels will not be able to moor here. Should this happen, Hong Kong will suffer great economic losses.

From the point of view of environmental protection, the rationale for reclamation stands on an even looser ground. When the Government compiled the so-called environmental impact assessment reports in the past, it omitted the part in respect of the impact of reclamation on ecology and the environment. In the assessment, the Government has not given consideration to the depletion of the natural granite coasts of Stonecutters Island and Green Island. It has to be understood that reclamation is not just another infrastructure project of the Government because it has far-reaching consequences. Reclamation not only makes Hong Kong lose its valuable natural resources at any time, but also ruins the original coastline. Also, the dredging and dumping activities which come with reclamation and are spread over the waters of Hong Kong, will further impinge upon the environment.

In addition to causing great harm to the environment, reclamation also has

detrimental effect on marine safety. When the six core reclamation projects are in progress in 1997, the rate of water flow in Victoria Harbour would slow down by more than 10%. This is something the Government should take note.

Although the Government said it would conduct consultations on the reclamation projects, the ADPL is of the view that the Government has never undertaken full consultations in this respect, nor has it offered other options for the public to choose. All in all, the ADPL is against such incessant reclamation to provide land for Hong Kong. In this connection, I hope the Government will stop before it is too late, respect the views expressed by Members today and protect our harbour and protect Hong Kong's only harbour.

Thank you, Mr President.

MR AMBROSE LAU (in Cantonese): Mr President, the Hong Kong Progressive Alliance has long expressed concern about the problem of reclamation on Victoria Harbour, and has published a position paper detailing our views on this subject. I have also written to newspapers appealing to the public to urge the Government to suspend reclamation projects on which works have not started. Learned people of different sectors of society have also put forward their enlightened views in respect of the impact of the fate of Victoria Harbour on Hong Kong. The present motion on this subject before this Council will also have a positive effect in urging the Government to take up responsibility for the protection of Victoria Harbour.

There is an old saying, "To devise contingent measures is similar to putting out a fire. It has to be done quickly and whole-heartedly, lest we would not attain our goal." It is true that reclamation on Victoria Harbour can increase land output substantially, and that reclaimed land has played a certain historical role in the development on both sides of the harbour. However, these seemingly never-ending reclamation projects are putting the position of Hong Kong as a shipping and tourist centre at risk. Once these unique natural advantages of Victoria Harbour on which Hong Kong survives are gone, the reclaimed land acquired through high costs will depreciate. Therefore, the Government should make it a top priority to introduce measures to suspend those reclamation projects which have not yet started. If we liken excessive reclamation to a disastrous fire, now it is high time for us to put out the fire.

The Government has promised not to undertake new reclamation projects

before 1997, but does not keep its words. The reclamation undertaken in a disguised form in Green Island is very irresponsible behaviour. It shows the Government has turned a deaf ear to the voice of the public on the need to protect Victoria Harbour. It also reveals that the Government is indifferent to the long-term interests and prosperity of Hong Kong.

The sages said, "It is a common principle that giving up the most important for the least important can only be taken as a temporary measure. If it persists, harm will result." Excessive reclamation on Victoria Harbour is tantamount to giving up the most important for the least important. It can be seen that harm is done in five aspects: firstly, the self-cleansing power of Victoria Harbour is diminished; secondly, dredging works related to reclamation upsets the balance of marine ecology; thirdly, narrowing of the harbour channel causes the accumulation of silt and hence affects the strategic plan of the westward movement of the harbour; fourthly, it has a detrimental effect on shipping and mid-stream operations; and fifthly, it ruins the overall aesthetic view of Hong Kong and hence our tourist industry.

In its position paper, the Hong Kong Progressive Alliance has suggested: firstly, the Government should develop the north-western territories in line with the North-west Railway system to relieve the pressure on reclamation of Victoria Harbour; secondly, the Government can consider setting up an independent consultative body to study the overall needs for future harbour development; thirdly, the Government should study the use of construction wastes in lieu of the expensive dredging and filling method used in reclamation projects in progress which causes great harm to the marine environment; and fourthly, dredging and dumping of sludge should be strictly controlled.

We urge the Government not to proceed with new reclamation projects until a comprehensive assessment is completed taking account of our current needs. In spite of the fact that the views and proposals of the Hong Kong Progressive Alliance were raised quite a long time ago, we are pleased to know that many of these views and proposals have become the consensus of the people of Hong Kong. We shall work together with all sectors of society to continue to urge the Government to take up the important duty of protecting the environment and the important position of Victoria Harbour.

Mr President, these are my remarks.

DR JOHN TSE (in Cantonese): Mr President, I would like to discuss reclamation from the point of view of environmental protection. According to statistics released by the Government, after all the reclamation projects have been completed, it would bring more than 1 000 ha of usable land for Hong Kong. With so little land but a high population in Hong Kong, these reclamation projects are indeed very attractive. But the Democratic Party is of the view that reclamation will have a definite impact on environment and it might even be an irreparable damage. Thus before these projects are implemented, we cannot merely look at their cost effectiveness; we should instead carry out a comprehensive assessment of the projects and study their impact on ecology and the environment.

Impact of reclamation on ecology

In dealing with reclamation, the authorities adopts the method of "dredging out silt and filling with sand".

Pollution of reclamation areas

Because by adopting this method, sludge in the reclamation areas has first to be excavated, pollutants and toxic materials in the sludge would be released back into the sea. In this way, not only will the water quality further deteriorate, but these pollutants will flow with the current to nearby districts, causing further pollution.

Pollution of dumping areas

According to the Geotechnical Engineering Office, it is estimated that a total of 260 million cubic metres of sludge would be excavated from the reclamation areas in the next five years, more than enough to fill 100 000 swimming pools of Olympic standard. While the Government removes the sludge to be dumped in other districts, it will also upset the ecological balance of these dumping areas, and the first to be affected would be the marine lives dwelling in these places.

It can be seen that the method of "dredging out silt and filling with sand" will cause irreversible damage in many ways.

