

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 8 May 1996

The Council met at half-past Two o'clock

MEMBERS PRESENT

THE PRESIDENT

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

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

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

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

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

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

THE HONOURABLE SZETO WAH

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

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHIM PUI-CHUNG

THE HONOURABLE FREDERICK FUNG KIN-KEE

THE HONOURABLE MICHAEL HO MUN-KA

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

THE HONOURABLE EMILY LAU WAI-HING

THE HONOURABLE LEE WING-TAT

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

THE HONOURABLE FRED LI WAH-MING

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

THE HONOURABLE JAMES TO KUN-SUN

DR THE HONOURABLE SAMUEL WONG PING-WAI, M.B.E., 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 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 MARGARET NG

THE HONOURABLE NGAN KAM-CHUEN

THE HONOURABLE SIN CHUNG-KAI

THE HONOURABLE TSANG KIN-SHING

DR THE HONOURABLE JOHN TSE WING-LING

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

THE HONOURABLE LAWRENCE YUM SIN-LING

MEMBERS ABSENT

THE HONOURABLE CHRISTINE LOH KUNG-WAI

PUBLIC OFFICERS ATTENDING

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

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

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

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

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

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

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

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

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

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

MRS STELLA HUNG KWOK WAI-CHING, J.P.
SECRETARY FOR HOME AFFAIRS

CLERKS IN ATTENDANCE

MR RICKY FUNG CHOI-CHEUNG, 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>
Waste Disposal (Charges for Disposal of Chemical Waste) (Amendment) Regulation 1996	167/96
Noise Control (Motor Vehicles) Regulation	168/96
Census and Statistics (Annual Survey of Imports and Exports of Services) (Amendment) Order 1996	169/96
Independent Commission Against Corruption (Treatment of Detained Persons) (Amendment) Order 1996	170/96
Official Languages (Alteration of Text) (Money Changers Ordinance) Order 1996	171/96
Matrimonial Causes (Amendment) Rules 1996	172/96
Pleasure Grounds (Regional Council) (Amendment) Bylaw 1996	173/96
Employees Retraining Ordinance (Amendment of Schedule 2) Notice 1996	174/96
Statutes of the Chinese University of Hong Kong (Amendment) Statute 1996	175/96
Official Languages (Authentic Chinese Text) (Money Changers Ordinance) Order	(C) 38/96

Official Languages (Authentic Chinese Text) (Pounds Ordinance) Order	(C) 39/96
Official Languages (Authentic Chinese Text) (Oil Pollution (Land Use and Requisition) Ordinance) Order.....	(C) 40/96
Official Languages (Authentic Chinese Text) (Queen Elizabeth Foundation for the Mentally Handicapped Ordinance) Order.....	(C) 41/96
Official Languages (Authentic Chinese Text) (Sir Edward Youde Memorial Fund Ordinance) Order	(C) 42/96

ORAL ANSWERS TO QUESTIONS

PRESIDENT: Honourable Members, we will start the Sitting with questions. The first question will be asked by Mr Fred LI. Although the thrust of his question is on the provision of health services for the elderly, the last part of his question, that is, part (c), asks whether the Government will consider lowering the age limit for eligibility to receive medical services at concessionary rates to 60 years of age.

Subsequent to the issue of the Order Paper for today's Sitting, I have received notice of a motion from Mr LI himself for debate at the Sitting of this Council on 22 May and have directed under Standing Orders that the motion be printed in the terms in which it was handed in. This motion urges the Government to provide half-fee concession to elderly persons aged 60 and above when charging them for general public medical services.

Under the rule of anticipation, a matter must not be anticipated if it is contained in a more effective form of proceeding than the proceeding by which it is sought to be anticipated. As a motion is a more effective form of proceeding than a question, I have therefore disallowed part (c) of Mr LI's question which anticipates his own motion and is therefore out of order. Mr LI may still ask parts (a) and (b) of his question.

Primary Health Care Services for Elderly

1. **MR FRED LI** asked (in Cantonese): *Mr President, I have no comment in regard to your ruling.*

According to the findings of a recent survey conducted by a voluntary agency on the opinions of the elderly regarding the provision of primary health services, an elderly patient has to wait on average for nearly four hours for a general out-patient consultation. The survey also shows that there are two health centres for the elderly in the territory and they also provide medical services at a concessionary rate to the elderly aged 65 and above. In view of this, will the Government inform this Council:

- (a) whether consideration will be given to setting up more health centres for the elderly in various districts; if not, why not;*
- (b) whether funds will be allocated from the Lotteries Fund and the Elderly Services Development Fund to non-governmental organizations for the provision of health care services for the elderly?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Mr President,

- (a) The Governor, in his policy address in 1993, announced that seven elderly health centres will be set up by 1997 as a pilot scheme to promote the health and well-being of elderly persons in the community. Four centres are already in operation and the remaining three will be set up this year. Unlike curative services provided at general out-patient clinics, the services of the elderly health centres emphasize on disease prevention amongst the elderly. They provide clients with the knowledge and skills of self-care and healthy life style practices and the venues for health assessment and disease screening. The operational experience of these centres will enable Department of Health to examine the practicability of integrating disease prevention programmes for the elderly with general out-patient clinics to provide for more accessible services in various districts.

- (b) Under the provisions of the Government Lotteries Ordinance, only projects to provide welfare services as listed under section 6(4) of the Ordinance can be granted support from the Lotteries Fund. Since health services for the elderly are not under this list, Lotteries Fund support cannot be granted to non-governmental organizations for the provision of such services. As regards the Elderly Services Development Fund, this was set up based on the recommendations of the Working Group on Care for the Elderly. Its main purpose is to assist private and voluntary organizations to introduce self-financing, non-profit making welfare services. It is not intended for use in developing health services.

MR FRED LI (in Cantonese): *Mr President, the Secretary has not answered part (a) of my question at all, I hope you will make a ruling in relation to that. As for my supplementary question, could the Secretary inform this Council the reason why the current rate of utilization of the four health centres for the elderly is as low as 50% only? What immediate measures will the Government take to step up its promotional effort, with a view to increasing the rate of utilization?*

PRESIDENT: I think the question is marginally outside the scope of the original question. But if the Secretary wishes to answer that question —

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Mr President, as regards how we would further promote the services of these centres to the elderly who are already using some of the services, we have already taken different measures and carried out various promotional activities. We are planning to commission an interim review of this health promotion scheme for the elderly in July this year, with a view to further improving it. It will be a comprehensive review which comprises both professional opinions and comments from the public as well as the service users. Besides reviewing the utilization rate of the centres, we will also look into the services we have been providing since we would like to know about the users' opinions. Our promotion work at present is very diversified, and the Department of Health is responsible for carrying them out. In addition to the work done by staff of the Department of Health, we also have a scheme known as "the Health

Ambassadors" undertaken by many volunteers who would, in particular, promote the services in the elderly centres. We would also distribute pamphlets, posters and other promotional materials in the elderly centres, community halls and community centres.

MR MICHAEL HO (in Cantonese): *Mr President, in the first paragraph of the main reply, the Government mentioned that the operational experience of these centres would enable the Department of Health to examine the feasibility of integrating disease prevention programmes for the elderly into general out-patient clinics. If these programmes are integrated into the general outpatient departments, does it imply that we will not require any elderly health centres in the future? In other words, does it mean that the Government will not set up any additional elderly health centres?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): *Mr President, the meaning of part (a) of the main reply where I mentioned that the feasibility of integrating these services into general out-patient clinics will be examined is twofold. Firstly, in relation to venue, we will consider whether spaces can be spared from the outpatient clinics for the provision of elderly health services. For, to construct an elderly health services centre, a lot of time and money would be required, as it will entail initial planning, site choosing, and then layout designing. If suitable sites are available in existing facilities, we should consider using this faster and more economical way to promote these services. Secondly, elderly health services are a kind of service and not a constructed facility. This kind of service can be provided in different places, not necessarily in self-contained health centres. Where there is a suitable place and appropriate facilities, we can then provide this kind of service.*

MR LAW CHI-KWONG (in Cantonese): *Mr President, earlier on, the Secretary has not answered part (a) of the main question directly. If the review is only being conducted now, it would take a few more years after the review to set up new centres, and these centres will not be available in many places. Let's take Hong Kong Island as an example. Among the seven centres to be set up under the pilot scheme, those planned for Hong Kong Island will be situated in Western and Chai Wan respectively. In other words, one in the east and the other in the west. Both centres will be too far away for those old people living in the central part of Hong Kong Island. I believe this situation exists in other districts as well. Will the Government consider providing similar services in*

districts which are not included in the present network?

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Mr President, I have already mentioned in part (a) of the main reply that we hope that this kind of service can be provided in suitable outpatient clinics. The outpatient services of the Department of Health are available all over the territory and there are dozens of outpatient clinics which are situated in convenient places. If we are to develop and expand elderly health centres, we will look for some more suitable localities and areas with a large population of old people. Consideration will also be given as to whether the clinics can be reconstructed to accommodate this service. In addition to the question of reconstruction, recurrent expenditure should also be taken into consideration because extra funding will be required if we are to provide this kind of service.

MR ALBERT HO (in Cantonese): *Mr President, when talking about the question of venue earlier on, the Secretary said it was hoped that the services would be available all over the territory. At present, the Government is planning to set up seven elderly health centres, but I am aware that no such centre has been planned for the faraway western part of the New Territories, which is Tuen Mun and Yuen Long where the total population exceeds 700 000. Can the Secretary tell us whether it is because the population of the elderly there is insufficient or the place is not suitable that the Government has not planned to set up any centre there? Or there are some other reasons?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Mr President, the interim review to be commissioned in July will also attend to Mr HO's question and examine whether this kind of service is needed in any particular district. As I have explained earlier on, it is not necessary to set up self-contained centres in order to provide this service, we can make use of existing facilities and resources for this purpose.

MR MICHAEL HO (in Cantonese): *Mr President, it was mentioned in the Governor's policy address of 1993 that this was a pilot scheme. Can the Government inform this Council how much more time will this pilot scheme have to continue to be put to test before it will be formally implemented? What information has the Government obtained to date and has a preliminary review been completed?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Mr President, this scheme did not commence until 1994. Only two centres were set up initially and another two were only added in March this year, making a total of four centres. It will take us some time to know whether or not this pilot scheme is successful and to have the preliminary results. As far as diseases prevention and health promotion are concerned, work has to be done over a very long period of time before we know how effective the measures are. To start with, we know that members of the public who have made use of this service have obtained information which may otherwise be unknown to them. In 1995, diseases which have been detected upon check-up include hypertension, diabetes, cataract, obesity and breast cancer. After preliminary assessment, these old people would be referred to other clinics for treatment. Therefore, we hope we can continue to provide this service of health promotion and disease prevention for the elderly.

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

MR MICHAEL HO (in Cantonese): *Yes, the Secretary has not answered how much longer will this pilot scheme need to continue to be put to test.*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Mr President, by the end of this year, all the seven health centres under the scheme will be in operation. Then we will be able to reach a preliminary conclusion as to whether this mode of service is suitable for Hong Kong. Then we will commission an interim review in July. The seven centres will all be set up by the end of the year, but we have to wait until they have been operating for quite some time before a comprehensive conclusion could be reached.

British Population in Hong Kong

2. **MISS CHAN YUEN-HAN** asked (in Cantonese): *Mr President, at present, British citizens are free to stay and work in Hong Kong without a visa. The number of British citizens in the territory at the end of 1994 and 1995 stood at 23 700 and 26 700 respectively but surged to 34 500 at the end of February this year. Will the Government inform this Council:*

- (a) *of the reasons for the big increase in the number of British citizens in the territory during the first two months of this year;*
- (b) *how it will prevent a large number of British citizens coming to stay in the territory before 1 July 1997 with a view to becoming eligible eventually to apply to become permanent residents of the territory at a later date;*
- (c) *whether it will consider requiring employers to comply with the conditions for importing foreign workers under the General Importation of Labour Scheme when they employ British citizens to work in the territory; and*
- (d) *when it will review the current policy permitting British citizens to work in the territory; and whether, apart from British citizens, there are citizens of other countries or territories who can work here without a visa and, if so, whether such an arrangement will also be reviewed as well?*

SECRETARY FOR SECURITY (in Cantonese): Mr President,

- (a) No statistics are kept on the purpose of entry of British citizens. We are therefore not in a position to explain the reason for the rise in the number of British citizens coming to Hong Kong in recent months. In looking at the figures quoted by the Honourable Miss CHAN Yuen-han in the question, it should be borne in mind that they represent only the number of British citizens in Hong Kong at particular times and they fluctuate from time to time. It should also be borne in mind that not all British citizens entered Hong Kong for employment reasons; some, for example, may well have entered Hong Kong to join family members. Also, many British citizens in Hong Kong may already have the right of abode in Hong Kong.
- (b) The criteria for non-Chinese nationals to acquire the right of abode in the Hong Kong SAR after 30 June 1997 are set out in Article 24(2)(4) of the Basic Law. Those who meet the criteria stipulated in this Article will be eligible for the right of abode in the Hong Kong SAR. The precise application of this Article is under

discussion with the Chinese side. There is no reason why we should take any action now to prevent British citizens, or for that matter any other foreign nationals, from satisfying those criteria.

(c) and (d)

As regards parts (c) and (d) of the question, employers at present do not have to comply with the conditions for importing foreign workers under the Importation of Labour Schemes when they employ British citizens. Apart from British citizens, no other nationals are allowed to take up employment in Hong Kong without an employment visa. The immigration status of British citizens in Hong Kong reflects the special relationship between Hong Kong and the United Kingdom. We have no plans to propose any change at this stage.

MISS CHAN YUEN-HAN (in Cantonese): *Mr President, the Secretary has said in parts (c) and (d) of his reply that the policy on the entry of British citizens into Hong Kong reflects the special relationship between Hong Kong and the United Kingdom. My question is whether the Government intends to review this issue. Since the sovereignty over Hong Kong will revert to China after 30 June 1997, and China and the United Kingdom are two separate nations with different geographical settings, what does the Government intend to do to deal with the problems which arise upon the reversion of sovereignty?*

SECRETARY FOR SECURITY (in Cantonese): Mr President, I have already said in the main reply that we have no plans to propose any change at this stage. However, this does not rule out the possibility of changes in future.

PRESIDENT: Mr CHENG Yiu-tong.

MR CHENG YIU-TONG (in Cantonese): *Mr President, I have no question.*

PRESIDENT: Sorry, but your name is on my list.

DR LAW CHEUNG-KWOK (in Cantonese): *Mr President, the British working in Hong Kong not only occupy high-pay jobs, for it is learnt that in recent years, some of them have also come to Hong Kong to work for the construction of the new airport, or as clerks in companies and firms and as waiters or waitresses in restaurants. Will the Government let us have an idea of the occupations and positions taken up by the British citizens working in Hong Kong? What adverse effects would they cast on the employment opportunities of local workers?*

SECRETARY FOR SECURITY (in Cantonese): Mr President, we have not conducted any survey on the current employment situation of British citizens in Hong Kong, including their occupations. As for the impact on the employment opportunities of local people or on the unemployment situation, there is no evidence which shows that the employment of British citizens in Hong Kong has led to the unemployment of local people.

MR HENRY TANG: *Mr President, in the Secretary's reply in paragraphs (c) and (d), he says that there is a special relationship between Hong Kong and Britain and therefore British citizens working in Hong Kong, unlike all other nationals, need not take up any employment visa. In his reply to the Honourable Miss CHAN Yuen-han's question, the Secretary replied that he does not rule out the possibility of reviewing that policy. Why can he not be more certain, because one certainty is that on 1 July 1997, sovereignty will revert back to China? So can he not be more certain in his answer that this policy will be reviewed, rather than just not ruling out that possibility?*

SECRETARY FOR SECURITY: Mr President, of course, everyone in this Council, everyone in this community, will know that on 1 July 1997, China will resume its exercise of sovereignty over Hong Kong and that Hong Kong will become a Special Administrative Region (SAR) of the People's Republic of China with a high degree of autonomy. I should just remind Honourable Members that the policy on governing the entry into and stay in the future Hong Kong SAR is a matter within the Hong Kong SAR Government's autonomy. I cannot, of course, speak for what the future SAR Government might do in respect of its decisions on policy governing entry into the Hong Kong SAR, either of British citizens or of any other citizen.

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

MR HENRY TANG: *Yes, Mr President. My question actually has not been answered because the whole basis for this policy is that Hong Kong is a British colony now. So this whole basis will change on 1 July 1997, as will the change of sovereignty. So my question has not been answered.*

PRESIDENT: I think you have made your point, Mr TANG. But I also think that the Secretary has answered your question.

MR LEE CHEUK-YAN (in Cantonese): *Mr President, I think the Secretary's reply has failed to give us a picture of what is going to happen after 1 July 1997. I want to obtain a clear answer on whether British citizens coming to work here after 1 July 1997 will need to apply for employment visas. I think the Government has the responsibility to indicate clearly what the policy will be; otherwise, even British citizens themselves may be confused, and considering the possibility of a visa requirement after 1997, they may flock to Hong Kong before 1997 when there is no such a requirement. I hope that the Secretary will clarify the policy concerned and indicate clearly whether British citizens will need employment visas if they come to work in Hong Kong after 1 July 1997.*

PRESIDENT: I am afraid you have to rephrase it, because in the way you put it, it is not the Hong Kong Government's responsibility.

MR LEE CHEUK-YAN (in Cantonese): *Mr understanding is that the present Hong Kong Government has the responsibility to explain the policies which straddle 1 July 1997. If it is not able to offer an explanation now, it has the responsibility to bring them up in the Sino-British Joint Liaison Group (JLG) so that the people here will understand the future government's policies.*

PRESIDENT: Would you like to rephrase it to something along these lines: Would the Government liaise with the Chinese authorities on this issue?

MR LEE CHEUK-YAN (in Cantonese): *Mr President, let me then put my question this way: Does the Secretary for Security intend to discuss with the Chinese authorities whether British citizens will need to obtain employment visas before coming to work in Hong Kong after 1 July 1997?*

SECRETARY FOR SECURITY (in Cantonese): Mr President, according to the Joint Declaration and the Basic Law, after 1 July 1997, the immigration policy of the Hong Kong SAR will fall within the Hong Kong SAR Government's high degree of autonomy and self-decision. Therefore, we have no intention of liaising with the Chinese authorities on this through the JLG.

MR HOWARD YOUNG (in Cantonese): *Mr President, will the Secretary for Security inform us whether British citizens who work or live in Hong Kong are required to obtain Hong Kong Permanent Resident Identity Cards or just Hong Kong Identity Cards for Residents. Will the Secretary also tell us the number of British citizens who have obtained Permanent Resident Identity Cards through various means?*

SECRETARY FOR SECURITY (in Cantonese): Mr President, if a person has the permanent right of abode in Hong Kong, he will naturally have the right to obtain a Permanent Resident Identity Card. As far as I know, among the British citizens in Hong Kong, at least 14 000 of them enjoy the permanent right of abode in Hong Kong.

MR FRED LI (in Cantonese): *Mr President, everyone knows that the Secretary has said in this main reply that there is a special relationship between Hong Kong and the United Kingdom, but the question is, this special relationship will be removed after 1 July 1997. Since the termination of this relationship can be foreseen, and the relevant situation can now be anticipated, why do you not carry out some preparatory work to amend the policies now?*

SECRETARY FOR SECURITY (in Cantonese): Mr President, as I have already said in the main reply, we have no plans to amend the policy at this stage but we do not rule out the possibility of future amendments.

MR ANTHONY CHEUNG (in Cantonese): *Mr President, the Secretary has repeatedly said that the status accorded to British citizens who want to enter or work in Hong Kong reflects the special relationship between Hong Kong and the United Kingdom. I hope the Secretary can further clarify whether this relationship is also appropriately reflected in the status accorded to Hong Kong permanent residents who want to enter or work in the United Kingdom. If not, why is it not possible at this stage to think about changing this relationship?*

PRESIDENT: I am afraid this is outside the scope of the original question.

MR CHIM PUI-CHUNG (in Cantonese): *Mr President, the Secretary has specifically pointed out the special relationship between the United Kingdom and Hong Kong. However, which ordinance stipulated explicitly that British citizens are entitled to the absolute right to work in Hong Kong on the basis of this relationship? Is this merely an over-logical assumption? Moreover, since the people of Hong Kong have already been deprived of the right of abode in the United Kingdom despite the United Kingdom's obligation, why should this policy still not be reviewed?*

SECRETARY FOR SECURITY (in Cantonese): Mr President, the right of British citizens to enter Hong Kong is stipulated clearly in the Immigration Ordinance (Cap. 115). Since this Ordinance is long and detailed, I do not intend to repeat its content here. As for what procedural requirements the United Kingdom Government wants to impose on the residents of any of its dependent territories or of any countries who seek to work or settle in the United Kingdom, these fall within the United Kingdom Government's immigration policy, and I am not in the position to respond on their behalf.

PRESIDENT: Mr CHIM Pui-chung, are you claiming that your question has not been answered?

MR CHIM PUI-CHUNG (in Cantonese): *Mr President, in view of what the United Kingdom has done, why does the Hong Kong Government not correspondingly review its entry policy in regard to the United Kingdom?*

SECRETARY FOR SECURITY (in Cantonese): I have already said in the main reply that we do not have the plan to change this policy now, but we do not rule out such a possibility in future.

MR JAMES TO (in Cantonese): *Mr President, what we are concerned about is the fact. The Secretary has said in part(a) of the main reply that he is not sure about the reasons for the sharp rise in the number of British citizens staying in Hong Kong. Will the Secretary indicate whether the increase in their number in 1994, 1995 and 1996 actually corresponds with the number of Hong Kong residents being granted the right of abode in the United Kingdom in the same years? Is that mainly because many Hong Kong residents have become British citizens in Hong Kong after obtaining their British passports under the Nationality Selection Scheme?*

PRESIDENT: Secretary, are you prepared to answer a speculative question?

SECRETARY FOR SECURITY (in Cantonese): Mr President, I am very willing to answer this question. I understand that the statistics quoted by Miss CHAN (on the number of British citizens in Hong Kong) for 1994, 1995 and 1996 do not cover those Hong Kong residents who acquired British citizenship under the Nationality Selection Scheme.

Police Protection for Visiting Chinese Officials

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

- (a) *whether it will review the Police measures to protect visiting Chinese officials attending public functions in Hong Kong, so as to more effectively protect the personal safety of the officials concerned and to maintain public order at the locations; and*
- (b) *how it safeguards the personal safety of the disciplined services personnel carrying out such protection duties?*

SECRETARY FOR SECURITY (in Cantonese): Mr President,

- (a) The security measures adopted by the police to protect visiting officials, whether they were from China or from any other country, have been very effective. So far as I know, no visiting official has ever been injured in Hong Kong, and only one police officer was slightly injured when discharging his duties to protect a visiting official. As with all other police operational matters, including in particular crowd control operations, the measures for protecting visiting foreign officials are reviewed constantly to ensure their continued effectiveness.
- (b) Police officers deployed for protection duties are specially selected, trained and suitably equipped to give protection up to internationally accepted standards. They are also trained on crowd management, for the safety of both the crowd and the officers themselves as well as the visiting officials. In addition, there are clear guidelines in the operational orders detailing the measures and equipment that should be used on different occasions. The commanding officers at the scene closely monitor the situation to ensure the appropriate number of officers are deployed and the measures taken are effective.

MR CHAN KAM-LAM (in Cantonese): *Mr President, Secretary's reply somehow seems not to have answered my question. I would like to question the Secretary. We can see in recent days that on the occasion of demonstrations and petitions, police officers have had frequent conflicts with the demonstrators. Will the Government draw up procedures whereby discussions will be held with the protesters and demonstrators in advance so that the people concerned might freely express their opinions under mutually-agreed arrangements without jeopardizing public interests or public order while safeguarding the personal safety of law enforcement officers?*

SECRETARY FOR SECURITY (in Cantonese): Mr President, Mr CHAN Kam-lam has just mentioned that there were some chaos and unpleasant events on some occasions of protests and demonstrations. However, I would like to point out that some of these demonstrations and protests had nothing to do with the visiting officials. Regarding these demonstrations, protests or processions, it is always the objective of the police to strike a balance between safeguarding the freedom of speech of the people of Hong Kong and maintaining peace and order, while ensuring that no personal or property damage would be incurred. If people who intend to demonstrate are willing to discuss with the police over the ways in which the demonstrations and processions could proceed smoothly, I believe the police will be very glad to do so.

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

MR CHAN KAM-LAM (in Cantonese): *Mr President, will the Government draw up procedures for discussions to be made with the demonstrators before such activities are carried out?*

SECRETARY FOR SECURITY (in Cantonese): Mr President, we do not make it a rule that demonstrators must hold discussions with the Government or the police before they hold demonstrations and processions. As I have just said, if the people concerned are willing to hold discussions, before staging their demonstrations, with the police over the ways to ensure that their lawful actions can be proceeded with smoothly without any undesirable happenings, the police will be glad to do so. However, the law does not provide that they must do so and we do not intend to formulate such a provision.

MR TSANG KIN-SHING (in Cantonese): *Mr President, will the Secretary review the measures whereby officers from the disciplined services obstruct the demonstrators from entering the venue concerned or from approaching the people concerned to stage their protests or to voice their opinions?*

Furthermore, Mr President, I would like to supplement some information with regard to the question Mr CHAN Kam-lam just put to the Secretary. I think I am in a position to supplement some information because other Members are not as experienced as I am. (Laughter)

PRESIDENT: Mr TSANG, I will put you down for a further supplementary and please try to give us the facts in the form of a question.

SECRETARY FOR SECURITY: Mr President, I cannot remember exactly what the first supplementary question was. *(Laughter)*. Mr President, may I ask the Honourable TSANG Kin-shing to repeat his question. I do apologize for this.

MR TSANG KIN-SHING (in Cantonese): *Mr President, whenever demonstrators protest before Chinese officials, officers from the disciplined services will obstruct the protesters from entering the venue directly, including building up a police line to shade off the banners and slogans of the protesters. Will the Secretary review these measures? It is often just because of these measures which usually bring about unnecessary conflicts.*

SECRETARY FOR SECURITY (in Cantonese): Mr President, under these circumstances, the police will try its best to strike a balance. On the one hand, they will safeguard the safety of the visiting officials while on the other hand they will try their best not to restrain the relevant people's rights from expressing their opinions. As I have said in my main reply, apart from such circumstances, the police will from time to time review the appropriateness of their measures regarding other processions and demonstrations and the keeping of the order of crowds.

MR CHEUNG MAN-KWONG (in Cantonese): *Mr President, past experience shows that conflicts at the functions where Chinese officials were present were caused as a result of Chinese officials leaving by back doors or refusing to receive petitions openly. To address the root of the problem, can the Government reflect to the Chinese officials the opinions of Hong Kong people and suggest to them that they should go through the front door more frequently and receive petitions more frequently, so that things would not be too difficult for officers from the disciplined services who have to maintain order? It is because they have to protect the Chinese officials while at the same time, having to avoid any conflicts from being caused by petitioners wishing to get close to the officials.*

SECRETARY FOR SECURITY: Mr President, if I remember correctly, the Governor has commented on that point when he last appeared in this Council.

PRESIDENT: Mr CHEUNG Man-kwong, are you claiming that your question has not been answered?

MR CHEUNG MAN-KWONG (in Cantonese): *Yes, Mr president. If I have remembered it correctly too, the Governor had only said that he himself went through the front door. I am now requesting the Secretary to relay my opinion to the Chinese officials that they should go through the front door and receive petitions. They are from totally different angles.*

SECRETARY FOR SECURITY (in Cantonese): Mr President, when the Governor last appeared in this Council during the Governor's Question Time, he had already commented on this particular point and I do not have much to add. For those who wish to petition to the Chinese officials, if they would like to have the chance to have direct contacts with the Chinese officials, I believe they can have various means to relay directly their aspirations to the Chinese side.

MR ANDREW CHENG (in Cantonese): *Mr President, there are only 400 odd days before the sovereignty of Hong Kong has to be reverted to China. Recently, the disciplined forces have often made excessive arrangements when protecting*

Chinese officials. A particularly large number of "mills barriers" were used and even petitions were dumped aside. Is the police subject to the pressure of the Chinese side while neglecting the need to safeguard the freedom of speech and demonstration of the protesters when protecting Chinese officials?

SECRETARY FOR SECURITY (in Cantonese): Mr President, my answer is very simple, it is "No".

MR CHOY KAN-PUI (in Cantonese): *Mr President, during the past three years, has the Government adopted the same approach without discrimination when protecting all foreign officials visiting Hong Kong? What is the relevant standard?*

SECRETARY FOR SECURITY (in Cantonese): Mr President, when protecting visiting officials, we adopt the same standard and principle, that is, we try our best to protect their personal safety. Of course, the actual arrangement for protecting each and every visiting official may differ in view of the different circumstances which surround visiting officials, for example, whether they are subject to harassment, or our assessment of the possibility of their being harassed in Hong Kong. However, I can guarantee that the measures we take are definitely up to international standard and we try our best to discharge our obligations specified under international treaties when protecting visiting officials, one such treaty is the "United Nations convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents".

DR JOHN TSE (in Cantonese): *I share the views of Mr CHAN Kam-lam that we are most concerned with the personal safety of police officers. As to part(b) of the question, will the Government train up some special duty squads, such as the Special Duties Unit, to protect the personal safety of officers of the disciplined services who undertake protection responsibilities?*

SECRETARY FOR SECURITY (in Cantonese): Mr President, when deploying officers to protect the safety of visiting officials, the police will, depending on

need, deploy appropriately trained officers.

MR ALBERT HO (in Cantonese): *Mr President, the Secretary has just said that when drawing up security measures, different arrangement will be made depending on the vulnerability of individual officials to harassment. I understand that when drawing up security measures for these events, the police have a policy known as "event grading and risk assessment". In view of the fact that particularly "tight" security measures are adopted when Chinese officials visit Hong Kong, for example, the security measures for Mr LU Ping were even tighter than those for the British Foreign Minister, does the police or the Government "grade" Chinese visiting officials as highly risky and regard them as most vulnerable to harassment?*

SECRETARY FOR SECURITY (in Cantonese): Mr President, the protection offered to each and every visiting official may not be the same and it depends on the source of the possible threat to the personal safety of each and every official. We should not compare A with B because it is tantamount to comparing an apple with an orange. As to the security measures taken when Mr LU Ping visited Hong Kong, I believe the measures we took and the officers deployed were appropriate.

PRESIDENT: Mr LEE Cheuk-yan.

MR LEE CHEUK-YAN (in Cantonese): *I have not raised any question.*

PRESIDENT: Sorry, but I have your name on my list.

MR CHAN WING-CHAN (in Cantonese): *Mr President, Mr CHEUNG Man-kwong has just mentioned that the Governor did not go through the back door. It was "lightsome" of the Governor to relate that over the years, he had never left anywhere by the back door. Maybe he was referring to the incident at the Xinhua News Agency. As far as I know, cars may be parked at the back entrance of Xinhua News Agency but not at the front entrance. I hope that the Secretary can refer my question to the Secretary for Transport which asks of him to allow parking at the front entrance of the Xinhua News Agency around the*

clock.

PRESIDENT: I am afraid this is outside the scope of the original question.

MR LEE WING-TAT (in Cantonese): *Mr President, parking is permitted at the front entrance of the Hong Kong Convention and Exhibition Centre and the area is spacious enough to allow the entry and departure of people.*

Mr President, can the Secretary inform this Council, regarding the demonstrations involving Chinese officials or the Xinhua News Agency and the activities in commemoration of the "June 4th event" as organized by the Hong Kong Alliance in Support of Patriotic Democratic Movements of China, did the police hold meetings with the Chinese side in advance to discuss the deployment and the relevant plan? And, did the Chinese side, at the meetings, ask the Hong Kong government to deploy additional police officers and to take tougher actions against the protesters?

SECRETARY FOR SECURITY (in Cantonese): Mr President, it is the responsibility of Hong Kong police to protect the visiting officials, no matter whether they are from China or other countries. Therefore, the measures to be taken are to be considered and decided by the Hong Kong police. Of course, after the police have decided on the measures to be taken, they would, to a certain extent, inform the parties concerned, including the visiting officials and their escorting officers.

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

MR LEE WING-TAT (in Cantonese): *Mr President, the Secretary has not answered my question. I am asking whether the police and the Chinese officials had held meetings to discuss the deployment plan before the demonstrations involving the Xinhua News Agency.*

SECRETARY FOR SECURITY (in Cantonese): Mr President, it seems that the demonstrations involving the Xinhua News Agency and the processions to the Xinhua News Agency are not directly related to the main question which relates to the protection of visiting officials.

PRESIDENT: I think Mr LEE was simply abbreviating it to mean that on those occasions when there are visitors from the Chinese Government.

MR LEE WING-TAT (in Cantonese): *Mr President, the Secretary may have misunderstood my question. I am asking whether the police and the relevant Chinese officials have held meetings to discuss the deployment plan before Chinese officials visit Hong Kong. I am referring to the visiting Chinese officials.*

SECRETARY FOR SECURITY (in Cantonese): Mr President, I have just pointed out that the deployment plan of the police is made at the sole discretion of the police. Of course, for the sake of ensuring that the protection duties offered to the visiting officials would be discharged smoothly, after we have made a decision, we will inform, by various appropriate means, including verbally, the representatives of the relevant countries or governments in Hong Kong of such arrangements. It is done as a matter of course.

MR LEE WING-TAT (in Cantonese): *Mr President, I want to ask the Secretary one question — is he unwilling to answer my question? If he is not willing to answer, he should just say he will not answer. It is actually a very specific question as to whether they have held meetings or not.*

PRESIDENT: Mr LEE, I think the Secretary has answered your question.

MISS EMILY LAU (in Cantonese): *Mr President, I would like to press on and ask the Secretary regarding Chinese officials going through the back door or taking a devious route, did the Hong Kong government suggest that they should*

do so? If not, that means this was a decision on their own. Would this cause the police to make any changes in their deployment which led to an increase in resources used? For, if the police have asked them to use a certain route and they changed it, would this lead to an increase in resources used?