Impact of shrinking of harbour on environment

On the other hand, reclamation causes the area of the harbour to become smaller. Its impact on the environment must not be ignored.

Reduce the cleaning power of the harbour

At present, the sea water in Victoria Harbour is displaced once every 1.2 to 1.5 days. This shows that Victoria Harbour has a natural cleaning ability. However, after reclamation is completed, the water flow will slow down by 20%. We are worried that the natural cleaning power of Victoria Harbour will be greatly affected by then. Although the Government says there will be a Strategic Sewage Disposal Scheme as a backup measure, yet a study has shown that there are about two million tons of untreated sewage discharged into Victoria Harbour every day. This sewage has not caused serious pollution to Hong Kong all because of the self-cleaning ability of Victoria Harbour and not due to the Government's sewage disposal plan. Moreover, currently in Hong Kong, only level 1 sewage treatment is in action. Whether this is sufficient is subject to further review. Therefore, the Government should treasure the present self-cleaning ability of the harbour.

The harbour as an important "lung of the city"

The Democratic Party considers that, to the general public, the harbour is an important city lung because it can reduce air pollution. At the same time, as Hong Kong is increasing a concrete jungle, the harbour will free the residents from this concrete jungle. In contrast, reclamation reduces the size of these city lungs, and causes heavy losses to the people.

Disrupt ecological balance

Similarly, reducing the size of the harbour will disrupt the ecological balance in the reclamation areas, causing a deterioration in water quality and changes in tidal patterns. Reclamation thus brings a negative effect on the natural ecology in the areas.

A reassessment of all reclamation projects should be conducted

Mr President, the Democratic Party is not indiscriminately against all reclamation projects. It is in favour of undertaking those reclamation projects which do not cause too great a damage to the environment and are cost-effective. Take for example the reclamation in Kowloon Bay, we all agree to eliminate this pollution black spot by way of reclamation. In this connection, the Democratic

Party hopes the Government will assess the cost-effectiveness of all reclamation projects, determine their impacts on the environment, and withdraw those reclamation projects which will cause damage to the environment, and which are excessive and unnecessary.

Step up monitoring by the Legislative Council and the public

Meanwhile, the Democratic Party agrees that everyone has an interest in the harbour of Hong Kong. We therefore urge the Government to increase the transparency of the planning process, so that the Legislative Council as well as the public will have more participation in and supervision of the reclamation projects to ensure that all the projects are in line with the long-term interests of Hong Kong.

Mr President, these are my remarks.

MISS CHAN YUEN-HAN (in Cantonese): Mr President, with the increasing economic development of Hong Kong and the neighbouring countries, Hong Kong will continue to be a hub in southern China in the foreseeable future. Faced with tremendous future development needs, the westward moves of the airport and container terminals seem inevitable. Following the development of the harbour on the west, Victoria Harbour will lose its original functions. The Government therefore thinks reclamation can be done on a large scale to create additional land for commercial premises, domestic housing, roads and parks, and hence puts forward the present massive reclamation projects on Victoria Harbour.

In discussing the impact of reclamation on Victoria Harbour, we can look at it from different angles. Some colleagues in this Council have discussed environment protection, emphasizing on the need to protect our natural resources; while others have taken an aesthetic point of view and assessed whether we should reclaim part of Victoria Harbour. Today, I rise to speak in order to bring out another problem arising from reclamation on Victoria Harbour and which some colleagues have discussed. Judging from the works now in progress, we can be certain of one thing, and that is the existing reclamation projects are putting marine safety at risk.

Earlier, I contacted some marine transport bodies and unions. They pointed out that since the large-scale reclamation projects were carried out in

West Kowloon and the Central District on Hong Kong Island in 1993, the navigable area of Victoria Harbour has decreased gradually. As a result, there is some confusion in marine traffic navigable and hidden danger exists everywhere.

At present, the section of the harbour between Tsim Sha Tsui and Stonecutters Island is very stormy with roaring waves during peak hours of traffic. The reason is when large vessels sail on the sea, the water displaced by the vessels can create waves of more than 1 m. Smaller vessels such as ferries, yachts and motor-boats will rock heavily because of the big waves. Passengers on these small vessels will easily stumble and get injured. Besides, ferry passengers using the gangboards always have the danger of falling into the sea because of irregular movements caused by the waves. According to people in the industry, there are quite a few cases of passengers of cross-harbour motor-boats falling into the sea while boarding or disembarking due to the waves every month, but because these passengers are not injured, no reports have been made.

Furthermore, because waves have become bigger in the harbour, it is more difficult for loading and unloading activities to be carried out. Not only do the workers have to work longer hours, but it would be easier to cause damage to the cargoes and injuries to the workers. According to statistics of the Marine Department, there were 403 cases of workplace injuries connected with cargo handling activities in the harbour in 1995, whereas the comparable figures were 395 and 475 in 1994 and 1995 respectively. Although the overall figure may not be serious, a drastic increase of 80 cases or 20% in 1995 merits our attention.

Another danger to navigation is that reclamation makes the sea channel narrower. Vessels are more likely to collide with each other due to the heavy marine traffic. Before reclamation was done, smaller vessels could use the wider waters on both sides of the central fairway without having to compete for right of way with the larger vessels. After reclamation, however, all kinds of vessels, large or small, will have to sail on the central fairway. In particular, the smallest distance from Tsim Sha Tsui on one side of the harbour to the Hong Kong Macau Ferry Terminal further to the west on the other side is only 800 m. The fairway is so crowded there that it poses a danger to navigation. According to statistics of the Marine Department, there were only 163 cases of collision

involving vessels in the harbour in 1991, but an increase of 20% to 30% was recorded in each successive year. By 1995, this figure reached a high of 346. And some captains of vessels disclosed there were other cases of minor collisions not reported to the Marine Department because no major losses were incurred.

The above figures of workplace injuries and accidents connected with marine collision tell us that our past reclamation projects have threatened the safety of ferries using the harbour, especially those ferries of a smaller size.