SECRETARY FOR SECURITY (in Cantonese): I believe the measures taken by the police for protecting the visiting officials are centred on the safeguard of their safety. As to the means by which the officials enter or leave, it is certainly up to them to make the final decision.

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

MISS EMILY LAU (in Cantonese): *Yes, Mr President. My question is very simple: whether he has suggested or lobbied those officials to go through the back door?*

SECRETARY FOR SECURITY: (in Cantonese): I have not suggested that anyone should go through the back door. *(Laughter)*

PRESIDENT: Secretary, I think the question is whether or not it is the Government. So it could be the Secretary for Security or the Commissioner of Police or some other authority.

SECRETARY FOR SECURITY (in Cantonese): Mr President, I think the decisions of Mr LU or any visiting officials are made by themselves.

MR MICHAEL HO (in Cantonese): *Mr President, in the recent event where the Chinese official went through the back door when leaving the venue, did the Chinese official notify the police before he made such a decision? Did the police, on a clear understanding that the official would be leaving through the back entrance, still stage a "show" at the front entrance as though they were confronted by a powerful enemy and misled the protesters into believing that the*

official would leave by the front entrance? (Laughter)

SECRETARY FOR SECURITY (in Cantonese): The relevant official have certainly notified the police officers escorting him as regards his intended route. When the police officers execute their duties, they aim at protecting the personal safety of the visiting officials, but not at staging a show.

MR JAMES TO (in Cantonese): *Mr President, part (a) of the main question relates to how order at the scene can be maintained. We observe that on many occasions, the order ran out of control because the officials, no matter whether they were officials from China or any countries, refused to receive petitions. For the sake of ensuring security and maintaining order, has the Government tried to liaise with the officials to ascertain whether or not they are willing to receive petitions? If they are not prepared to receive petitions, they can actually make their decisions known to the protesters or the demonstrators, so that these people would not have false expectations that the officials will come forward to receive their petition, at which time they could try to get close to the officials in order to achieve their goals or fulfil their expectations. If the protesters are clearly informed of the decision that the officials will not receive petitions, will the order at the scene be less chaotic?*

PRESIDENT: Mr TO, are you asking whether or not the Government is prepared to consider?

MR JAMES TO (in Cantonese): *I want to ask whether the Government has done so in the past and whether it will do so in the future, because according to my own analysis, this is the crux of the matter.*

SECRETARY FOR SECURITY (in Cantonese): Mr President, under normal circumstances, for the sake of ensuring the satisfactory completion of security measures, the protesters will not be allowed to come into direct contact with the visiting officials, no matter whether they are officials from China, the United Kingdom or any other countries, unless the official concerned expresses explicitly that he wants to contact the public directly to receive petitions. If the officials do not receive petitions, the protesters may present their letters to the police officers at the scene for them to transfer the letter to the official concerned.

MR MARTIN LEE (in Cantonese): *Mr President, will the Administration please relay my opinion to the Chinese officials that I ask them not to castrate the Bill of Rights Ordinance (BORO) because BORO offers them the safeguard that they can be free to choose between going through the front door or the back door?*

PRESIDENT: This is outside the scope of the original question.

MR TSANG KIN-SHING (in Cantonese): *Mr President, regarding the question just raised by Mr CHAN Kam-lam, that is, whether the police will hold discussions with the demonstrators in advance whenever protests are to be held, and does the Secretary know that on every occasion when Chinese officials visit Hong Kong or before holding the "1 October" Chinese national day reception, police officers will take the initiative to discuss with the protesters. However, after discussion, the police always breach the agreement and refuse to allow the demonstrators to protest at the scene. In addition, I would like to respond to the question put by Mr CHAN Wing-chan. He is not familiar with the Xinhua News Agency because parking is permitted at the front entrance of the Xinhua News Agency,.....*

PRESIDENT: Mr TSANG Kin-shing, this is not a debate.

MR TSANG KIN-SHING (in Cantonese): *I am not debating. I am just trying to give him an explanation.*

PRESIDENT: Mr TSANG, would you like to withdraw the last few remarks you have just made in your speech?

MR TSANG KIN-SHING (in Cantonese): *I think he has got what I said and I withdraw those remarks.*

SECRETARY FOR SECURITY (in Cantonese): Mr President, regarding those demonstrations, I would like to reiterate that the police are very willing to discuss with the protesters regarding the means by which the demonstrations or processions can proceed peacefully. Sometimes, we take the initiative to contact the demonstrators; sometimes, the demonstrators take the initiative to contact us. There is no specific requirement as to who should take the initiative. The police will surely abide by the consensus reached during those contacts or discussions. However, in any demonstration, we cannot exclude the possibility that many different groups of demonstrators may be present at the same function. Some groups of demonstrators may not have discussed with the police over the arrangements to be made and their actions at that time may jeopardize peace and order.

Route 7 and Home Ownership Scheme Developments

4. **MR ANDREW CHENG** asked (in Cantonese): *Mr President, it is learnt that the Housing Authority will build three large Home Ownership Scheme (HOS) estates on Aberdeen Praya Road, Deep Bay Road and Ap Lei Chau, but the Southern District Board has unanimously agreed that it would object to the plan unless the Government undertakes to improve the overall transport network of Southern District, particularly to construct Route 7 and a second Ap Lei Chau Bridge, at an early date. In view of this, will the Government inform this Council:*

- (a) *whether, in order to tie in with the development of the above HOS estates, the government will implement the Green Island Reclamation Scheme in order to re-instate the Route 7 project in the Public Works Programme; if so, what the details are; and*
- (b) *if the answer to (a) is in the negative, whether the Government will include the construction of a second Ap Lei Chau Bridge in its plan to improve the transport network of Southern District?*

SECRETARY FOR TRANSPORT: Mr President,

- (a) From a long-term planning perspective, we have recognized the need for Route 7 from Aberdeen to Kennedy Town. However, as explained in my reply to this Council on 31 January, the implementation of this project is dependent on the proposed Green Island Reclamation. As no decision has yet been taken regarding that reclamation, we cannot proceed with the Route 7 project at present.

To accommodate the additional traffic generated by the new housing development proposals, a package of traffic improvement measures including junction improvement and signalization, as well as the construction of flyovers and footbridges, will be implemented in Ap Lei Chau, Aberdeen, and Wong Chuk Hang. Our transport studies indicate that these projects, together with other road improvement programmes in Pok Fu Lam and Kennedy Town, should be able to cope with both the present and the projected traffic to and from the Southern District, including that generated by the three proposed housing developments.

- (b) The Ap Lei Chau Bridge has already been widened from a two-lane single carriageway to a two-lane dual carriageway. This was completed only two years ago in 1994. There are no plans for the construction of another bridge to Ap Lei Chau as we believe that the capacity of the existing bridge can adequately cope with the traffic arising from both existing and planned developments.

MR ANDREW CHENG (in Cantonese): *Mr President, part (a) of my question focuses on whether the Government will implement the Green Island Reclamation Scheme in order to tie in with the development of the Home Ownership Scheme (HOS) estate in question. Part (a) of the Secretary for Transport's main reply states that the Government has not yet reached any decision on this Scheme. May I ask what criteria will the Government consider when making a decision? Will the Green Island Reclamation Scheme be implemented earlier owing to the HOS estates concerned?*

SECRETARY FOR TRANSPORT: Mr President, can I first say that as a matter of general principle, of course the Administration supports and welcomes the provision of additional road space and new roads which will help to reduce traffic congestion.

Insofar as the three housing development proposals are concerned, my understanding is that the total population intake from these three housing projects will be in the order of 10 000 persons. In terms of the additional population in the Southern District, this will add about 3%, and from that point of view, the additional population intake is not that great; it is not as though we are building a brand-new new town.

As for Route 7, perhaps I can also put this in perspective. The planning of the proposed Route 7 between Kennedy Town and Aberdeen has to be considered in conjunction with the overall land use development in the western and southern parts of Hong Kong Island. In this respect, Route 7 was recommended for implementation during the period 2007-2011 when we updated our second Comprehensive Transport Study (CTS) and this was based on the assumptions established by the Metroplan Study. Therefore, in fact, we are not delaying the provision of Route 7, but we shall look at this again when we update our CTS.

PRESIDENT: Perhaps the Secretary for Planning, Environment and Lands may wish to supplement.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, if I could just speak on how we stand regarding the Green Island Reclamation which I think, was also asked by the Honourable Member. The Green Island development is actually composed of three parts. The first part is a public dump; the second part is a stage one reclamation and reprovisioning of existing waterfront facilities; and part three is stage two of the remaining reclamation. All three parts are still in the planning stage.

We gazetted the Green Island Public Dump in October last year. We received 19 objections, most of which were related to the ecological and hydraulic impact, including marine traffic impact, of the public dump. The Administration decided that we would need more time, and we will actually

advance the related ecological studies and marine impact studies, before we make a decision on the Green Island Public Dump.

As to the other two parts of the Green Island development, we have completed preliminary feasibility studies. A lot more studies will still need to be done and it is unlikely that we will be able to make a decision in the near future.

MRS MIRIAM LAU (in Cantonese): *Mr President, as the housing development in the Southern District will generate additional traffic in that district, and the opening of the Western Harbour Crossing in March on June 1997 will also exert very heavy additional pressure on the traffic flow bound for the Southern District, and since there is no fixed schedule for the Route 7 project, would the Secretary inform this Council whether the Government will consider the advanced implementation of the railroad plan on linking the northern and southern parts of Hong Kong Island?*

PRESIDENT: I am afraid this is marginally outside the scope of the original question, but if the Secretary wishes to reply to that —

SECRETARY FOR TRANSPORT: Mr President, we recognize, of course, that if we can improve the road system in the Southern District, this would be of considerable help. And, in fact, in the past year, several projects have been completed and several more will be undertaken. Perhaps I can very briefly touch on these.

These are the junction improvements to Pokfield Road and Pokfulam Road; the widening of Pokfulam Road; the Smithfield Road extension; the Rock Hill Street extension; the Belcher Bay link. All these projects are designed to phase-in with the Western Harbour Crossing which, as the Honourable Member has said, we expect to open in early 1997.

As regards the possibility of accelerating a rail connection, I have said before, Mr President, in this Council, that we now have three top priority rail projects and whilst a possible alignment to the Southern District is something that can be considered in the long term, there are certainly no immediate plans to go into detailed planning for this.

DR YEUNG SUM (in Cantonese): *Mr President, the Secretary just now replied that the capacity of Ap Lei Chau Bridge, that is the new bridge, will be able to cope with the traffic in the short term. Would the Secretary inform us whether the Government can tell us when the traffic capacity will be saturated?*

SECRETARY FOR TRANSPORT: Mr President, I understand that the capacity of the Ap Lei Chau Bridge should be sufficient until the turn of the century, about 2004-2005, but I shall double-check the exact timing and revert to the Honourable Member. (Annex I)

MR LEUNG YIU-CHUNG (in Cantonese): *Mr President, Mr Andrew Cheng's question mentions that the Housing Authority may build three large HOS estates on Aberdeen Praya Road, Deep Bay Road and near Ap Lei Chau. However, at present, residents of Aberdeen and Wong Chuk Hang going to Causeway Bay through the Aberdeen Tunnel have already experienced very serious traffic congestion. If the Housing Authority really wants to benefit the public or to obtain their support for these HOS projects, the existing traffic condition must be improved. Would the Secretary inform us whether the Government has any specific plan for alleviating the congestion along the Aberdeen Tunnel?*

SECRETARY FOR TRANSPORT: Mr President, obviously, the Aberdeen Tunnel provides a vital link from Wong Chuk Hang and the southern part of the Island to the Central District. There are no plans to either expand the tunnel or build a parallel tunnel. The long-term thoroughfare or the long-term expressway for this part of the Island is Route 7.

MR IP KWOK-HIM (in Cantonese): *Mr President, when replying to the question just now, the Secretary mentioned the relationship between Route 7 and the Green Island Reclamation Scheme. May I ask whether the Government would still consider the construction of Route 7 if the Green Island Reclamation Scheme cannot really be implemented?*

SECRETARY FOR TRANSPORT: Mr President, our preliminary thinking is that in order to build Route 7 we need some reclamation. If it is not possible to reclaim, for whatever reasons, then obviously we will have to rethink this. But I am unable, today, to say what the alternative proposals would be.

DR HUANG CHEN-YA (in Cantonese): *Mr President, the road improvement measures which the Secretary has just mentioned are mostly for the roads leading to the Southern District only, and they will not really create very much additional road space. Therefore, in case Route 7 is not constructed, the development of the Southern District will be very much constrained. Would the Secretary inform us whether the Government will start considering an extension of the Mass Transit Railway to the Southern District so that the District can be provided with an alternative transport network in case Route 7 cannot be constructed owing to the failure to carry out the Green Island Reclamation project?*

PRESIDENT: I think the question has been asked and answered.

Cinemas Operating without Licence

5. **MR MOK YING-FAN** asked (in Cantonese): *Mr President, information shows that six cinemas in the territory are operating without a licence at the moment. In view of this, will the Government inform this Council of:*

- (a) *the number of cinemas which had started business before obtaining a licence in each of the past five years and, of these, how many have still not obtained a licence and the reasons for it;*
- (b) *the time and manpower required by the Buildings Department and the Fire Services Department respectively for processing an application for cinemas licence;*
- (c) *the reasons why some cinemas have not yet been granted a licence despite these applications having been submitted for more than a*

year and meeting the structural requirements set by the Buildings Department; and

- (d) *the number of applications for the cinemas licence processed by the Buildings Department and the Fire Services Department, and the manpower deployed to process these applications in the two departments, in each of the past five years?*

SECRETARY FOR RECREATION AND CULTURE (in Cantonese): Mr President, cinemas are required under the Places of Public Entertainment Ordinance to obtain a licence for operation. The Urban and Regional Councils are the statutory licensing authorities for their respective areas. They determine the policy and procedures for licence applications and ultimately decide whether a licence should be granted. Mr President, in keeping with the long-established arrangement adopted in respect of questions relating to the two Councils and on the basis of the information supplied to me by the Urban and Regional Services Departments, the Fire Services Department and the Buildings Department, I am pleased to provide answers to the questions in the order they are raised.

In respect of part (a) of the question, in the past five years from 1991 to 1995, the number of cinemas which had started business before obtaining a licence is four, six, eight, six and five respectively and, in the first four months of 1996, the number is three, making a total of 32. Of these, five have still not obtained the requisite licence for one or a combination of the following reasons:

- (a) Buildings Department's objection in respect of the suitability of the premises to be used as a cinema;
- (b) the existence of unauthorized building works;
- (c) objections to the proposed layout plan of the cinema by Buildings Department, Fire Services Department or Urban Services Department; or
- (d) revision of the layout plan after the submission of applications by the applicants which necessitates further clearance with Buildings Department and Fire Services Department.

In respect of part (b) of the question, the Fire Services Department currently spends an average of 8.3 man hours to process an application for cinema licence. However, no such statistics is kept by the Buildings Department. The processing time of an application by the Fire Services Department and Buildings Department consists of three components:

The first component involves the assessment of the suitability of the premises for use as a cinema on fire safety or building safety grounds;

the second component involves the issue of the fire safety or building safety requirements to the applicants through the licensing authority; and

the third component involves the compliance of the requirements by the applicants.

Normally, Fire Services Department can complete assessing the suitability of the premises within 14 working days after receipt of the referral from the licensing authority. The time taken to issue fire or building safety requirements depends on whether there is any revision of the layout plan of the premises by the applicant. Using figures in the years 1994 and 1995, the average time required by Fire Services Department and Buildings Department is three and a half months and five months respectively. The average time taken by an applicant to comply with all stipulated requirements is three months.

On part (c) of the question, of the five unlicensed cinemas, two submitted their applications more than one year ago. The reason why a licence has still not been granted is because, in one case, the premises have been found to be unsuitable due to the presence of unauthorized building works. In respect of the other, the applicant has revised its layout plan after the issue of licensing requirements, making it necessary for the Urban Services Department to seek the Fire Services Department's and Buildings Department's further clearance of the revised layout plan. If necessary, a new set of licensing requirements will be issued once the revised plan is cleared.

On the last part of the question, the number of applications for cinemas licenses processed by the Fire Services Department and Buildings Department in each of the past five years, that is from 1991 to 1995 is four, eight, 11, three and seven respectively. The Buildings Department and Fire Services Department do not keep separate statistics on the manpower deployed to this area of work.

MR MOK YING-FAN (in Cantonese): *Mr President, I understand how difficult the position of the Secretary for Recreation and Culture is, as he has to give replies to these question for other departments. I also understand that the two Councils are facing similar situation because they do not have the authority to request other departments to perform their duties. Mr President, the Secretary said in the main reply that no such statistics was kept by the Buildings Department. He also said in the last paragraph of the main reply that the Buildings Department and Fire Services Department did not keep separate statistics on the manpower deployed to that area of work. I would like to query why a department which has to process such applications does not keep those statistics. For the sake of public interests, could the Secretary help by acting as a co-ordinator and request departments concerned to either increase their manpower or set a deadline for processing these applications?*

SECRETARY FOR RECREATION AND CULTURE (in Cantonese): *Mr President, the reply I gave just now already implied that the Recreation and Culture Branch had nothing to do with this policy. The final decisions rest solely with the two Councils, it is their responsibility to formulate the policy and decide how to enforce it. It is also their responsibility to decide whether a licence will be granted ultimately. As to whether the Fire Services Department and the Buildings Department have sufficient manpower and have kept itemized figures, such issues do not come within the jurisdiction of the Branch either.*

MR BRUCE LIU (in Cantonese): *Mr President, the main reply mentioned that the Fire Services Department spent an average of 8.3 man hours to process an application for cinema licence but no such statistics was kept by the Buildings Department. However, in real practice, the Fire Services Department takes at least three months instead of 8.3 hours to do the job. If the time spent in relation to points (a), (b) and (c) of the paragraph is also taken into account, it will take a total of more than six months to complete the procedures. In other words, the actual time required is 300 or 600 times of the figure claimed. In view of this, will the Government consider reviewing the problem with the Urban Council and other departments together with a view to taking appropriate measures or to streamlining the procedures required so as to speed up the*

application processing time?

SECRETARY FOR RECREATION AND CULTURE (in Cantonese): Mr President, I think it is more appropriate for the Secretary for Security to answer the question concerning the Fire Services Department.

SECRETARY FOR SECURITY: Mr President, let me first of all explain the processing of such an application for a cinema licence by the Fire Services Department. Of course, insofar as the latest information is concerned, the Secretary for Recreation and Culture is quite right to say that the total man-hours for each application is about 8.3.

However, the processing of the application is such that on receipt of a referral of a cinema licence application from the Licensing Authority, the Fire Services Department will carry out an initial inspection to the subject premises within 14 days to assess its suitability for use as a cinema from the fire safety point of view. If the premises is considered suitable, the Department will then work out the relevant fire safety requirements to be issued to the applicant through the Licensing Authority.

The average time spent, in 1994-95, is about three and a half months. This is because some applicants might change their building plans after the initial inspection, and the fire safety requirements have to be revised accordingly before they can be issued to the applicants through the Licensing Authority. Thereafter, of course, the processing time of an application by the Department depends very much on how long does it take for the applicant to fully comply with the requirements.

As regards the question of review and improvements, and also in response to an earlier supplementary by the Honourable MOK Ying-fan, of course we were not able to quantify the man-hours or time spent in the past five years, as asked in the original question. However, since late-1995, we have reviewed and introduced a new inspection procedure whereby follow-up inspections on fire safety requirements would only be conducted upon receipt of notification from the applicant himself that the fire safety requirements had been complied with, and since then it is estimated that each application now, on average, requires one initial and two follow-up inspections and the man-hours involved is

therefore about 8.3. That is already an improvement over the practices in the past four years.

MR CHEUNG HON-CHUNG (in Cantonese): *Mr President, although cinema licences and restaurant licences are issued by the two Councils, delay is mainly due to the failure of the Fire Services Department and the Buildings Department to process the application in time. Do the Fire Services Department and the Buildings Department have any performance pledge in relation to licencing services? If not, why not? If yes, how effectively has the performance pledge been carried out?*

PRESIDENT: The Secretary for Security, on performance pledge on the part of the Fire Services Department; the Secretary for Planning, Environment and Lands insofar as the Buildings Department is concerned.

SECRETARY FOR SECURITY: Mr President, I do not have any performance pledge at the moment on a question which I believe is about restaurant licence rather than cinema licence. However, as far as cinema licence is concerned, I have just described that the new procedure introduced from late-1995 onwards is that for each application, on average it requires one initial and two follow-up inspections and the man-hours involved is, on average, about 8.3.

I shall check whether there are similar figures or pledges or measurements as regards restaurant licences and will revert to the Honourable Member in a written answer.

PRESIDENT: Privately, because it is outside the scope of the original question.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, as far as I am aware, the working schedule produced by the Buildings Department is to respond to licence application referrals on both restaurants and cinemas within 30 working days of the initial referral. But as my colleague, the Secretary for Security, also explained, responding to a first referral, if everything is in order, is easy. But it is a lot more complicated afterwards when licensing requirements have to be designed, issued and inspected. And on that latter

point, it is extremely difficult to lay down a performance pledge.

MR FREDERICK FUNG (in Cantonese): *Mr President, the Secretary mentioned in the second paragraph of the main reply that five cinemas had started business before obtaining a licence. In the fifth paragraph, he pointed out that of the five unlicensed cinemas, two had submitted their applications more than a year but have not been granted a licence. That means in fact an unlicensed cinema can still operate, then what is the difference between being licensed and unlicensed? Will the state of being unlicensed be subject to penalties? If an accident occurs in an unlicensed cinema with audience in house, should the Government be held responsible for not granting a licence or should the cinema operator be held responsible?*

SECRETARY FOR RECREATION AND CULTURE (in Cantonese): Mr President, in fact, I think the Honourable Mr MOK Ying-fan, the Urban Council's representative to this Council, would be in a more suitable position to answer this question than I do, *(laughter)* because it is the Urban Council's responsibility to formulate and enforce the policy. Nevertheless, I will try my best to answer this tough question. Of course, the operators of unlicensed cinemas will be penalized. According to the information supplied to me, under the Places of Public Entertainment Ordinance (Cap. 172), the maximum penalty for operating an unlicensed cinema is a fine at level four, which is a fine of \$25,000, and imprisonment for six months. In addition, a further fine of \$2,000 will be levied for every day during which the offence has continued. As to whether unlicensed cinemas can be prohibited from operating or have to be closed down, according to the legislation, under certain circumstances, the Buildings Department and the Fire Services Department can take appropriate actions to prohibit premises from being used as cinemas or to close the premises down. According to the Buildings Ordinance, if any building is not suitable for its present or intended use, the Building Authority may by order in writing discontinue such present use, including operating a cinema house. If the unlicensed cinema fails to comply with fire safety measures, the Director of Fire Services may act under the Fire Services Ordinance and apply to the court for an order to close down the unlicensed cinema.

PRESIDENT: Secretary, are you claiming that this is not a matter for which the

Hong Kong Government is responsible?

SECRETARY FOR RECREATION AND CULTURE (in Cantonese): The latter part, no, but the former part, yes.

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

MR FREDERICK FUNG (in Cantonese): *I do not quite understand why the former part is the Government's responsibility but the latter part is not. Why is it so?*

SECRETARY FOR RECREATION AND CULTURE (in Cantonese): The former part refers to the fine, which is of course the responsibility of the two Councils, they are the statutory authorities which make the policies and enforce the law. So this is the former part, which is not a matter for which the Government should be held responsible. The latter part refers to the circumstances under which the Government or the Fire Services Department or the Buildings Department can enforce the law and close down or prohibit the operation of the cinema concerned. May be I did not put it very clearly just now, this part should be the Government's responsibility.

MR ANDREW CHENG (in Cantonese): *Mr President, it is indeed a very hard task for the Secretary to answer this question. But I believe the Secretary could surely answer the question I am going to raise. In theory, these five unlicensed cinemas are similar to any private premises, they are not subject to control under the provisions in the Film Censorship Ordinance even if category III films are being exhibited there. If that is the case, how will the Government or the Recreation and Culture Branch plug the legal loopholes and prevent unlicensed cinemas from taking advantage of such loopholes to exhibit category III films and evade Government control altogether?*

SECRETARY FOR RECREATION AND CULTURE (in Cantonese): Mr President, I cannot see any relationship between cinemas being granted a licence

or otherwise on the ground of public safety and the fact that the cinema concerned is exhibiting category III films with or without a licence.

PRESIDENT: Mr MOK Ying-fan.

MR MOK YING-FAN (in Cantonese): *Mr President, the Honourable Mr Frederick FUNG has already raised the question that I had wanted to ask.*

WRITTEN ANSWERS TO QUESTIONS

Planning Deficiencies of Tin Shui Wai Development

6. **MISS EMILY LAU** asked (in Chinese): *It is reported that the construction cost of Stage I and II of the public housing development project in Area 30 of Tin Shui Wai has already been overspent by \$160 million before the pouring of concrete. According to a spokesman of the Hong Kong Housing Authority, the increase in the construction cost is partly attributable to inadequacies in the initial planning of the project, which have resulted in changes being made to the designs of the foundation and the piling works following detailed site investigation. In this connection, will the Government inform this Council of:*

- (a) the detailed reasons for exceeding the construction cost of the project by more than 13%;*
- (b) the additional expenditure items, and the amounts involved, arising from the inadequacies in the initial planning of the project; and*
- (c) the reasons for inadequacies occurring in the initial planning of the project?*

SECRETARY FOR HOUSING: Mr President, the Building Committee of the Housing Authority has recently approved a revised estimate of cost of the public housing project in Tin Shui Wai Area 30, Phases 1 and 2, from \$1,138 million to \$1,299 million, representing an increase \$161 million or 14%. A list of expenditure items, together with revised estimates and reasons, is at Annex.

Actual expenditure will depend on the outcome of piling tenders and building tenders to be invited in mid-1996 and early 1997 respectively. The bulk of expenditure will not be incurred until actual construction work begins on the site in October 1996. Hence, there is no question of overspending at present.

For any major project, a rough estimate of cost is made at the preliminary design stage, and the estimate is normally based on broadbrush assumptions since detailed requirements are not yet known. Thus, changes and refinements will be necessary when the project moves to the detailed design stage. The project in Tin Shui Wai is no exception. It is not appropriate, therefore, to suggest that the increase in the revised estimate is attributable to inadequacies in the initial planning stage of the project.

Annex

Public Housing Project in Tin Shui Wai Area 30, Phases 1 and 2

Increase in Revised Estimate of Cost and Reasons

<i>Expenditure item</i>	<i>Increase in revised estimate \$M</i>	<i>Reasons</i>
Piling	56	Use of more expensive type of pilies to cater for site condition, in the light of information obtained from site investigation, which took place after the initial planning stage.
Building (including lifts and building services)		
- relocate social service facilities away from domestic blocks in order	18	An improvement in design principles which was endorsed by Building

to vacate space for domestic and recreational use		Committee after the initial planning stage.
<i>Expenditure item</i>	<i>Increase in revised estimate \$M</i>	<i>Reasons</i>
- add two storeys above each domestic block so as to align with new standard design	2	An optimisation of the use of the site. Cost can only be budgeted after Building Committee's formal approval of the new standard design has been obtained.
- install facilities in carpark block in order to facilitate handicapped users	5	Changes made in response to government departments' comments received during the consultation stage, which took place after the initial planning stage.
- adjustment of design in carpark block	6	Adjustment of design, which was not possible to factor in during the initial planning stage in the absence of full design details.
- provide fencing in order to improve security control, addition refuse collection point, and special provision for electricity cable laying	6	Changes made in response to Housing Department Estate Management Branch's and public utility's comments received during the consultation stage, which took place after the initial planning stage.
- adjustment of design in Housing for Senior	26	Adjustment of design, which was not possible to factor in

Citizens Block, single aspect block and half-way house		during the initial planning stage in the absence of full design details.
<i>Expenditure item</i>	<i>Increase in revised estimate</i>	<i>Reasons</i>
	<i>\$M</i>	
- adjustment of tender price inflation owing to increase project cost	2	Consequential adjustment as a result of change in project cost.
Fees for architectural consultants, sub-consultants and supervisory staff	35	To cope with the shortage of in-house staff resources arising from the bunching of production. The identification of this project for farming out to consultants was made and Building Committee's formal approval of appointment of consultants was given after the initial planning stage.
Soft landscape and others	5	Corresponding increase in the provision for contingency owing to increased project cost.
Total	161	

General Out-patient Clinic Service

7. **MR ALBERT HO** asked (in Chinese): *Will the Government inform this Council:*

- (a) *of the number of patients seeking treatment, the average waiting time for obtaining chips, and the average waiting time for medical consultation in the general out-patient clinics run by the*

Department of Health in Yuen Long and Tuen Mun during the past three years;

- (b) of the breakdown of these clinics by name, location, current staff establishment, daily quota of consultations and daily average number of chips handed out;*
- (c) which of these clinics provide evening and holiday out-patient services, and what the opening hours and daily quota of consultations in such services are; and*
- (d) whether the Department of Health will extend the evening and holiday out-patient services in Yuen Long and Tuen Mun, so as to reduce the number of patients seeking treatment at the accidents and emergency departments of Tuen Mun Hospital and Pok Oi Hospital in the evening and during public holidays?*

SECRETARY FOR HEALTH AND WELFARE (in Chinese): Mr President,

- (a) In 1993, 1994 and 1995, the number of medical consultations provided at the general out-patient clinics in Yuen Long and Tuen Mun districts were 420 946, 489 954 and 573 003 respectively. Consultation discs, each bearing the estimated consultation time, are distributed from 8.45 am for the morning session and from 1.45 pm for the afternoon session. Normally, the discs will all be distributed in about an hour, except in some larger clinics where the consultation capacity is large. Patients are able to receive treatment within 60 minutes of the time specified in the discs, in the past three years. A pre-booked appointment system is also available for patients with chronically ill patients who will receive treatment within 30 minutes of the scheduled appointment.
- (b) A breakdown of the clinics in the Yuen Long and Tuen Mun

districts are as follows:

<i>Day Clinic</i>	<i>Address</i>	<i>No. of doctors</i>	<i>Daily consultation capacity</i>	<i>Average No. of discs handed out each day (in the first quarter of 1996)</i>
<i>Yuen Long</i>				
Yuen Long Jockey Club Health Centre	269 Castle Peak Road Yuen Long	4 (am) 5 (pm)	406	396
Tin Shui Wai Health Centre (Commenced operation on 29 September 1993)	3 Tin Shui Road Tin Shui Wai Yuen Long	4	350	334
Madam Yung Fung Shee Health Centre	26 Sai Ching Street Yuen Long	3	270	257
Kam Tin Clinic (From 9.00 am to 11.00 am)	Kam Tin Road Shek Kong Yuen Long	1	30	28
<i>Tuen Mun</i>				
Yan Oi Polyclinic	6 Tuen Lee Street Tuen Mun	5	450	431
Tuen Mun Wu Hong Clinic (Commenced operation on 29 December 1993)	2 Wu Hong Street Tuen Mun	3	260	247
Tuen Mun Clinic	11 Tsing Yin Street	3	260	254

Tuen Mun San Hui

Tuen Mun

- (c) Evening and holiday out-patient services are provided in Yuen Long Jockey Club Health Centre and Tuen Mun Clinic, as follows:

<i>Clinic</i>	<i>Opening hours</i>	<i>Average No. of discs Daily handed out each day consultation (in the first quarter capacity of 1996)</i>	
Yuen Long Jockey Club Health Centre	From 6.00 pm to 10.00 pm on Mondays to Fridays	160	150
	From 9.00 am to 1.00 pm on Sundays and Public Holidays	160	149
Tuen Mun Clinic	From 6.00 pm to 10.00 pm on Mondays to Fridays	240	225

- (d) At present, evening and holiday out-patient services are provided in Yuen Long Jockey Club Health Centre and Tuen Mun Clinic. The utilization of the two clinics have yet to reach their full capacities. Nevertheless, the Department of Health will continue to closely monitor the situation in the two districts and allocate resources to meet the demand as appropriate.

Hospital Authority Nursing Staff Establishment

8. **MR MICHAEL HO** asked (in Chinese): *Will the Government inform this Council of :*

- (a) *the existing establishment of nursing staff in different ranks in each of the hospitals under the management of the Hospital Authority;*
- (b) *the existing shortfall of nursing staff in different ranks in each of these hospitals; and*

- (c) *the wastage figures of nursing staff in different ranks in each of these hospitals in the past three years?*

SECRETARY FOR HEALTH AND WELFARE (in Chinese): Mr President, manpower planning forms part of the Authority's annual planning process which takes into account the resource input and quality outcome of new initiatives or service improvements. The strength of nursing staff in public hospitals as at end of March 1996 is summarized in the table at Annex.

Nursing manpower planning is a dynamic process which must be examined in the light of prevailing circumstances unique to each hospital. To facilitate this process, the Hospital Authority has developed a set of indicators and a patient dependency model to assist managers in assessing their manpower requirements to meet operational needs. The Authority is currently working with individual hospitals as well as frontline nurses to verify and refine these tools.