While the westward move of the port has not started yet, Victoria Harbour has to continue to take up the heavy burden to function as an entrepot. Should the reclamation projects continue, I am sure sailing in the harbour would be more at risk.

Faced with the above problems created by reclamation, I urge the Administration to find a solution. Through the Port Development Board, a special committee was set up in 1994 to study the strategic use of the Hong Kong waters. It assessed the current use of the harbour and whether the navigation safety monitoring system in the harbour was adequate, and then suggested ways to solve the problems. The committee put forward a number of proposals to remedy the situation, some of which are pending further review.

We think the Government ought to have started assessments of this kind prior to the planning stage of large-scale reclamation, and at the same time relevant measures should be drawn up to minimize the impact of the projects on harbour users. Regrettably, as far as we can see, it is perplexing that projects of such a major scale were not accompanied by a parallel assessment of the impact of the works. No wonder a series of marine safety problems that I have just mentioned come up.

Mr President, frankly speaking, as one of my colleagues has just said, our harbour is a beautiful one, and that Hong Kong Island and Kowloon form a

natural barrier to give Hong Kong a beautiful and useful harbour. I fully agree with this view. Living in this city, we hope Hong Kong will preserve this invaluable natural resource. In spite of the high value of land reclaimed from Victoria Harbour, such large-scale reclamation will make people of Hong Kong lose this priceless treasure. In fact, certain projects may provide just a few hectares or a small area of land, but they could cost us an excellent and pretty inner port for ever. As a matter of fact, there are still a lot of areas in Hong Kong that can be developed, and there is no need to reclaim land in such a way as to deprive us of our natural environment.

Mr President, I would like to stress one point. Once reclamation is done, the harbour will become a piece of the continent. Afterwards, it would be impossible to restore the original face. With each inch of land we reclaimed, our harbour will be smaller by one inch. In order to save this natural Victoria Harbour for our next generation, the Government should from now on study it carefully, bearing in mind the cost we have to pay for reclamation.

With these remarks, I support the motion.

MR LEUNG YIU-CHUNG (in Cantonese): Mr President, there are seven large-scale reclamation projects currently in progress, covering an area of over 400 ha and due to be completed in 1997. In the meantime, there are eight large-scale reclamation projects being planned, providing more than 600 ha of additional land. On top of the Chek Lap Kok Airport reclamation and reclamation for development of port facilities, within the next eight to 10 years, Hong Kong will have started a reclamation programme of an unprecedented scale, mobilizing manpower and material resources unparalleled in history. I cannot help asking, is it worth doing like this? And is it absolutely necessary?

The Government has already announced for public information that the seven large-scale reclamation projects in progress will be mainly for the purpose of expanding the port, as well as providing land for the Airport Core Programme (ACP) and land for development of housing, office buildings, hotels, recreational facilities, community centres, as well as art and cultural facilities, and for extending new roads and new railway lines. In reality, how much of these 400 ha of land will benefit the livelihood of the public? Public funds are spent in

astronomical figures, but who will be the greatest beneficiaries?

Reclamation projects in Central and Wan Chai are all designated for commercial use, such as the Hong Kong Island terminal for the Airport Railway. The most extensive reclamation project is the West Kowloon reclamation which is mainly used for the ACP, while the reclamation project in Stonecutters Island is to be used as a naval base for China.

I am well aware of the importance of infrastructural developments, but I really hope the Government will understand that if an enormous amount of public funds is spent on projects in which the major beneficiaries are businessmen or foreign investors, and not for the purpose of looking after the welfare of the grassroots people, I am sure the people of Hong Kong will not agree, nor will this Council.

I would like to ask the Government:

Firstly, actually how many jobs have these reclamation projects created for the local labour force? And how many job opportunities will the land developments bring after the projects are completed? Obviously, the Government has not kept a balance between the problem of employment and commercial benefits, so that these reclamation projects cannot generate even better effects.

Secondly, the Government will allocate some of the reclaimed land for development of domestic housing to alleviate the overcrowded urban living environment. However, according to the Government's own report, the population ratio between the New Territories and metropolitan areas is 4:6, but that for the future development is 4.4: 5.6. This shows that reclamation is not going to increase the ratio of urban population. On the contrary, it continues to move the population to the new towns, to become pioneers of the developing areas of property developers. The Government is really very thoughtful towards the developers, cutting out mountains to reclaim land from the sea in the urban districts, and launching extensive development programmes in the New Territories. While the developers are swollen with profits, the grassroots people

do not get even a penny.

Thirdly, reclamation of several hundred hectares on Victoria Harbour will seriously affect the ecology and aesthetic view of the harbour. It will also increase the danger of marine traffic. The Government is doing an immoral act of sacrificing a lot to achieve a little. As I have just mentioned, the greatest beneficiaries of reclamation are a handful of business magnates and foreign investors. At present, Victoria Harbour, which is already overloaded with daily pollutants, is not covered under the Strategic Sewage Disposal Scheme. Making the sea channel narrower will only aggravate water pollution. In addition, the sand and mud brought in by reclamation will make the sea water more turbid. It is not difficult for me to imagine the fate of Victoria Harbour: aside from its terrible smell, its appearance will also be appalling. Even if we can stand the smell and turn a blind eye to the view, reclamation will also reduce sea breeze, and the polluted air of the city cannot be dispelled effectively. The health of the public will be affected directly. Reclamation will also cause the fish breeding grounds on our rock beaches and granite shores to disappear, affecting natural ecology. Massive dredging and dumping into the sea will also damage our fishing industry.

At present, the narrowest part of the channel between Tsim Sha Tsui and Central District is already overcrowded. After the proposed Kowloon Point development plan is implemented, the distance between Tsim Sha Tsui and Central District will be shortened to some 800 m. This will further aggravate the dangerous situation of the busy marine traffic. I want to ask, which is more important, human lives or the expansion of commercial land in Tsim Sha Tsui?

It is true that infrastructure is essential to the development of Hong Kong. But I hope the Government would not add flowers to the embroidery of the big conglomerates. It is important that our taxpayers' money should be used to strike a balance between the goals of infrastructure and the interests of the public. The projects currently in progress have failed to achieve this balance. I hope the planned reclamation projects will do that. More importantly, the Government should publish its plans, consult the public and absorb the views submitted before implementing the plans. I am sure in this way they will be acceptable to the public.

With these remarks, I support Miss Christine LOH's motion.

MR IP KWOK-HIM (in Cantonese): Mr President, the Hong Kong Government began a study on harbour reclamation in 1983 and proposed the Metroplan in 1991, one of the aims was to include the harbour as part of the city. To achieve this aim, the Government carried out a number of reclamation works along the Victoria Harbour at all costs to secure a large amount of urban land for development purpose.

The Democratic Alliance for the Betterment of Hong Kong (DAB) considers that every reclamation project must be carefully handled in a progressive manner. The Government must not carry out excessive reclamation simply for the sake of economic benefits, thereby causing irreversible damage to the environment and gaining for itself the unpleasant label of "a sinner for a thousand years" once again.

The Government should be well aware of the fact that Hong Kong's economic development, so greatly admired today, and its position as a hub in the Asia Pacific region, are entirely due to the Victoria Harbour, a deep and wide natural harbour renowned throughout the world. Any stubborn insistence by the Government on the implementation of the proposed extensive reclamation project would tremendously diminish its size, turning it into the Victoria River. This would not only stifle the vein that contributes to the economic success of Hong Kong, but also cause serious and irreversible damage to the environment.

An excellent natural harbour, the Victoria Harbour is as great a centre of attraction to foreign visitors as the Darling Port of Sidney, Australia. The Government's many proposed reclamation projects yielding nearly 1 300 ha of land would completely change the appearance of the harbour, with its beautiful natural setting forever disappearing into the thin air. If this happened, not only would Hong Kong lose a unique and excellent harbour, tourism would also suffer a serious impact, resulting in heavy losses in foreign exchange income. The Government must really think twice before taking any action.

As the spokesman for DAB on environmental affairs in this Council, I

wish to take this opportunity to remind the Government of the following possible effects of such massive reclamations on the environment and shipping in Hong Kong.

Firstly, Victoria Harbour is Hong Kong's major city lung, which provides the 600-plus million people in this concrete jungle with a nice place for rest and staying away from the bustle of a city. Every effort should now be taken by the Government to protect this excellent natural harbour instead of having the environment on both sides of the harbour further damaged.

Secondly, the distance between the two coasts would significantly be reduced by the reclamation works. Upon completion of the works, the distance between the two coasts running westward from Tsim Sha Tsui to the Hong Kong-Macau Ferry Terminal would be reduced to 700 or 800 m, forming the narrowest strip in the harbour. The narrow strip and straightened coastline would definitely give rise to rapid currents and tidal waves, especially in poor weather and during typhoon attacks, when vessels with low displacement and low-powered engine would be prone to losing control. The narrowed distance between the two coasts would also leave no choice to the vessels, whether big or small, but to crowd along the central shipping course. This, coupled with the increasing number of high-speed passenger and goods vessels due to the growing volume of trade between China and Hong Kong, would bring about very dangerous traffic jams on the course.

Thirdly, by virtue of its tremendous natural flushing power, the Victoria Harbour has become a unique deep-water harbour in the world. A study by the Hong Kong University of Science and Technology indicates that sewage amounting to 2 million tons is discharged into the harbour every day and it is the strong flushing power caused by the tides and ebbs that the heavy metals, toxic materials and sediment of the sewage are flushed out into the sea. Extensive reclamation would seriously weaken the natural flushing power, accelerate the sedimentation of sea mud and cause serious water pollution, turning Hong Kong, the "fragrant harbour", into a "stinking harbour".

Fourthly, excavation and reclamation on a large scale would cause great ecological damage to local waters. Large amount of sea earth would be excavated from local waters for reclamation, destroying the habitat of marine lives while polluted sediment at the sea bottom within the reclamation area would be taken away and dumped in designated places, which are in the vicinity

of some cultured and natural fish ponds. The heavy metal and pollutants emitting from the sediment would be fatal to a large number of marine lives. The pollution of marine products would not only be hazardous to human lives but also reduce the fishermen's catches, affecting their livelihood adversely.

In view of the above reasons, the DAB urges the Government to consider carefully in a sensible and rational way the negative effects brought about by the various reclamation projects, instead of turning a deaf ear to the harm done to the environment like an ostrich that buries its head in the sand. The DAB requests that the Administration should conduct a comprehensive assessment of the impact of the reclamation projects in Victoria Harbour on the environment and the harbour itself before deciding on the overall development strategy in consultation with the public and professional bodies.

With these remarks, I support the Honourable Miss Christine LOH's motion.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): Mr President, first of all I would like to thank Honourable Members for speaking on the reclamation works of Hong Kong. There are some views which I readily agree with, but there are others which I do not necessarily accept. In fact I have prepared a very detailed response. Of course there are not many Members present now, but I hope that my speech will be recorded in the Hansard so that it can be referred to by other Members.

In responding to the motion of the Honourable Miss Christine LOH, an important point of principle to establish at the outset is that future harbour reclamation projects must be set in the context of Hong Kong's longer-term land requirements. Indeed, without an adequate and steady supply of serviced land, it would be virtually impossible to satisfy adequately the future needs of our community for housing, social and cultural facilities, transport and other essential infrastructure, recreational amenities and a diverse range of economic activities, at the right places.

Generators of Demand

Our voracious appetite for land arises from two primary sources.