The staff turnover rate for various nursing grades from 1993-94 to 1995-96 is provided below:

<i>Nursing Staff Grade</i>	<i>1993-94</i>	<i>1994-95</i>	<i>1995-96*</i>
Nursing Officer and above	6.6%	8.4%	7.5%
Registered Nurse	8.1%	11.1%	10.2%
Enrolled Nurse	9.8%	12.5%	8.5%
Student Nurse	18.0%	23.9%	11.3%
Pupil Nurse	20.3%	22.2%	13.6%
Total	9.5%	12.2%	9.8%

* including provisional figures for March 1996

Annex

Strength of Nursing Staff by Hospital as at 31 March 1996#

<i>Hospital</i>	<i>NO and above</i>	<i>RN</i>	<i>SN</i>	<i>EN</i>	<i>PN</i>	<i>Others</i>	<i>Total</i>
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Bradbury Hospice	4	25	0	1	0	0	30
HK Buddhist	18	77	0	58	0	0	153
Cheshire Home (Chung Hom Kok)	1	3	0	9	0	0	13
Caritas Medical Centre	116	415	116	197	44	1	889

<i>Hospital</i>	<i>NO and above</i>	<i>RN</i>	<i>SN</i>	<i>EN</i>	<i>PN</i>	<i>Others</i>	<i>Total</i>
Castle Peak Hospital	108	150	72	180	77	0	587
Duchess of Kent Children's Hospital	12	33	0	25	0	0	70
Fanling Hospital	12	33	0	32	0	0	77
Fung Yiu King Hospital	12	37	0	26	0	0	75
Grantham Hospital	53	117	0	118	167	14	469
Haven of Hope Hospital	27	35	0	51	109	18	240
Hong Kong Eye Hospital	10	30	0	10	0	0	50
Kwai Chung Hospital	123	243	132	183	0	0	681
Kowloon Hospital	107	81	0	176	361	0	725
Kwong Wah Hospital	183	511	351	129	0	32	1 206
Lai Chi Kok Hospital	12	23	0	35	0	0	70
MacLehose Medical Rehabilitation Centre	5	18	0	12	0	0	35
Margaret Trench Medical Rehabilitation Centre	2	7	0	6	0	0	15
Nam Long Hospital	16	29	0	26	0	0	71
Our Lady of Maryknoll Hospital	32	81	0	75	148	5	341
Princess Margaret Hospital	216	697	331	153	3	0	1 400
Pok Oi Hospital	27	101	0	73	0	1	202
Prince of Wales Hospital	236	858	378	161	0	0	1 633
Pamela Youde Nethersole Eastern Hospital	161	506	0	147	40	1	855
Queen Elizabeth Hospital	352	1 062	275	240	0	0	1 929
Queen Mary Hospital	296	850	277	143	0	0	1 566
Red Cross Blood Transfusion Service	25	65	0	0	0	0	90
Ruttonjee Hospital	57	139	0	131	0	4	331
Cheshire Home (Sha Tin)	7	24	0	57	0	0	88
St John Hospital	8	12	0	18	0	0	38
Siu Lam Hospital	13	22	0	34	0	0	69
Shatin Hospital	56	76	0	164	0	0	296
Tuen Mun Hospital	198	609	250	241	0	6	1 304

Tung Wah Eastern Hospital	33	92	0	49	106	0	280
Tang Shiu Kin Hospital	18	68	0	24	0	0	110
Tung Wah Hospital	41	150	0	82	121	0	394
Tsan Yuk Hospital	33	78	0	2	0	47	160

<i>Hospital</i>	<i>NO and above</i>	<i>RN</i>	<i>SN</i>	<i>EN</i>	<i>PN</i>	<i>Others</i>	<i>Total</i>
United Christian Hospital	165	407	367	198	0	0	1 137
Wong Chuk Hang Hospital	4	15	0	25	0	0	44
Wong Tai Sin Hospital	30	104	0	111	0	0	245
Yan Chai Hospital	96	302	183	81	0	0	662
Total	2 925	8 185	2 732	3 483	1 176	129	18 630

Notes : # provisional figures only

Abbreviations: NO = Nursing Officer, RN = Registered Nurse, EN = Enrolled Nurse, SN = Student Nurse, PN = Pupil Nurse, Others = midwife and other non-standard ranks.

Contaminated Paper-packed Drinks

9. **MR ALBERT CHAN** asked (in Chinese): *Recently, complaints have again been made by the public about contaminated paper-packed drinks. In view of the renewed public concern about the quality of food products, will the Government inform this Council:*

- (a) *of the total number of complaints received by the Urban Services Department and Regional Services Department regarding contaminated food products in the past 12 months;*
- (b) *of the average time required by the authorities concerned to complete a test on a food product suspected of contamination; and*
- (c) *whether measures will be taken by the authorities concerned to ensure the timely completion of such tests and announce the test results at the earliest possible time?*

SECRETARY FOR HEALTH AND WELFARE (in Chinese): Mr President,

from 1 April 1995 to 31 March 1996, the Urban Services Department and the Regional Services Department received a total of 150 complaints about decayed food items.

When the two municipal services departments receive a complaint from the public, the suspected food item is promptly sent to the laboratory of the Department of Health for bacteriological tests or the Government Laboratory for chemical tests, or to both laboratories. The time taken to complete the laboratory tests depends on the nature of the complaint and hence the type of tests to be undertaken. In most cases, results will be available in one to seven days' time.

The two laboratories have always given priority to conducting tests on samples of suspect food items. Public announcements are made if and when there is evidence of a public health risk.

Protection of Endangered Species

10. **MR IP KWOK-HIM** asked (in Chinese): *It is learnt that the Government is planning to spend \$4 million on a two-year project to study ways to protect Chinese white dolphins and that it will establish a marine sanctuary for this purpose. In this connection, will the Government inform this Council:*

- (a) *of the species of animals and plants which are under the protection of the Animals and Plants (Protection of Endangered Species) Ordinance and their habitats in the territory;*
- (b) *whether it has any plans to apply for funds for the establishment of sanctuaries similar to the above for the animals and plants under the protection of the Ordinance; and*
- (c) *if the answer to (b) is in the negative, of the measures it will take to protect such animals and plant, and whether it will introduce legislation to prohibit construction works within the habitats of these animals and plants?*

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

- (a) The species of animals and plants protected by the Animals and Plants (Protection of Endangered Species) Ordinance are listed under Schedules 1 and 3 to the Ordinance. The majority of local endangered species are found inside country parks, special areas, proposed marine parks and marine reserves as well as Sites of Special Scientific Interest (SSSIs).
- (b) Considerable proportions of the areas within which endangered plants and animals are found are already protected. These include the restricted areas designated under the Wild Animals Protection Ordinance such as the Mai Po Marshes and Inner Deep Bay, country parks and special areas under the Country Parks Ordinance, proposed marine parks and marine reserves under the Marine Parks Ordinance and conservation areas and SSSIs in Outline Zoning Plans under the Town Planning Ordinance. Government will continue to designate more sites to protect endangered plants and animals in Hong Kong as and when the need arises.
- (c) In addition to the range of protected areas mentioned in (b) above, the Animals and Plants (Protection of Endangered Species) Ordinance controls the import, export and possession of endangered species. Moreover, the following ordinances offer protection to local plants and animals:
 - (i) The Forestry Regulations under the Forests and Countryside Ordinance control the selling and possession of protected plant species.
 - (ii) The Wild Animals Protection Ordinance controls the hunting, the possession, selling and export of protected wild animals, or their nests and eggs.

At present, an environmental impact assessment (EIA) study is required for any major development project that is likely to have an impact on the environment. An assessment of possible impacts on plants and animals is part of such a study. When the study identifies that the proposed project may cause potential adverse

impacts to the environment, mitigation measures to eliminate or minimize such impacts will be recommended. An Environmental Impact Assessment Bill to make these procedures a statutory requirement is now before the Legislative Council. The enactment of the Bill will provide added protection to the endangered species.

Dwindling Expenditure Growth in Environmental Protection

11. **MR AMBROSE LAU** (in Chinese): *It is learnt that the annual growth rate in expenditure of the Environmental Protection Department (EPD) has been on the decrease since 1994-95, with the result that the overall government expenditure on environmental protection has dropped to a rate of 0.56% of the territory's Gross Domestic Product (GDP) in 1996-97. This figure is much lower than that in certain developed countries which stands at an annual rate of 1% to 2% of their GDP, and is even lower than that in mainland China which stands at an annual rate of 0.6%. In view of this, will the Government inform this Council.*

- (a) *of the reasons for the decrease in the annual growth rate in EPD's expenditure in recent years; and*
- (b) *whether it will consider following the examples of the United States and European countries by allocating more resources for the implementation of projects lasting for five years or more, so as to concentrate research work on individual items such as water quality, the air and the soil; and whether it will further consider requiring that environmental issues be taken into account when formulating policies, so that environmental protection work can be undertaken more effectively, thereby improving the quality of life in our society?*

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

- (a) The expenditure of EPD since 1994-95 is as follows:

<i>Year</i>	<i>\$ million</i>	<i>% of increase over previous year</i>
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1994-95 (Actual)	1,309.1	48.9
1995-96 (Revised Estimate)	1,674.8	27.9
1996-97 (Approved Estimate)	1,848.1	10.3

The exceptionally high rate of growth in expenditure in 1994-95 was mainly due to the additional operating expenses required for commissioning new waste management facilities such as refuse transfer stations, strategic landfills and the Chemical Waste Treatment Centre. The full year effect of the additional expenditure is reflected in the 1995-96 Revised Estimate, but such effect levelled off in 1996-97. We do not envisage new waste treatment facilities coming into operation in 1996-97, although several new facilities will come into operation in 1997-98.

A clearer picture of environment spending is illustrated in the following figures which show the growth of total Public Expenditure on the Environment in Hong Kong as a percentage of the overall Hong Kong total Public Expenditure:

							<i>Revised Estimate</i>	<i>Approved Estimate</i>
<i>88-89</i>	<i>89-90</i>	<i>90-91</i>	<i>91-92</i>	<i>92-93</i>	<i>93-94</i>	<i>94-95</i>	<i>95-96</i>	<i>96-97</i>
0.8%	1.5%	2.1%	2.5%	2.5%	2.0%	2.7%	3.2%	3.1%

- (b) The Government's environmental strategy is set out in the 1989 *White Paper on Pollution in Hong Kong*—and in the subsequent biennial reviews of the White Paper. The 1989 White Paper set out a comprehensive 10-year strategy for environmental protection in Hong Kong and, in particular, targets such areas as waste, water, air and noise. More recently, the Government has established a Trading Fund in the Drainage Services Department and to which the Government has committed all the capital expenditure for a long term high priority programme of urgently needed sewage works around the central harbour. An overall review of our environmental programme was recently set out in the Third Review of the 1989 White Paper on the environment which also set out how environmental issues are taken into account when formulating

policies; paragraphs 2.63 and 2.64 of the Third White Paper Review explain the current arrangements for Environment Impact Assessment, particularly the Government's intention to make this process statutory; an Environmental Impact Assessment Bill was introduced in the Legislative Council on 31 January 1996.

Elderly Jaywalkers

12. **MR IP KWOK-HIM** asked (in Chinese): *According to information provided by the police, nearly 100 elderly persons were killed in each of the past two years in traffic accidents involving jaywalking. In comparison with other age groups, the elderly age group had the highest death toll in such traffic accidents. In view of this, the police have indicated that this year's road safety campaigns will be targeted at the elderly age group. In this connection, will the Government inform this Council:*

- (a) of the other plans the police have to enhance elderly people's awareness of road safety, so as to reduce the number of casualties among the elderly age group in such traffic accidents;*
- (b) whether, to achieve a deterrent effect, the police will step up prosecution against elderly people for contravening traffic regulations when crossing the roads; if not, why not; and*
- (c) whether the police will strengthen road safety campaigns targetted at educating drivers, so as to prevent the occurrence of such traffic accidents?*

SECRETARY FOR TRANSPORT (in Chinese): Mr President, it is indeed a cause for concern and very worrying that many elderly pedestrians (60 and over) have been killed or injured in traffic accidents. In an attempt to tackle this particular problem, the police have conducted activities regularly to enhance road safety awareness amongst the elderly. Such activities included:

- (i) launching road safety campaigns targetted at elderly pedestrians;
- (ii) delivering road safety talks at elderly centres;

- (iii) enlisting the support of road safety patrol teams to help disseminate road safety messages and assist elderly pedestrians in crossing the roads near their social centres; and
- (iv) distributing road safety pamphlets and giving advice at pedestrian accident blackspots.

These efforts have had a measure of success in that the number of casualties involving elderly people in traffic accidents have been decreasing over the last three years. Notwithstanding this, we need to continue our efforts and, for example, are liaising with the Hong Kong Road Safety Association, to strengthen its road safety patrols at locations which have a high number of casualties of elderly pedestrians.

We do not believe that prosecuting the elderly for jaywalking would solve the problem. We should continue to treat our senior citizens with respect and we consider that continued advice and assistance is the most effective approach to tackle this problem.

The target audiences of road safety campaigns change from year to year depending on circumstances. In 1993-94, the prime target group was drivers to discourage fast driving and driving too close to the vehicle in front. In 1994-95, the emphasis was on the need to develop good driving habits, as well as on pedestrians (those aged under 15 and over 60) on correct road behaviour. In 1995-96, we highlighted the consequences of "Drink Driving". For 1996-97, the main campaign theme is "Pedestrian Safety", with a subtheme on safety of elderly pedestrians. The need for drivers to remain alert will be highlighted.

Promotion Guidelines for Disciplined Services Staff

13. **DR JOHN TSE** asked (in Chinese): *Will the Government inform this Council:*

- (a) *whether, in recruiting new staff members and selecting serving staff for promotion, it is the current practice of the disciplined services to investigate the criminal records of the relatives of those concerned and take such records into account in the selection process; if so, what the reasons are; and*

- (b) *if the answer to the first part in (a) is in the positive, whether:*
- (i) *such a practice is subject to regulation under any legislation; and*
 - (ii) *the Government has drawn up any guidelines governing such a practice and, if so, what the rationale is; and whether the Government has reviewed the guidelines to ascertain if they contravene the Bill of Rights and the international human rights covenants and, if so, whether the Government will consider amending the guidelines?*

SECRETARY FOR THE CIVIL SERVICE (in Chinese): Mr President, for all recruitment and promotion to some positions in the disciplined services, integrity checks are carried out. The purpose of integrity checks is to ensure that the character and integrity of the candidates recommended for appointment and serving officers recommended for promotion are not in doubt and that they can be trusted to perform the functions expected of them in those positions. After carrying out such checks, the police issue an assessment of integrity of the candidates or officers to the departments concerned. Such assessments concern the individuals only, not their family members.

The Government issued in August 1994 a set of procedural guidelines to all departments for carrying out integrity checks in the course of recruitment and promotion. The procedural guidelines were prepared in consultation with the Attorney General's Chambers and are not inconsistent with the provisions of the Hong Kong Bill of Rights Ordinance (Cap. 383) which incorporates the International Convention on Civil and Political Rights as applied in Hong Kong.

Overtime Workload Necessitated by Orderly Repatriation Programme

14. **DR LAW CHEUNG-KWOK** asked (in Chinese): *Regarding the agreement of the Vietnamese Government to accept more returnees under the Orderly Repatriation Programme, will the Administration inform this Council:*

- (a) *of the staff deployment which the departments concerned have to*

make to cope with the work in connection with the above; and

- (b) *whether the staff in the departments concerned are required to work overtime to handle the additional workload; if so, what the number and grades of staff are and whether the Administration is aware of the views of the staff concerned on such overtime work?*

SECRETARY FOR SECURITY (in Chinese): Mr President, the acceleration of the Orderly Repatriation Programme will give rise to a demand for more manpower, principally in the Police Force, Correctional Services Department, the Immigration Department and the Security Branch of the Government Secretariat. This additional manpower, as and when required, will be made available by internal redeployment and overtime work. Officers of various grades and ranks are involved. However, it is not possible to give a precise breakdown of the grades and number of staff affected. The staff concerned accept the need to accelerate the repatriation of the Vietnamese migrants and are prepared to carry out the additional work involved.

List of Non-Chinese Ethnic Minorities

15. **MISS EMILY LAU** asked: *It is learnt that the Government is planning to draw up a list of non-Chinese ethnic minorities who may become stateless after 1997. Will the Administration inform this Council:*

- (a) *of the objectives of drawing up the list;*
- (b) *how it plans to go about drawing up the list;*
- (c) *when the details of the list will be announced; and*
- (d) *whether it will continue to request the British Government to grant full British citizenship to the ethnic minorities?*

SECRETARY FOR SECURITY: Mr President,

- (a) The Government is undertaking an exercise to update the estimate of the size of the ethnic minorities in Hong Kong (who will not in the main be stateless after 1997), which was last done in 1986.

- (b) The exercise involves an estimation technique based primarily on the records of the Immigration Department to identify Hong Kong British Dependent Territories Citizens (BDTCs) who are non-ethnic Chinese and do not hold a second nationality.
- (c) We will make known the updated estimate when the exercise is completed.
- (d) The Hong Kong Government has consistently supported the case of non-Chinese ethnic minorities with solely British nationality for the grant of British Citizenship. The British Government's decision announced by the Prime Minister on 4 March 1996, to admit these into the United Kingdom in the unlikely event that they ever came under pressure to leave Hong Kong is a significant improvement in the assurance given so far to this group. The Hong Kong Government will continue to support their case for full British Citizenship.