- First, population growth coupled with greater affluence and rising expectations. I hope Members will recall that since 1961, our population has increased on average by about 1 million people every decade. Looking ahead, we should therefore be prudent in anticipating the population of Hong Kong rising from its current level of 6.3 million to between 7.5 and 8.1 million over the next 15 years or so. The results of the 1996 By-Census will of course provide us with an opportunity to take a further look at our future demographic scenarios.
- Second, substantial needs for land also arise from the growing and changing hub functions of Hong Kong as a high-capacity container port; as an international focal point for aviation; and as a global and regional centre for business and finance. More land is needed to support Hong Kong's functions as a centre for high value-added, commercially-based services; as a base for more "up-market" and high-technology industries; and as a multi-functional headquarters that provides support services for industrial development in South China. Additionally, land is needed if Hong Kong is to be successful as a centre for academic and professional excellence; a major destination and stop-over point for tourists; a top-rate convention and exhibition centre; and a place where the cultures of the East and the West meet.

Taking all these factors into account, the Administration has, in the context of the current review of the Territorial Development Strategy, estimated that up to the year 2011, we would need as much as about 1 500 ha of land for general urban uses and a further equivalent amount for port activities. This represents an area about twice the size of the new airport at Chek Lap Kok or an area roughly the same size as the Kowloon Peninsula.

To produce such an amount of land in a phased and timely way will be no easy task, given that the lead time for creating serviced sites is as much as eight years to allow for the preparation of plans, public consultation, the briefing of advisory bodies, gazetting procedures under relevant ordinances, subsequent

objections, appeals and reviews, the preparation of contracts and the implementation of works.

Potential Land Supply

The obvious question before us therefore is "What areas would be suitable for new development?" Here, there are three broad, potential sources of supply, namely:

- 1) through the redevelopment of old areas;
- 2) through the use of "green-field" sites comprising mainly lowland areas previously used for rural activities; and
- 3) through the reclamation of relatively shallow areas of sea.

In order to fully address the points of concern raised in Miss LOH's motion, we need to take a brief look at each of these "solution spaces".

Redevelopment Potential

With regard to redevelopment, most Members of this Council will well remember the days in the late 1950s and 1960s when the city resounded to the pounding of pile-drivers as private developers took advantage of new regulations to tear down old, low-rise tenement blocks and replace them with multi-storey buildings with site densities many times greater than the original buildings. At the same time, various public bodies pushed ahead with the building of huge housing estates of basic design in a desperate rush to satisfy burgeoning needs for shelter.

Over the coming years, the community will have to face up to the refurbishment and replacement by private and public organizations of numerous high-rise buildings erected three and four decades ago. However, experience clearly shows that, in order to meet modern planning requirements, to provide adequate infrastructure services and to satisfy environmental standards, new redevelopment schemes generally will not achieve a higher population capacity.

In general terms, the process of redevelopment means that more people will be moving out of substandard areas than can be put back if we are to maintain acceptable living standards. Allow me to give two illustrations here:

- First, in public housing. Since 1976, the Housing Authority has been pushing ahead with the redevelopment of estates built in the 1950s and 1960s, at densities commonly in the order of 4 000 to 5 000 persons per hectare. Upon completion of comprehensive redevelopment to provide more spacious housing, open spaces and local community facilities, the densities will fall to between 2 000 to 2 500 persons per hectare. For example, in the case of Wang Tau Hom Estate, the population in 1982 stood at over 39 000 people. But after its redevelopment in early 1994, population in the housing estate dropped to about 24 000 people.
- Second, as a follow-up to Metroplan, work has been steadily progressing to produce for each broad district a Development Statement to provide a more detailed framework for the restructuring of old areas. In West Kowloon, for example, our studies show that the population would need to fall from about 650 000 in 1991 to just over 500 000 if we want to make a reasonable level of improvement to the environment of that area.

Members of this Council, many of whom are in-tune with "grassroots" issues, will know that rehousing of such large numbers of people must, to be successful, recognize both the social and economic attachments of people who have lived in a given district for some length of time and also the need to give such people a choice as to where they could live in future. To this end, there is really a need to reclaim the harbour and at the same time, develop new towns near the areas where they are living, so as to provide the land needed.

Green-field Sites

Let me now turn to the potential supply of land from "green-field" sites in the rural areas.

I am sure that Members of this Council will also have clear memories of the ambitious programme of new town development that was launched in 1972 in association with a long-term housing programme. Large areas of land in the New Territories were planned and developed for new communities that are, today, recognized widely as remarkable achievements.

Initially, there were six new towns. With the need to meet escalating social and economic demands, further green-field sites had to be turned over for the development of new towns. There now are nine new towns with a capacity to accommodate about 3.3 million people, while the existing population is about 2.6 million. Also, new communities have been created through the initiatives of the private sector.

However, the stark fact is that the reserve capacity in the currently planned new towns is dwindling rapidly. There are also real questions on whether their boundaries can be further expanded or new areas can be earmarked for development.

From our attempt to search for new development opportunities, the Administration has, in the context of its sub-regional plans and the current review of the Territorial Development Strategy, been able to identify a number of potentially suitable areas. However, the feasibility of each potential new area needs to be carefully assessed as there is a wide range of problems to be resolved and their availability for development may only be in the longer term.

Notwithstanding such proactive endeavours, there are still perceptions that there has been a large untapped reservoir of green-field sites in the New Territories. Pressure for the conversion to urban use of fish ponds along the borders of the ecologically sensitive Mai Po Marshes is clear evidence of such perceptions. Other areas that are hopefully regarded as being able to produce extra land supply are subject to many severe constraints, such as drainage and flooding problems, fragmented land ownership, geotechnic difficulties, lack of infrastructure and the widespread use of land for open storage. It can, of course, be claimed that all such problems could be resolved, but it is unlikely that we would be able to do so in a timely and cost effective way.

Reclamations

In reviewing the potential sources of land supply, let me now turn to reclamations, which has long been an effective way of providing serviced sites. Indeed, many parts of the new towns, as well as littoral parts of the Metro area, have been developed by such means over a long period of time.

The Harbour as an Asset

The focus of attention, today, must of course be on the reclamations

around the harbour. My initial response to Miss LOH's motion is that I see the harbour as an asset that needs to serve several and, sometimes, overlapping purposes. It serves much wider public benefits than the motion appears to perceive.

I believe many Members will agree that many parts of the Metro area are in dire need of restructuring and renewal to help resolve a range of social and environmental problems. It is also the key area where many business functions of Hong Kong are located and the principal place of employment for a high proportion of the work force. Equally, it is an area in which grid-lock traffic situations can, in future, be avoided only through the provision of new road and rail-based transport systems and through the planned re-arrangement of land uses to control daily travel needs.

All these considerations add up, in broad terms, to the need to provide new land in locations adjacent to currently built-up areas. To that end, we have for many years sought to make better use of existing land resources in the Metro area by such measures as rezoning and modifying the density controls. However, the scope for this has become progressively more limited. We simply cannot go on to build more in the same area. If we want to meet the demand of the urban area for new land, reclamation in suitable areas would be one of the solutions.

Government's Planning Initiatives

Miss LOH's motion implies that the Administration has responded inadequately to different views in its planning of harbour areas. I cannot accept this allegation.

The Administration has since 1967 been proactive in reviewing the strategic development needs of Hong Kong. In 1971 we promulgated the Colony Outline Plan and, subsequently, in 1984, the Territorial Development Strategy. Both of them are the products of very thorough, co-operated endeavours that postulated a well-conceived balance of development between the New Territories and the Metro area.

A further initiative was taken in 1988, in parallel with the formulation of the Port and Airport Development Strategy, to produce the Metroplan from a very comprehensive and well-conducted programme of research and consultation on a number of options. One particular aspect covered by this work was the preparation for the entire Metro area by well-qualified experts of both a broad

Landscape Strategy for the Urban Fringe and Coastal Areas and a more detailed Urban Design and Landscaped Framework, supplemented by an Open Space Framework for Recreation. A very extensive public consultation was done before final plans were presented to the Executive Council in September 1991. In a nutshell, the very best of efforts were made to take account of the harbour's special character in formulating the Metroplan.

Scale of Reclamations

The motion also assumes that the currently planned harbour reclamations are "grossly excessive" and that "excessive depletion of the harbour is irreversibly damaging both to the natural and human environment of Hong Kong".

Mr President, I must say I find these assertions grossly inflated too. On the contrary, the extent of future reclamations is a reflection of the land use and infrastructure needs of the Metro area. Also, reclamation can sort out the problems of the city, provide new community facilities at suitable sites, improve the traffic situation and to help sustain the vitality of Hong Kong as a whole.

As I have already mentioned, the land use needs of the Metro area stem from the growing social and economic demands of the community. Renewal of the old areas, which involve the up-front rehousing of tens of thousands of families, can be successfully accomplished only if new sites on adjoining reclamations and in other conveniently located areas can be provided in a timely way.

Mr President, as Members just said, we now have seven harbour reclamation projects in various stages of completion, but in fact, most of these projects are related to the airport development. Seven other projects are also proposed in the Metroplan, but, again as Members just requested, there are a number of studies, even environmental assessment, that must be completed first and therefore these new projects will not be confirmed in the near future. Taking all these plans together, 65% of the land to be formed will be devoted to traffic improvement, open space and community facilities, with only 35% for various commercial, residential and industrial uses. The allegation that Government reclaims land to make windfall profits in land sales just does not hold water. It would be impossible to implement our plans to improve the environment of the old urban areas and to improve the traffic situation and

provide open space and community facilities in these old areas without the harbour reclamation projects or without the mass removal of the population and jobs to other parts of Hong Kong.

Environmental Aspects

On environmental issues, I must state that aspects relating to air quality, noise, water quality, exposure to hazards and incompatible uses have all been thoroughly assessed in the evaluation of proposed reclamations, individually and collectively, in the formulation of Metroplan; in the subsequent preparation of Development Statements for each broad Metro area; and in the promulgation of outline zoning plans for individual districts.

As mentioned by Members just now, of particular concern is the question of water pollution. Reclamations *per se* is not a root cause of water pollution; rather, it is the discharge of huge quantities of untreated effluent that get poured into the harbour each day. Not to proceed with reclamation not the solution to that problem. Furthermore, as a basis for deciding on the scale and shape of new reclamations, carefully controlled model tests have been conducted to assess the impacts on harbour hydraulics and water quality, with the results being used to produce suitable alignments of sea walls. As a side benefit, reclamations can eliminate polluted areas by covering up highly contaminated sediments that would otherwise continue to release noxious substances into the waters of our harbour.

Rightful Interests

Mr President, should the plans for harbour reclamations be withdrawn as proposed in the motion without further detailed study, the consequences on the rest of the Metro area would be immeasurably worse than what the motion contends. Would it then be considered equitable that a substantial sector of our community should be confined to living and working in a congested area or be required to move to more remote areas for residence because of our limited vision? Such a scenario would also mean increased pressures of urban development in environmentally sensitive areas in the New Territories, making it even more difficult to defend our "green belts". Some might also ask, do we really have to reserve 44% of the land in Hong Kong as country parks?

I concur with the motion that "all Hong Kong people have a rightful

interest in the harbour". But, I would hope that, by now, Members of this Council will see this issue in a broader territorial context on the basis that the proposed harbour reclamations have all been conceived to meet many diverse needs both to correct the problems of the Metro area and to provide for the future economic development of Hong Kong. Besides providing essential opportunities to develop new jobs and infrastructure, they will also provide homes for over 500 000 people in various locations. At the same time, a commitment to the phased implementation of reclamations does not mean any less commitment to already well-established and new development opportunities in the New Territories.

Matching Supply and Demand

I also wish to make the point that in arriving at an appropriate balance of development for the territory as a whole, an extremely important aspect to consider is the relationship between where people live and work, given that the greater the distance between the two, the higher will be the volume of commuter traffic with more adverse consequences on the environment.