Licensing Control on Security Personnel

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

- (a) *of the present number of caretakers (commonly known as watchmen) employed in private buildings in the territory, and the number of those who are above the age of 65 and in possession of watchman permit;*
- (b) *of the number of persons who have applied for the new security personnel permit and the number of such permits that have been issued since the implementation of the Security and Guarding Services Ordinance in June last year;*
- (c) *whether any applications for the new security personnel permit have been rejected; if so, what the reasons are;*
- (d) *of the publicity measures taken by the Government appealing to*

those watchmen who have not yet applied for security personnel permits to do so before the expiry of the grace period at the end of this month;

- (e) whether there is adequate manpower in the Police Licensing Office for processing all the applications for security personnel permits; if not, whether the police will consider increasing the manpower for processing such applications; and*
- (f) whether it will review the licensing conditions stipulated in the Ordinance to determine if there is a need to relax such conditions?*

SECRETARY FOR SECURITY (in Chinese): Mr President,

- (a) At present, there are about 130 000 watchmen registered with the police under the Watchmen Ordinance. We do not keep separate statistics on the number of watchmen working in private residential buildings. According to the record of the Police Licensing Office, there are 26 493 watchman's permit holders who are above the age of 65.
- (b) Since the commencement of the application period on 2 November 1995, 12 012 persons have applied for the new security personnel permits and 2 595 permits have been issued. We expect to complete processing the rest of applications in about three months' time.
- (c) A total of 43 applications for security personnel permits have been rejected. All were rejected on the grounds of past criminal record. These include conviction for dangerous drugs offences, burglary, violent and sexual offences. However, not all applicants with past criminal record are rejected. Having considered the nature of the offence and the age of the applicant at the time of conviction, the Police Licensing Office have granted security personnel permits to a total of 50 applicants with past criminal record.

- (d) Since November 1995, a comprehensive publicity campaign has been launched. This includes sending over 10 000 appeal letters to office-bearers of Mutual Aid Committees (MACs)/Owners Corporations (OCs) and security and property management companies, organizing over 30 seminars/briefings for MACs/OCs, District Fight Crime Committees and District Boards, meeting with trade unions, production of radio Announcement of Public Interests (APIs) and RTHK television programmes as well as provision of hot line enquiry services. These publicity efforts have been stepped up recently through the release of a TV API, increased broadcasting frequency of the radio API, and large scale briefings and seminars to urge prospective applicants to apply as soon as possible.
- (e) Additional manpower and supporting resources have already been provided to the Police Licensing Office to process applications for security personnel permits. We will consider, if necessary, increasing the manpower to cope with the anticipated rush of applications before the deadline.
- (f) The security personnel permit criteria were determined by an independent Security and Guarding Services Industry Authority and approved by the Legislative Council on 26 July 1995. We will review them in the light of operational experience after the full implementation of the Ordinance on 1 June 1996.

Ratio between Accident/Emergency and Convalescent Beds

17. **MR WONG WAI-YIN** asked (in Chinese): *Will the Government inform this Council:*

- (a) *of the current planning standard in regard to the ratio between accident/emergency beds and convalescent beds in the hospitals under the management of the Hospital Authority (HA);*
- (b) *of the respective numbers of accident/emergency beds and convalescent beds, and the ratio between the two types of beds in these hospitals;*
- (c) *of the respective average daily costs of maintaining each*

*accident/emergency bed and convalescent bed in these hospitals;
and*

- (d) *whether the number of convalescent beds in HA's hospitals in New Territories West meets the standard referred to in (a) above; if not, what measures are in place to improve the situation?*

SECRETARY FOR HEALTH AND WELFARE (in Chinese): Mr President, the planning and provision of public hospital beds are influenced by a number of factors including demographic profile and patient conditions, development of day treatment procedures and community nursing care, as well as the availability of other complementary services. There is no fixed ratio between acute to convalescent/infirmiry beds but the actual provision of beds will be adjusted in line with changing community needs.

There were a total of 13 944 acute beds, 3 733 convalescent beds and 1 772 infirmiry beds in public hospitals as at the end of March 1996. The corresponding ratio of acute to convalescent/infirmiry beds is 2.5:1.

Since the planning and provision of convalescent/infirmiry beds is carried out in a global context, it will not be meaningful to compare the relative distribution of beds in each region. The daily operating costs for acute bed and convalescent/infirmiry bed were \$2,770 and \$1,230 respectively in 1994-95. The figures for 1995-96 has yet to be finalized.

Government is aware of the need to strengthen hospital facilities in New Territories West to meet the new demands arising from projected population growth and is exploring possible options with the HA to tackle this issue.

Land Development Corporation

18. **MR ALBERT CHAN** asked (in Chinese): *Will the Government inform this Council:*

- (a) *of the number of redevelopment projects completed by the Land Development Corporation (LDC) since its establishment and the amount of profits generated from each project;*
- (b) *of the number of LDC's redevelopment projects involving the*

resumption of land by invoking the Crown Lands Resumption Ordinance;

- (c) of the total number of affected residents who have been rehoused arising from redevelopment projects undertaken by the LDC; and*
- (d) how it can ensure that the LDC's redevelopment projects are undertaken for the purpose of improving the living environment of the community, instead of seeking excessive profits?*

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

- (a) the number of redevelopment and renovation projects completed by the Land Development Corporation since its establishment in 1988 is eight.

Owing to the nature of the Corporation's operation and the involvement of joint venture partners in some of the projects, it is not appropriate to disclose the detailed financial data of individual projects. There are adequate provisions in the Land Development Corporation Ordinance to ensure that the financial accounts of the Corporation are subject to proper auditing and monitoring, including the tabling of the auditor's report in the Legislative Council annually;

- (b) as at 1 May 1996, four of the redevelopment projects undertaken by the Land Development Corporation involved resumption;
- (c) as at 1 May 1996, about 450 tenants affected by the Land Development Corporation's projects have been rehoused; and
- (d) there are comprehensive statutory and administrative measures to ensure that the Land Development Corporation's redevelopment projects are for the benefits of the community. Its functions and

activities are decided and supervised by a Managing Board appointed by the Governor and composed mainly of non-official members. Under the Land Development Corporation Ordinance, the principal purpose of the Corporation is to improve the standard of housing and environment in Hong Kong by undertaking, encouraging, promoting and facilitating urban renewal. Before the Corporation is given approval to initiate a new project, it is required to submit detailed plans to the Government and demonstrate that the proposed project will improve the environment of the project area. Where a change of zoning under the Town Planning Ordinance is required, the project has to be submitted to the Town Planning Board for approval. The Board will take into account the impact of the proposed project on the environment in its consideration.

The Land Development Corporation is not a profit-seeking organization, but rather a public statutory body operating in accordance with prudent commercial principles. Seeking "excessive profit" is not an object of the Corporation. All surpluses generated by projects are ploughed back into future urban renewal schemes. As a safeguard against the Land Development Corporation acquiring excessive reserves, the Financial Secretary is empowered under the Land Development Corporation Ordinance to require the Corporation to transfer funds to the general revenue. However, this has not proved necessary to date.

Sanctuary for Chinese White Dolphins

19. **MR JOHN TSE** asked (in Chinese): *As the works on the construction of the new airport have seriously affected the living environment of the Chinese white dolphins inhabiting the waters nearby, the Government has undertaken to designate an area of 1 200 hectares between Sha Chau and Lung Kwu Chau as a sanctuary for the dolphins and to ban dragnet fishing activities within the sanctuary. In this connection, will the Government inform this Council:*

- (a) *whether the department concerned has conducted periodic surveys on the number of white dolphins in the waters concerned; if so, what the survey methods adopted are and the annual number of dolphins gathered since the commencement of the above construction works;*

if not, whether consideration will be given to conducting such surveys on a periodic basis;

- (b) of the progress of the proposed plan to establish a dolphins sanctuary and the date the sanctuary is expected to be formally established;*
- (c) whether the Government will consider enlarging the areas of the sanctuary;*
- (d) whether consideration has been given to banning all fishing activities within the sanctuary;*
- (e) of the distance between the sanctuary and the temporary Aviation Fuel Receiving Facility (AFRF) under construction in Sha Chau, and the effects of the temporary AFRF on the dolphins; and*
- (f) whether there are other measures to protect the Chinese white dolphins?*

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

- (a) The Agriculture and Fisheries Department (AFD) commissioned the Swire Institute of Marine Science (SWIMS) of the University of Hong Kong to undertake a three-year study to collect baseline information about the Indo Pacific hump-back dolphin, commonly known as Chinese white dolphin, in December 1993.

By using photo-identification techniques, SWIMS has identified a population of over 80 Indo Pacific hump-back dolphins within Hong Kong territorial waters. The result of a recent systematic population survey conducted by Dr. Tom Jefferson, a cetacean expert and research associate of the Ocean Park Conservation Foundation, has indicated that the population size may be several times larger than SWIMS's estimation. However, the population size of the dolphins has yet to be determined.

AFD further commissioned a consultancy study in mid-1996 to carry

out more systematic and in-depth study on the biology, population and distribution of the Indo Pacific hump-back dolphin. The study will take two years.

- (b) The draft map of the proposed Sha Chau and Lung Kwu Chau Marine Park (SLMP), that is the marine sanctuary, was gazetted for public inspection and comments for 60 days on 12 April 1996 in accordance with Section 8 of the Marine Parks Ordinance. After that period, the draft map will be submitted to the Governor in Council for approval. The SLMP is expected to be established around September/October 1996.
- (c) Yes, we have indeed considered the appropriate size of the sanctuary. The area of SLMP gazetted now is about 1 200 hectares which is 20% larger than the 1 000 hectares originally recommended by the cetacean expert, Dr Bern WURSIG.
- (d) Yes, we have considered the question of banning all fishing activities. We have concluded that it would be best for the SLMP to be managed along the lines of a marine park where sustainable fishing will be allowed and controlled through a permit system. Trawling will however be prohibited. Other fishing activities will also be closely monitored. More stringent control will be imposed should there be signs of any activities which may be detrimental to the health and welfare of the dolphins.
- (e) The aviation fuel receiving facility (AFRF) at Sha Chau is located inside the proposed SLMP. The AFRF is not a fuel depot. There are no storage tanks at Sha Chau nor has any fuel related facility been constructed on Sha Chau. The AFRF is an off-shore berthing facility constructed on piles to reduce marine impacts. It will receive approximately four fuel delivery vessels per day with all fuel pumped directly from the vessels via an undersea pipeline to the on-airport fuel storage facility.

The environmental implications of the AFRF have been fully evaluated in a detailed environmental impact assessment study

(EIA). The EIA was reviewed by an internationally renowned cetacean expert, Dr Bern WURISG, who concluded that the facility by itself would unlikely have negative effects on the dolphins. The construction impacts of the facility on the dolphins and the marine environment are minimized through implementation of mitigation measures. One of such measures is the use of a bubble curtain.

(f) Yes, other measure to protect the Indo Pacific hump-back dolphin include:

- (i) a general regulation to limit the speed of marine traffic to not exceeding 10 knots within the sanctuary;
- (ii) for the temporary Aviation Fuel Receiving Facility at Sha Chau, recommended zero discharge and low impact dredging pollution control measures will be implemented throughout the construction phase to reduce potential impact to the marine environment. Oil pollution control measures and oil spill equipment such as oil boom and skimmers will be provided to minimize the risk of oil pollution and contamination during the operational phase;
- (iii) a 500 m exclusion zone for vessels around the airport platform will offer additional areas of protection for the dolphins; and
- (iv) the consultancy study now in progress may propose other measures.

MOTIONS

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

THE SECRETARY FOR RECREATION AND CULTURE to move the following motion:

"That —

- (1) the Urban Council Ordinance (Cap. 101) be amended -

- (a) in section 19(8), by repealing "of \$10,000" and substituting "at level 5";
- (b) in section 52A(2), by repealing "of \$1,000" and substituting "at level 2";
- (2) the Public Health and Municipal Services Ordinance (Cap. 132) be amended -
 - (a) in section 143(a) -
 - (i) by repealing "of \$25,000" and substituting "at level 6";
 - (ii) by repealing "\$600" and substituting "\$1,500";
 - (b) in section 151(1), by repealing "of \$500" and substituting "at level 2";
 - (c) by repealing the Ninth Schedule and substituting -

"NINTH SCHEDULE

[s. 150]

PENALTIES

Section	Penalty	Daily penalty
6(1)(a), (b) or (c)	level 5	-
6(1)(d) or (e)	level 5	-
7(2)	level 5	-
9(a)	level 2	-
9(b)	level 4	-
10(3)	level 2	-

13(2)(a)	level 2	\$100 fine
13(5)	level 1	\$50 fine
14(2)(a)	level 2	\$50 fine
Section	Penalty	Daily penalty
20(3)(b)	level 2	\$300 fine
22(1)(a)	level 2	\$50 fine
22A(1)(b)	level 2	\$100 fine
24(2)(a)	level 2	\$50 fine
25(a)	level 1	-
25(b)	level 2	-
27(2)(a) or (3)	level 4	\$450 fine
30(2)(a)	level 2	\$100 fine
31	level 1	-
32(2)(a)	level 2	\$100 fine
33(3)(a)	level 2	\$100 fine
34(a) or (b)	level 1	-
36(2)	level 2	\$100 fine
43(2)	level 1	-
47(2)(a)	level 2	\$100 fine

47(5)	level 1	-
50(4)	level 3 and 3 months imprisonment	-
51(5)	level 3 and 3 months imprisonment	-
Section	Penalty	Daily penalty
51A(4) or (5)	level 3 and 3 months imprisonment	-
52(1) or (2)	level 3 and 3 months imprisonment	-
54(1) or (2)	level 5 and 6 months imprisonment	-
58(4) or (5)	level 3 and 3 months imprisonment	-
59(1A) or (3)	level 5 and 6 months imprisonment	-
61(1) or (2)	level 5 and 6 months imprisonment	-
62(4)	level 2	-
63(9)	level 2	-
68(3)	level 1	-
69(2)	level 3 and 3 months imprisonment	-
72(1) or (2)	level 5 and 6 months imprisonment	-
81(2)	level 1	-
83B(3)	level 2 and 1 month imprisonment (first conviction)	\$300 fine
	level 3 and 6 months imprisonment (second or subsequent conviction)	\$300 fine
92C(1)	level 2 and 6 months imprisonment	-

92C(2)	level 4 and 6 months imprisonment	\$450 fine
93(4)	level 3 and 3 months imprisonment	\$450 fine
94(3)	level 2	-
Section	Penalty	Daily penalty
94(3A) or (3B)	level 3 and 3 months imprisonment	-
101(3)	level 3 and 3 months imprisonment	-
104A(2)	level 3	\$300 fine
104B(2)	level 3	\$300 fine
105(2)(a)	level 2	\$100 fine
105F(3)	level 2	-
105S(1)	level 3 and 3 months imprisonment	-
110(2)	level 1	-
111D	level 3	-
112(1) or (2)	level 1	\$50 fine
112A(3)(a)	level 2	-
112A(3)(b)	level 2	\$100 fine
115(3)	level 2	-
117(2)	level 1	-
118(1) or (2)	level 2 and 6 months imprisonment	-

124(2)	level 2	-
124F(1)	level 2 and 6 months imprisonment	-
124F(2)	2 years imprisonment	-

Section	Penalty	Daily penalty
124F(3)	5 years imprisonment	-
125(5)	level 2	-
127(3)(a) or (b)	level 3	\$200 fine
127(7)(a)	level 4	\$450 fine
128(3)	level 6 and 12 months imprisonment	\$1,750 fine
128(10)(a)	level 6 and 12 months imprisonment	\$1,750 fine
128(10)(b) or (c)	level 4 and 6 months imprisonment	-
139	level 4 and 6 months imprisonment	-";

(3) the Abattoirs (Urban Council) Bylaws (Cap. 132 sub. leg.) be amended -

(a) in bylaw 2A(3) -

(i) by repealing "of \$25,000" and substituting "at level 5";

(ii) by repealing "\$500" and substituting "\$600";

(b) in bylaw 6(3), by repealing "of \$10,000" and substituting "at level 4";

(c) in bylaw 12(2), by repealing "of \$10,000" and substituting "at level 4";

- (d) in bylaw 24(2), by repealing "of \$10,000" and substituting "at level 4";
 - (e) in bylaw 30(4), by repealing "of \$10,000" and substituting "at level 4";
 - (f) in bylaw 33(3), by repealing "of \$10,000" and substituting "at level 4";
 - (g) in bylaw 36(2), by repealing "of \$10,000" and substituting "at level 4";
 - (h) in bylaw 38(3), by repealing "of \$10,000" and substituting "at level 4";
 - (i) in bylaw 40(2), by repealing "of \$10,000" and substituting "at level 4";
 - (j) in bylaw 41, by repealing "of \$10,000" and substituting "at level 4";
 - (k) in bylaw 43, by repealing "of \$10,000" and substituting "at level 4";
 - (l) in bylaw 44(2), by repealing "of \$10,000" and substituting "at level 4";
 - (m) in bylaw 45, by repealing "of \$10,000" and substituting "at level 4";
- (4) the Advertisements By-laws (Cap. 132 sub. leg.) be amended -
- (a) in by-law 14(1), by repealing "of \$1,000" and substituting "at level 1";
 - (b) in by-law 14(3), by repealing "\$25" and substituting "\$50";
- (5) the Basements (Urban Council) By-laws (Cap. 132 sub. leg.) be

amended in by-law 5 -

- (a) by repealing "of \$2,500" and substituting "at level 2";
 - (b) by repealing "\$50" and substituting "\$100";
- (6) the Bathing Beach (Regional Council) By-laws (Cap. 132 sub. leg.) be amended in by-law 14, by repealing "of \$1,500" and substituting "at level 1";
- (7) the Bathing Beach (Urban Council) By-laws (Cap. 132 sub. leg.) be amended in by-law 16, by repealing "of \$1,500" and substituting "at level 1";
- (8) the Civic Centres (Regional Council) By-laws (Cap. 132 sub. leg.) be amended -
- (a) in by-law 15(a), by repealing "of \$1,000" and substituting "at level 1";
 - (b) in by-law 15(b) and (c), by repealing "of \$2,000" and substituting "at level 2";
- (9) the Civic Centres (Urban Council) By-laws (Cap. 132 sub. leg.) be amended in by-law 15(a) and (b), by repealing "of \$500" and substituting "at level 1";
- (10) the Colouring Matter in Food Regulations (Cap. 132 sub. leg.) be amended in regulation 6 -
- (a) by repealing "of \$25,000" and substituting "at level 5";
 - (b) by repealing "\$150" and substituting "\$300";
- (11) the Commercial Bathhouses (Urban Council) By-laws (Cap. 132 sub. leg.) be amended in by-law 19(3) -
- (a) by repealing "of \$1,500" and substituting "at level 2";