This important relationship has been addressed in the formulation of the Territorial Development Strategy. We have to bear in mind that about 83% of the jobs are in the Metro area and about 70% of the population live in the Metro area too.

Even with the introduction of more proactive measures to encourage the decentralization of jobs, we are likely to still have about 70% to 75% of the jobs in the Metro area in the future. If we were to channel the bulk of new strategic growth to the New Territories, as some critics advocate, the share of the total population living in the Metro area could fall to well below 50% over the long term. The consequence would simply be that more people would have to live in more remote parts of the New Territories and thus have to tolerate increasingly longer commuter journeys to and from work. I wonder whether this should be the aim of our strategic plan.

I must also take issue with the assumption in the motion that harbour reclamations are not openly planned and accountably carried out. On the contrary, the planning process embodies thorough public consultation. Part of

the consultation might have already been made before Members became Legislative Council Members and slipped their memory. However, the Town Planning Ordinance already provides a mechanism for the Town Planning Board to scrutinize proposed reclamation projects through amendments to the Outline Zoning Plans and for the public to be consulted. The Board then considers the public views before deciding whether or not to amend the plan. If there are objections, the Board will invite the objectors to a hearing to express their views. Thereafter, the Governor-in-Council is invited to decide whether or not to approve the amendment to the plan. If the town plan is approved, specific works projects will have to be gazetted under the Foreshore and Sea-bed (Reclamations) Ordinance to give the public an opportunity to scrutinize and raise any objections. The Government is required to consider all objections and submit them to the Governor-in-Council for a decision on whether or not the works should be authorized. Finally, no project in the Public Works Programme can proceed unless approval from the Public Works Subcommittee and Finance Committee of this Council is obtained. Hence, adequate consultation and transparency are ensured under our mechanism.

Where to Now?

Mr President and Honourable Members, I trust that my response to the motion before you has helped to restore a proper balance to perceptions of the need for and role of harbour reclamations. As it is only through rational debate that we can hope to move forward, I very much welcome the opportunity for presenting the Administration's views today.

I would therefore like to conclude by saying that the Administration fully recognizes that fundamental issues relating to the future social, economic, physical and environmental attributes of Hong Kong are matters that deserve careful consideration by the community at large. The Government will not insist unilaterally on pursuing the remaining reclamation projects before completing the studies. On the contrary, steps are being taken to release for public comment in the middle of the year the results of the current review of the Territorial Development Strategy, which will provide a comprehensive context in which to formulate a rational view of the development needs of Hong Kong and the development opportunities for responding to such needs. Our future harbour reclamation plans are rather long-term ones which allow for phased implementation and, as such, there would still be opportunities for adjustments

when problems or better arrangements arise.

I hope that Members would, in taking into consideration the future overall development of Hong Kong, give the Territorial Development Strategy Review to be released a chance for fair discussion. To vote in favour of the motion today would pre-empt the rights of individuals and organization in our community to express their own opinions or preclude a fair discussion on the Strategy. Accordingly, I would ask Members to ponder carefully over the various points before voting.

Thank you, Mr President.

PRESIDENT: Miss Christine LOH, you are now entitled to reply and you have four minutes 38 seconds out of your original 15 minutes.

MISS CHRISTINE LOH: Thank you, Mr President. I would also like to thank the Members and of course the Secretary for Planning, Environment and Lands for their various speeches.

I think we do have a very fundamental difference in the way we look at the harbour as a natural asset. Mr Bowen LEUNG has said so much himself. He told us at great length the justifications for using the harbour for extensive reclamation in order to achieve various purposes. He also even said that if we did not fill up more of the harbour then we may have to encroach on our country parks. I certainly would agree with him that I have an entirely different vision.

Mr LEUNG also said that the plans that the Government has for future reclamations, the ones that have not been committed or decided, are very far away. They are only at the consideration stage. My concern in raising this particular debate today is that these plans are indeed very extensive. If we do not watch very closely, time will run out and they will happen before we know it.

Of course the Government has admitted today that it will continue, of course, to study those plans. During the study process, I think it is very important that the community is fully engaged and involved. Unfortunately

what I did not hear from the Secretary is how he proposes to really involve the community a lot more. Almost every person who has spoken today has given examples and personal involvement in the planning process over the years. Although Mr LEUNG said that, well, we have been consulting, we have had plans out since 1971. He and the Administration may like to ask themselves: Why is it today that we are all still questioning the process? Is it because we are deeply mistaken? Is it because we want to be unfair? Is it because that we are misled by people with various vested interests?

I would like to suggest to the Administration, Mr President, that that is in fact not the case. The truth about the planning process, and I have stated it in my speech earlier on, is that it is one that really involves very few people. It is one that allows the Government to pick various options without consulting people at the early stages before they come to a final decision, and then they will come to the public and tell you the good news. If you want to tinker around the edges, they may be willing to make some minor adjustments, but it is almost impossible to make major adjustments or to turn back the project. And this is precisely the area where I find the Secretary, in his speech, not willing to address whatsoever.

So, where do we go from here since time is running out? I would suggest, for example, on the issue of population, because that is so important that we just do not accept what the Secretary said just now which is, well, every 10 years we have added a million people to Hong Kong. Well, we have a history. We have had a lot of people coming from the mainland. Now, after 1997, what will be the case? We know right now that there are people coming from the mainland every year. Is this to continue? Is it going to be increased? Or will the number really be quite substantially more because of the continuous social and cultural and political interaction between the two places? These are issues we do have to look at and it is not sufficient for this community simply to say in the past 10 years we have added a million people, so that is how we should plan. And again, I urge Members to take up this point in our various Panels.

I just also wish to say, Mr President, that Dr PRIOR, who is of course the Chief Town Planner, did say on 1 March in a newspaper that the public views had often been ignored in the past and that he was going to review these plans. But Dr POON, also of the Planning Department, said five days later that they are going to charge ahead with these proposals that they are working on. So what is the Government really telling us?

Now, just now, the Secretary did admit — if I may just finish this sentence — he did admit that the Government, with all these plans on the table, had done no health and environmental impact assessment. I hope that will be done soon, and I and I am sure, other Members will take up each of these points in the relevant Panels.

Thank you, Mr President.

Question on the motion put.

Voice vote taken.

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

Miss Christine LOH claimed a division.

PRESIDENT: Council shall proceed to a division.

PRESIDENT: I would like to remind Members that they are now called upon to vote on the question that the motion moved by Miss Christine LOH be approved. Will Members please register their presence by pressing the top button and then proceed to vote by choosing one of the three buttons below?

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

Mr Martin LEE, Mr SZETO Wah, Mr Edward HO, Dr LEONG Che-hung, Mr CHEUNG Man-kwong, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Mr LEE Wing-tat, Mr Eric LI, Mr Fred LI, Dr YEUNG Sum, Mr Howard YOUNG, Mr WONG Wai-yin, Miss Christine LOH, Mr LEE Cheuk-yan, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Andrew CHENG, Dr Anthony CHEUNG, Mr CHEUNG Hon-chung, Mr IP Kwok-him, Mr Ambrose

LAU, Mr LAW Chi-kwong, Mr LEE Kai-ming, Mr Bruce LIU, Mr MOK Ying-fan, Mr TSANG Kin-shing, Dr John TSE, Mrs Elizabeth WONG and Mr YUM Sin-ling voted for the motion.

THE PRESIDENT announced that there were 31 votes in favour of the motion and no vote against it. He therefore declared that the motion was carried.

MEMBER'S BILLS

First Reading of Bills

PROBATE AND ADMINISTRATION (AMENDMENT) BILL 1996

THE HONG KONG INSTITUTE OF LANDSCAPE ARCHITECTS INCORPORATION BILL

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

Second Reading of Bills

PROBATE AND ADMINISTRATION (AMENDMENT) BILL 1996

MR BRUCE LIU to move the Second Reading of: "A Bill to amend the Probate and Administration Ordinance."

MR BRUCE LIU (in Cantonese): Mr President, I move that the Probate and Administration (Amendment) Bill 1996 be read the Second time.

The purpose of the Bill is to amend section 15 of the Probate and Administration Ordinance (Cap.10), which provides for the allocation of estates of small value, without any legal formality, by the Registrar of the Supreme Court in the capacity of an Official Administrator. After amendment, the value ceiling of these small estates will be increased from the original \$50,000 to \$150,000.

Under the Probate and Administration Ordinance, family members of a deceased person may apply to the Official Administrator of the Supreme Court for summary administration of an estate if the total value of which does not exceed \$50,000. This ceiling was laid down in 1983.

If this Bill is passed and implemented, the number of people applying to the Probate Registry for the administration of estate of small value by the Registrar of the Supreme Court might increase. Accordingly, the Probate Registry might have to enlarge its establishment but apart from this, the endorsement of this Bill will not cause any additional public expenses.

Mr President, I recommend that Members consider passing the Bill.

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).

THE HONG KONG INSTITUTE OF LANDSCAPE ARCHITECTS INCORPORATION BILL

MR EDWARD HO to move the Second Reading of: "A Bill to make provision for the incorporation of The Hong Kong Institute of Landscape Architects and for matters connected therewith."

MR EDWARD HO: Mr President, I move that the Hong Kong Institute of Landscape Architects Incorporation Bill be read the Second time.

The purpose of the Bill is to give the Hong Kong Institute of Landscape Architects the status of an incorporated body. The Institute opts for incorporation by statute so that it will be a legal entity with perpetual succession and can only be dissolved by another statute passed by the Legislative Council. This will ensure the existence and independence of the Institute in the long run.

Also one important purpose of introducing this Bill is to prepare for the way of a Landscape Architects Registration Bill which would provide for the registration of landscape architects and disciplinary control of professional activities of registered landscape architects, similar to registration Ordinances now in place for architects, surveyors, planners and engineers.

Since it is envisaged that the eventual Landscape Architects Registration Board will be largely self-regulated, as for the other professional registration boards just named, it is in the interests of the public that the independence and status of the Institute be preserved and the powers of the Council of the Institute be defined and controlled by a separate Ordinance in addition to the statutory and common law principles of company law in general.

The Hong Kong Institute of Landscape Architects was formally inaugurated in 1988, having started its existence as the Hong Kong Landscape Group in 1981 operating as a chapter of the British Landscape Institute. The Institute is now an entirely independent, local body with a growing membership of close to 100 Hong Kong-based professionals working for projects both in and outside the territory.

Since 1995, members of the Hong Kong Institute of Landscape Architects who are registered voters in Hong Kong can register and vote in the Architectural, Surveying and Planning Functional Constituency.

Members of the Institute have, in their professional capacity, participated in the development of all aspects of landscape architecture in Hong Kong, notably in the development of the New Town Development Programme during the late 1970s and in recent large-scale infrastructure projects. The Institute is also proactively assisting the Hong Kong University in setting up and conducting the first postgraduate training programme on landscape architecture in the territory. Locally-trained graduates are expected to sit for their professional practice examination next year for the first time.

Today, the landscape architects profession is a well-established and highly-respected profession in the territory. They play an important role in achieving and maintaining a high quality of landscape environment in Hong Kong.

I commend the present Bill to Honourable Members.

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

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

ADJOURNMENT AND NEXT SITTING

PRESIDENT: In accordance with Standing Orders, I now adjourn the Council until 2.30 pm on Wednesday, 27 March 1996.

Adjourned accordingly at twenty minutes to Ten o'clock.

Note: The short titles of the Bills in the Hansard, with the exception of the Leveraged Foreign Exchange Trading (Amendment) Bill 1996, the Securities and Futures Commission (Amendment) Bill 1996, the Bankruptcy (Amendment) Bill 1996 and the Pneumoconiosis (Compensation) (Amendment) Bill 1995, have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.