- (b) by repealing "\$25" and substituting "\$50";
- (12) the Conservancy (Urban Council) By-laws (Cap. 132 sub. leg.) be amended -
 - (a) in by-law 10(1) -
 - (i) by repealing "of \$1,500" and substituting "at level 2";
 - (ii) by repealing "\$25" and substituting "\$50";
 - (b) in by-law 10(3) -
 - (i) by repealing "of \$750" and substituting "at level 1";
 - (ii) by repealing "\$15" and substituting "\$50";
- (13) the Cremation and Gardens of Remembrance (Regional Council) By-laws (Cap. 132 sub. leg.) be amended -
 - (a) in by-law 30(1), by repealing "of \$2,500" and substituting "at level 2";
 - (b) in by-law 30(2) -
 - (i) by repealing "of \$1,500" and substituting "at level 2";
 - (ii) by repealing "\$50" and substituting "\$100";
- (14) the Cremation and Gardens of Remembrance (Urban Council) By-laws (Cap. 132 sub. leg.) be amended -
 - (a) in by-law 25(1), by repealing "of \$2,500" and substituting "at level 2";
 - (b) in by-law 25(2) -

-
- (i) by repealing "of \$1,500" and substituting "at level 2";
 - (ii) by repealing "\$50" and substituting "\$100";
 - (15) the Dried Milk Regulations (Cap. 132 sub. leg.) be amended in regulation 6(1), by repealing "of \$25,000" and substituting "at level 5";
 - (16) the Food Adulteration (Artificial Sweeteners) Regulations (Cap. 132 sub. leg.) be amended in regulation 4, by repealing "of \$25,000" and substituting "at level 5";
 - (17) the Food Adulteration (Metallic Contamination) Regulations (Cap. 132 sub. leg.) be amended in regulation 5, by repealing "of \$25,000" and substituting "at level 5";
 - (18) the Food and Drugs (Composition and Labelling) Regulations (Cap. 132 sub. leg.) be amended -
 - (a) in regulation 5(1), by repealing "at level 4" and substituting "at level 5";
 - (b) in regulation 5(1A), by repealing "at level 4" and substituting "at level 5";
 - (c) in regulation 5(1B), by repealing "at level 4" and substituting "at level 5";
 - (19) the Food Business (Regional Council) Bylaws (Cap. 132 sub. leg.) be amended -
 - (a) in bylaw 35(3)(a) -
 - (i) by repealing "of \$25,000" and substituting "at level 5";
 - (ii) by repealing "\$500" and substituting "\$900";
 - (b) in bylaw 35(3)(b) -
 - (i) by repealing "of \$5,000" and substituting "at level 3";

- (ii) by repealing "\$150" and substituting "\$300";
- (20) the Food Business (Urban Council) By-laws (Cap. 132 sub. leg.) be amended -
 - (a) in by-law 36(3)(a) -
 - (i) by repealing "of \$25,000" and substituting "at level 5";
 - (ii) by repealing "\$500" and substituting "\$900";
 - (b) in by-law 36(3)(b) -
 - (i) by repealing "of \$5,000" and substituting "at level 3";
 - (ii) by repealing "\$150" and substituting "\$300";
- (21) the Frozen Confections (Regional Council) By-laws (Cap. 132 sub. leg.) be amended -
 - (a) in by-law 40(2)(a) -
 - (i) by repealing "of \$25,000" and substituting "at level 5";
 - (ii) by repealing "\$500" and substituting "\$900";
 - (b) in by-law 40(2)(b) -
 - (i) by repealing "of \$5,000" and substituting "at level 3";
 - (ii) by repealing "\$150" and substituting "\$300";
- (22) the Frozen Confections (Urban Council) By-laws (Cap. 132 sub. leg.) be amended -
 - (a) in by-law 41(2)(a) -

-
- (i) by repealing "of \$25,000" and substituting "at level 5";
 - (ii) by repealing "\$500" and substituting "\$900";
 - (b) in by-law 41(2)(b) -
 - (i) by repealing "of \$5,000" and substituting "at level 3";
 - (ii) by repealing "\$150" and substituting "\$300";
- (23) the Funeral Parlour (Regional Council) By-laws (Cap. 132 sub. leg.) be amended -
- (a) in by-law 14(1), by repealing "of \$5,000" and substituting "at level 3";
 - (b) in by-law 14(2), by repealing "of \$1,500" and substituting "at level 2";
 - (c) in by-law 14(3) -
 - (i) by repealing "of \$1,500" and substituting "at level 2";
 - (ii) by repealing "\$25" and substituting "\$50";
- (24) the Funeral Parlour (Urban Council) By-laws (Cap. 132 sub. leg.) be amended -
- (a) in by-law 14(1), by repealing "of \$5,000" and substituting "at level 3";
 - (b) in by-law 14(2) -
 - (i) by repealing "of \$1,500" and substituting "at level 2";
 - (ii) by repealing "\$25" and substituting "\$50";
- (25) the Harmful Substances in Food Regulations (Cap. 132 sub. leg.) be

amended in regulation 5, by repealing "of \$25,000" and substituting "at level 5";

(26) the Hawker (Regional Council) By-laws (Cap. 132 sub. leg.) be amended -

(a) in by-law 32(3), by repealing "of \$1,500" and substituting "at level 2";

(b) in by-law 32(4)(a) -

(i) by repealing "of \$2,500" and substituting "at level 2";

(ii) by repealing "\$150" and substituting "\$300";

(c) in by-law 32(4)(b) -

(i) by repealing "of \$5,000" and substituting "at level 3";

(ii) by repealing "\$150" and substituting "\$300";

(d) in by-law 32(5)(a), by repealing "of \$5,000" and substituting "at level 2";

(e) in by-law 32(5)(b), by repealing "of \$10,000" and substituting "at level 3";

(f) in by-law 32(6)(a), by repealing "of \$2,500" and substituting "at level 2";

(g) in by-law 32(6)(b), by repealing "of \$5,000" and substituting "at level 2";

(27) the Hawker (Urban Council) By-laws (Cap. 132 sub. leg.) be amended -

(a) in by-law 56(2) -

-
- (i) by repealing "of \$1,500" and substituting "at level 2";
 - (ii) by repealing "\$50" and substituting "\$100";
 - (b) in by-law 56(2A) -
 - (i) by repealing "of \$2,500" and substituting "at level 2";
 - (ii) by repealing "\$50" and substituting "\$100";
 - (c) in by-law 56(3), by repealing "of \$1,500" and substituting "at level 2";
 - (d) in by-law 56(3A), by repealing "of \$1,500" and substituting "at level 2";
 - (e) in by-law 56(4), by repealing "of \$500" and substituting "at level 1";
 - (f) in by-law 56(5) -
 - (i) by repealing "of \$1,500" and substituting "at level 2";
 - (ii) by repealing "\$50" and substituting "\$100";
 - (g) in by-law 56(6) -
 - (i) by repealing "of \$2,500" and substituting "at level 2";
 - (ii) by repealing "\$150" and substituting "\$300";
 - (h) in by-law 56(7), by repealing "of \$5,000" and substituting "at level 3";
- (28) the Imported Game, Meat and Poultry Regulations (Cap. 132 sub. leg.) be amended -
- (a) in regulation 7(3), by repealing "of \$25,000" and substituting

"at level 5";

- (b) in regulation 7A(2), by repealing "of \$5,000" and substituting "at level 3";

(29) the Library (Regional Council) By-laws (Cap. 132 sub. leg.) be amended in by-law 44(b) and (c), by repealing "at level 1" and substituting "at level 2";

(30) the Milk (Regional Council) Bylaws (Cap. 132 sub. leg.) be amended -

- (a) in by-law 39(2)(a) -

- (i) by repealing "of \$25,000" and substituting "at level 5";

- (ii) by repealing "\$500" and substituting "\$900";

- (b) in by-law 39(2)(b) -

- (i) by repealing "of \$5,000" and substituting "at level 3";

- (ii) by repealing "\$150" and substituting "\$300";

(31) the Milk (Urban Council) Bylaws (Cap. 132 sub. leg.) be amended -

- (a) in by-law 40(2)(a) -

- (i) by repealing "of \$25,000" and substituting "at level 5";

- (ii) by repealing "\$500" and substituting "\$900";

- (b) in by-law 40(2)(b) -

- (i) by repealing "of \$5,000" and substituting "at level 3";

- (ii) by repealing "\$150" and substituting "\$300";

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- (32) the Mineral Oil in Food Regulations (Cap. 132 sub. leg.) be amended in regulation 5, by repealing "of \$25,000" and substituting "at level 5";
- (33) the Museums (Regional Council) By-laws (Cap. 132 sub. leg.) be amended -
- (a) in by-law 16(a), by repealing "of \$1,000" and substituting "at level 1";
 - (b) in by-law 16(b) and (c), by repealing "of \$2,000" and substituting "at level 2";
- (34) the Museums (Urban Council) Bylaws (Cap. 132 sub. leg.) be amended in bylaw 16(a) and (b), by repealing "of \$2,000" and substituting "at level 2";
- (35) the Offensive Trades (Regional Council) By-laws (Cap. 132 sub. leg.) be amended -
- (a) in by-law 23(1) -
 - (i) by repealing "of \$25,000" and substituting "at level 5";
 - (ii) by repealing "\$500" and substituting "\$900";
 - (b) in by-law 23(2) -
 - (i) by repealing "of \$5,000" and substituting "at level 3";
 - (ii) by repealing "\$150" and substituting "\$300";
- (36) the Offensive Trades (Urban Council) By-laws (Cap. 132 sub. leg.) be amended -
- (a) in by-law 15(1) -
 - (i) by repealing "of \$25,000" and substituting "at level 5";

- (ii) by repealing "\$500" and substituting "\$900";
- (b) in by-law 15(2) -
 - (i) by repealing "of \$5,000" and substituting "at level 3";
 - (ii) by repealing "\$150" and substituting "\$300";
- (37) the Places of Amusement (Regional Council) Bylaws (Cap. 132 sub. leg.) be amended in bylaw 19, by repealing "of \$2,500" and substituting "at level 2";
- (38) the Places of Amusement (Urban Council) Bylaws (Cap. 132 sub. leg.) be amended in bylaw 19, by repealing "of \$2,500" and substituting "at level 2";
- (39) the Pleasure Grounds (Regional Council) Bylaws (Cap. 132 sub. leg.) be amended in bylaw 29, by repealing "of \$1,500" and substituting "at level 1";
- (40) the Pleasure Grounds (Urban Council) Bylaws (Cap. 132 sub. leg.) be amended in bylaw 30, by repealing "of \$1,500" and substituting "at level 1";
- (41) the Preservatives in Food Regulations (Cap. 132 sub. leg.) be amended in regulation 9, by repealing "of \$25,000" and substituting "at level 5";
- (42) the Private Cemeteries (Regional Council) By-laws (Cap. 132 sub. leg.) be amended -
 - (a) in by-law 13(1) -
 - (i) by repealing "of \$2,500" and substituting "at level 2";
 - (ii) by repealing "\$50" and substituting "\$100";
 - (b) in by-law 13(2) by repealing "of \$2,500" and substituting "at level 2";

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- (43) the Private Cemeteries (Urban Council) By-laws (Cap. 132 sub. leg.) be amended -
- (a) in by-law 13(1) -
 - (i) by repealing "of \$2,500" and substituting "at level 2";
 - (ii) by repealing "\$50" and substituting "\$100";
 - (b) in by-law 13(2) by repealing "of \$2,500" and substituting "at level 2";
- (44) the Private Markets (Urban Council) By-laws (Cap. 132 sub. leg.) be amended -
- (a) in by-law 27(1) -
 - (i) by repealing "of \$5,000" and substituting "at level 3";
 - (ii) by repealing "\$250" and substituting "\$450";
 - (b) in by-law 27(2) -
 - (i) by repealing "of \$5,000" and substituting "at level 3";
 - (ii) by repealing "\$250" and substituting "\$450";
 - (c) in by-law 27(3), by repealing "of \$5,000" and substituting "at level 3";
 - (d) in by-law 27(4), by repealing "of \$5,000" and substituting "at level 3";
 - (e) in by-law 27(5), by repealing "of \$1,500" and substituting "at level 2";
- (45) the Public Cemeteries (Urban Council) By-laws (Cap. 132 sub. leg.) be amended -

- (a) in by-law 13(1), by repealing "of \$250" and substituting "at level 2";
 - (b) in by-law 13(2), by repealing "of \$2,500" and substituting "at level 3";
- (46) the Public Cleansing and Prevention of Nuisances (Regional Council) By-laws (Cap. 132 sub. leg.) be amended -
 - (a) in by-law 23(1)(i), by repealing "of \$2,500" and substituting "at level 2";
 - (b) in by-law 23(1)(ii), by repealing "of \$5,000" and substituting "at level 3";
 - (c) in by-law 23(1A), by repealing "of \$10,000" and substituting "at level 4";
 - (d) in by-law 23(2), by repealing "of \$10,000" and substituting "at level 4";
 - (e) in by-law 23(3), by repealing "of \$150" and substituting "\$300";
- (47) the Public Cleansing and Prevention of Nuisances (Urban Council) By-laws (Cap. 132 sub. leg.) be amended -
 - (a) in by-law 23(1)(i), by repealing "of \$2,500" and substituting "at level 2";
 - (b) in by-law 23(1)(ii), by repealing "of \$5,000" and substituting "at level 3";
 - (c) in by-law 23(1A), by repealing "of \$10,000" and substituting "at level 4";
 - (d) in by-law 23(2), by repealing "of \$10,000" and substituting "at level 4";

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- (e) in by-law 23(3), by repealing "of \$150" and substituting "\$300";
 - (48) the Public Conveniences (Conduct and Behaviour) (Urban Council) By-laws (Cap. 132 sub. leg.) be amended in by-law 10, by repealing "of \$750" and substituting "at level 1";
 - (49) the Public Conveniences (Regional Council) By-laws (Cap. 132 sub. leg.) be amended in by-law 11, by repealing "of \$750" and substituting "at level 1";
 - (50) the Public Funeral Hall (Urban Council) By-laws (Cap. 132 sub. leg.) be amended -
 - (a) in by-law 12(1), by repealing "of \$1,500" and substituting "at level 2";
 - (b) in by-law 12(2), by repealing "of \$1,500" and substituting "at level 2";
 - (51) the Public Market (Regional Council) By-laws (Cap. 132 sub. leg.) be amended -
 - (a) in by-law 14(1), by repealing "of \$1,500" and substituting "at level 2";
 - (b) in by-law 14(2), by repealing "of \$1,500" and substituting "at level 2";
 - (c) in by-law 14(3), by repealing "of \$1,500" and substituting "at level 2";
 - (52) the Public Market (Urban Council) By-laws (Cap. 132 sub. leg.) be amended -
 - (a) in by-law 14(1), by repealing "of \$1,500" and substituting "at level 2";
 - (b) in by-law 14(2), by repealing "of \$1,500" and substituting "at

level 2";

- (c) in by-law 14(3), by repealing "of \$1,500" and substituting "at level 2";

(53) the Public Swimming Pools (Regional Council) By-laws (Cap. 132 sub. leg.) be amended -

- (a) in bylaw 12, by repealing "of \$1,500" and substituting "at level 1";

- (b) in bylaw 13(1), by repealing "of \$1,500" and substituting "at level 1";

(54) the Public Swimming Pools (Urban Council) By-laws (Cap. 132 sub. leg.) be amended -

- (a) in by-law 12, by repealing "of \$1,500" and substituting "at level 1";

- (b) in by-law 13(1), by repealing "of \$1,500" and substituting "at level 1";

- (c) in by-law 13(2), by repealing "of \$1,500" and substituting "at level 1";

(55) the Sanitation and Conservancy (Regional Council) By-laws (Cap. 132 sub. leg.) be amended -

- (a) in by-law 10(1) -

- (i) by repealing "of \$1,500" and substituting "at level 2";

- (ii) by repealing "\$25" and substituting "\$50";

- (b) in by-law 10(3) -

- (i) by repealing "of \$750" and substituting "at level 1";

- (ii) by repealing "\$15" and substituting "\$50";

(56) the Slaughterhouses (Regional Council) By-laws (Cap. 132 sub. leg.) be amended -

(a) in by-law 37(1) -

(i) by repealing "of \$25,000" and substituting "at level 5";

(ii) by repealing "\$500" and substituting "\$600";

(b) in by-law 37(2) -

(i) by repealing "of \$10,000" and substituting "at level 4";

(ii) by repealing "\$250" and substituting "\$300";

(57) the Slaughterhouses (Urban Council) Bylaws (Cap. 132 sub. leg.) be amended -

(a) in bylaw 37(1) -

(i) by repealing "of \$25,000" and substituting "at level 5";

(ii) by repealing "\$500" and substituting "\$700";

(b) in bylaw 37(2) -

(i) by repealing "of \$10,000" and substituting "at level 4";

(ii) by repealing "\$250" and substituting "\$350";

(58) the Smokeless Tobacco Products (Prohibition) Regulations (Cap. 132 sub. leg.) be amended in regulation 3(2), by repealing "of \$25,000" and substituting "at level 5";

(59) the Stadia (Regional Council) By-laws (Cap. 132 sub. leg.) be amended in by-law 15(a) and (b), by repealing "of \$1,500" and substituting "at level 1";

- (60) the Stadia (Urban Council) By-laws (Cap. 132 sub. leg.) be amended in by-law 15(a) and (b), by repealing "of \$1,500" and substituting "at level 1";
- (61) the Swimming (Regional Council) Bylaws (Cap. 132 sub. leg.) be amended in bylaw 19(4), by repealing "of \$5,000" and substituting "at level 2";
- (62) the Swimming Pools (Urban Council) Bylaws (Cap. 132 sub. leg.) be amended in bylaw 18(3) -
 - (a) by repealing "of \$1,500" and substituting "at level 2";
 - (b) by repealing "\$25" and substituting "\$50";
- (63) the Undertakers of Burials (Regional Council) By-laws (Cap. 132 sub. leg.) be amended in by-law 11, by repealing "of \$2,500" and substituting "at level 2";
- (64) the Undertakers of Burials (Urban Council) By-laws (Cap. 132 sub. leg.) be amended in by-law 11, by repealing "of \$2,500" and substituting "at level 2";
- (65) the Ventilation of Scheduled Premises (Regional Council) By-laws (Cap. 132 sub. leg.) be amended -
 - (a) in by-law 14(1), by repealing "of \$5,000" and substituting "at level 3";
 - (b) in by-law 14(2), by repealing "of \$5,000" and substituting "at level 3";
 - (c) in by-law 14(3), by repealing "of \$5,000" and substituting "at level 3";
- (66) the Ventilation of Scheduled Premises (Urban Council) By-laws

(Cap. 132 sub. leg.) be amended -

- (a) in by-law 14(1), by repealing "of \$5,000" and substituting "at level 3";
- (b) in by-law 14(2), by repealing "\$5,000" and substituting "at level 3";
- (c) in by-law 14(3), by repealing "\$5,000" and substituting "at level 3";

(67) the Regional Council Ordinance (Cap. 385) be amended in section 21(8), by repealing "of \$10,000" and substituting "at level 5".

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

The purpose of the motion I move is to raise the maximum statutory fines specified in the Urban Council Ordinance, the Regional Council Ordinance, the Public Health and Municipal Services Ordinance and the relevant subsidiary legislation, and to convert such fines into the corresponding level of fines in the Schedule of Standard Fines.

Section 100A (1) of the Interpretation and General Clauses Ordinance provides that the Legislative Council may, by resolution, make amendments, to increase the amount of a fine specified in any Ordinance.

The Criminal Procedure (Amendment) (No. 2) Bill 1994 drafted in July 1994 specified a Schedule in respect of statutory fines not exceeding \$100,000. This allows the Governor in Council to issue orders from time to time to raise the maximum fines in relation to inflation so that fines can continue to act as deterrents.

However, as to fines expressed as an amount of money in the Schedule of Standard Fines before being converted into the corresponding level of fines, inflation factors have not been taken into account. Therefore, it is necessary to review the existing fines. The Urban Council and the Regional Council have, in accordance with their terms of reference, conducted a review on the provisions of

the relevant ordinance involving the Urban Council, public health, urban services and Regional Council matters. On behalf of the two municipal councils, I propose revising the 67 items of maximum statutory fines under the three Ordinances, 54 By-laws, and 10 Regulations mentioned in the Order Paper.

Maximum fines at or below \$100,000 after adjustment will be converted into the corresponding level of fines in the Schedule of Standard Fines. However, daily fines, which are less than \$100,000 after adjustment will still be expressed as an amount of money. This has been clearly stated in the Criminal Procedure (Amendment) (No. 2) Bill 1994.

Question on the motion proposed, put and agreed to.

BILLS

First Reading of Bills

COMPANIES (AMENDMENT) BILL 1996

EMPLOYEES' COMPENSATION (AMENDMENT) BILL 1996

NOISE CONTROL (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

COMPANIES (AMENDMENT) BILL 1996

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

He said: Mr President, I move the Second Reading of the Companies

(Amendment) Bill 1996.

The Bill proposes a number of changes to the Companies Ordinance, notably the abolition of the doctrine of *ultra vires*, and the related doctrine of constructive notice, both of which have outlived their usefulness.

The doctrine of *ultra vires*, whereby a company's contractual capacity is limited by the objects and power clauses contained in its memorandum of association, was applied by English courts in the 19th century and was intended as a protection for its members and creditors. However, it has since become an obstacle for companies, which may commence new businesses without realizing that a change in objects is necessary, and a trap for unwary third parties, as their contractual dealings with a company may be unenforceable. The *ultra vires* doctrine has been abolished by statute in a number of common law jurisdictions such as Australia, New Zealand and Canada and instead companies have been given the capacity of an individual or a natural person. Under the proposals, a company may still choose to limit its objects and powers in its memorandum and any such limitations will bind its directors and management. However, third parties will still be protected in their dealings with the company.

Changes are also made to the related doctrine of constructive notice. Under this doctrine, a person is deemed to have knowledge of the contents of any documents concerning a company that have been filed and are available for public inspection. The Bill abolishes this in as far as it relates to companies' memoranda and articles of association.

Other significant proposals contained in this Bill are briefly as follows:

- The statutory forms contained in the Fifth Schedule of the Ordinance and the 48 statutory forms set out in the Companies (Forms) Regulations will be deregulated. Instead, the Registrar of Companies will be given more flexibility to determine the content and format of the forms. This will enable the Registrar to improve and update them more readily.
- The scope of the provisions relating to the disqualification of company directors will be expanded. At present, under certain of

the provisions, a disqualified person is prohibited from involvement in a locally-incorporated company but not from involvement in an overseas company doing business in Hong Kong. The Bill refines and extends the definition of "company" under Part IVA of the Ordinance to encompass overseas companies operating in Hong Kong.

- The Official Receiver will be given greater flexibility to apply to the Court for the appointment of outside liquidators. Amendments are also made to allow for a private sector provisional liquidator appointed before a winding-up order has been made to continue in office after such an order is made. These changes will assist the Official Receiver in contracting out more insolvency work to the private sector and should help to relieve some of the strain on the resources of his Office.
- Appropriate Chinese equivalents are added to certain statutory wording which is currently prescribed in the Ordinance in English only. This is to provide for companies which wish to register under a Chinese name, or under both a Chinese and an English name, and to facilitate the submission of documents in Chinese.

The Bill also abolishes certain accounting exemptions enjoyed by shipping companies which are not available to other types of company and makes certain other technical changes to the legislation.

The principal items in this Bill have been recommended, or supported, by the Standing Committee on Company Law Reform.

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 SECRETARY FOR EDUCATION AND MANPOWER to move the Second Reading of: "A Bill to amend the Employees' Compensation Ordinance."

She said (in Cantonese): Mr President, I move the Second Reading of the Employees' compensation (Amendment) Bill 1996.

The main purpose of the Bill is two-fold. First, it seeks to improve the mechanism for settlement of compensation claims. Secondly, it seeks to increase the levels of maximum fines which were last revised in 1992.

Currently, there are two parallel systems for determining the amount of compensation for cases involving permanent incapacity. The first is the Certificate System. Under this system, if the loss of earning capacity assessed by the Assessment Board is not more than 5%, the Commissioner for Labour issues a certificate to determine the amount of compensation payable. The second is the Agreement System. Under this system, if the loss of earning capacity is more than 5%, the amount of compensation is agreed between the employer and the injured employee subject to the minimum level provided by the Ordinance. The amount should be approved by the Commissioner for Labour before it becomes binding.

Experience shows that the existence of two systems has caused confusion to some employers and employees. Also, by its very nature, the Agreement System is a more time-consuming process. The Bill therefore proposes to repeal the Agreement System and to extend the Certificate System to cover all cases involving permanent incapacity irrespective of the degree of loss of earning capacity.

As regards the levels of maximum fines for offences under the Ordinance, we propose to revise them as set out in the Bill so as to ensure a sufficiently deterrent effect and to maintain relativity with offences of a similar nature under the Employment Ordinance.

The Bill also seeks to expand the definition of "dependents" to include males so as to provide equal protection for both sexes. We further propose a more comprehensive definition of "member of the family" by including son-in-law, brother-in-law, father-in-law and mother-in-law.

Finally, members will recall that the levels of compensation specified in various sections of the Ordinance were last reviewed in December 1995. We intend to conduct reviews biennially to ensure that adequate protection are provided to employees. To facilitate future revisions, we propose to group the levels of compensation now specified in various sections under a new schedule, that is the Sixth Schedule, to the Ordinance.

Mr President, I beg to move.

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).

NOISE CONTROL (AMENDMENT) BILL 1996

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

He said: Mr President, I move the Second Reading of the Noise Control (Amendment) Bill 1996.

The continuous and repeated sound of alarms in unattended vehicles causes considerable noise nuisance. The protracted sounding of false alarms, sometimes lasting for hours, is particularly disturbing at night, as reflected in the large number of complaints, which average 50 to 60 a month, received by the Administration over the last two years.

The false activation of vehicle alarms is largely due to improper installation or to over-sensitive settings. As a result, some systems can be activated simply by the vibration induced by a passing vehicle or overlying aircraft. But these systems can, with proper attention, be easily corrected. At present, however, there is no legislative control on such alarms. The Noise Control (Amendment) Bill therefore aims to prevent noise nuisance from vehicle alarms by setting out the legal parameters of alarm activation, having regard to the security function they are designed to serve.

The Bill proposes three elements of control. The first control tackles over-sensitive systems and proposes that activation of an intruder alarm will become an offence unless the vehicle is physically interfered with. This control will ensure that alarm sensors are correctly set to detect attempts to tamper with or enter the vehicle rather than react to slight vibrations. Once this over-sensitivity is controlled, the incidence of false alarms will be reduced.

The second control places a limit on the duration of noise generated by alarms. The limit suggested is five minutes, which is sufficient for necessary crime prevention action to be taken. This requirement can easily be complied with by adjusting the functioning of the system.

The third control, which will be applied to newly registered vehicles only, concerns the reactivation of alarms. Many current alarm systems are reactivated automatically after being triggered and their continuous reactivation causes great noise disturbance to nearby residents. The Bill will prohibit such automatic re-arming of the alarm after an initial activation. However, the alarm can still be reactivated automatically if the doors, bonnet, boot or tailgate of the vehicles are opened. This guards against unauthorized entry.

The Bill places the onus of complying with the controls on the registered owner of a vehicle, who should be responsible for the performance of the alarm system and its regular maintenance. After enactment of the Bill, three months' lead time will be given to existing vehicle owners to comply with the controls and nine months will be allowed for new vehicles to be installed with alarm systems which meet the requirement on reactivation. The police will be the enforcement agent of the controls.

To consolidate the noise control provisions of all intruder alarm systems, we have also taken the opportunity to transfer the existing provision to control noise from alarm systems installed in buildings from the Summary Offences Ordinance to the Noise Control Ordinance.

Mr President, false alarms is a persistent source of neighbourhood noise nuisance. The proposed controls seeks to eliminate this nuisance without affecting the security of the vehicles. With a reduction in false alarms, we would rather expect that when alarms do sound, they will be taken more seriously and the security value of the vehicle alarm systems enhanced.

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

MERCHANT SHIPPING (SAFETY) (AMENDMENT) BILL 1996

Resumption of debate on Second Reading which was moved on 24 April 1996

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

Bill read the Second time.

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

PLANT VARIETIES PROTECTION BILL

Resumption of debate on Second Reading which was moved on 24 April 1996

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

Bill read the Second time.

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

Committee Stage of Bills

Council went into Committee.

MERCHANT SHIPPING (SAFETY) (AMENDMENT) BILL 1996

Clauses 1 to 10 were agreed to.

PLANT VARIETIES PROTECTION BILL

Clauses 1 to 42 were agreed to.

Schedule was agreed to.

Council then resumed.

Third Reading of Bills

THE SECRETARY FOR ECONOMIC SERVICES reported that the

MERCHANT SHIPPING (SAFETY) (AMENDMENT) BILL 1996

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

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

Bill read the Third time and passed.

THE SECRETARY FOR ECONOMIC SERVICES reported that the

PLANT VARIETIES PROTECTION BILL

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

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

Bill read the Third time and passed.

MEMBER'S MOTIONS

PRESIDENT: I have accepted the recommendations of the House Committee as to the time limits on speeches for the motion debates and Members were informed by circular on 6 May. The movers of the motions will each have 15 minutes for their speeches including their replies, and another five minutes to speak on the proposed amendments. Other Members, including the movers of the amendments, will each have seven minutes for their speeches. Under Standing Order 27A, I am obliged to direct any Member speaking in excess of the specified time to discontinue his or her speech.

BROADCASTING POLICY

MR ALBERT CHAN *to move the following motion:*

"That this Council expresses deep regret that the Government has not honoured its policy commitment, made in the 1994 policy address, to open up the subscription television market and that it has abandoned the proposed omnibus broadcasting bill, and urges the Government to open up the subscription television market; review and amend the existing broadcasting legislation; and formulate a sound and forward-looking broadcasting policy, so as to create a free, diversified, open, fair and competitive broadcasting environment in Hong Kong and maintain the territory's leading position in the Asian broadcasting industry."

MR ALBERT CHAN (in Cantonese): Mr President, I have moved the motion on the territory's broadcasting policy today in the hope that the Government will look seriously at this issue because the policy being adopted has deviated from the principle of openness and equity. At the beginning of this year, the Government announced the shelving of the Omnibus Broadcasting bill. Then, at the end of March this year, the Government announced that it would not open the subscription television market. This whole series of decisions made by the Government have in principle, broken the pledges it made in the past. This we regret.

In just a matter of some three years, many new changes have occurred to

the broadcasting industry and the technology it adopts. Unfortunately, the existing legislation, policies and even the decision-making authorities of Hong Kong have all failed to cope with these new trends, thus leading to some decisions which run counter to the principle of equity and fair competition in respect of the policies for different media. It is exactly these problems that have prompted me to move this motion.

Comparing the situation in Hong Kong with those in other countries, we will find that new developments and breakthroughs have already taken place in Taiwan, Singapore and Japan. Many governments are already restructuring their broadcasting policies and are working hard to attain the status of a broadcasting centre in the Asia-Pacific Region in the twenty-first century. The Hong Kong Government, however, has chosen to stay put as a means of meeting the variety of changes, thus resulting in the stagnancy of the local broadcasting industry.

Other Members from the Democratic Party will be speaking on the main issues I have mentioned. I will focus my comments on the Government's overall broadcasting policy. I will also be looking at the inadequacies of our broadcasting policy in the context of intra-region competition. The Honourable Mr Andrew CHENG will focus on refuting the arguments for a closed subscription television market. Another colleague, the Honourable Mr SIN Chung-kai will be putting forward the Democratic Party's views about the Government policy on video-on-demand programme services.

Mr President, first of all, I would like to talk about subscription television. In 1993, the Government issued the first subscription television licence in Hong Kong, and promised that Wharf Cable Limited (WCL) would enjoy a three-year franchise. Then, in the Policy Commitments attached to his 1994 policy address, the Governor also made this commitment: "To allow even greater choice, we will deregulate the subscription television market when the exclusivity period of the first licence expires in the middle of 1996." This policy commitment was re-affirmed in the 1995 policy address. The Democratic Party has always been in favour of the principle of "opening up the market to enhance competition", which will enable Hong Kong viewers to have a variety of choices in programmes.

Unfortunately, through the review on the subscription television market completed in April this year, the Government has totally broken all past

commitments. Underlying the review is a policy of "retrogression"; I would say this is a policy of "triple retrogression". The first retrogression is that the Government is taking sides with the interests of consortia. The second retrogression is that the Government's decisions are not fair to consumers. The third retrogression is that the new decisions reached by the Government will over-regulate the market.

The Government's review shows that at present, only one television broadcaster is making profits; despite its three-year franchise, WCL still suffered a loss of 600 million dollars last year, and whether WCL can break-even in 1998 still remains unknown. So, the Government concludes that a complete opening up of the subscription television market will lead to heavy financial losses for WCL, and even a partial opening up will create difficulties for it. It is the conviction of the Democratic Party that this policy of the Government in protecting the interests of consortia is completely unacceptable! We can see that Asia Television Limited (ATV) has been suffering losses over the past 10 years or so. Why did the Government not try to protect ATV during that period? Why is the Government showing favouritism towards WCL now?

Mr President, in fact, as far as the broadcasting industry is concerned, it is not the first time that the Government places the interests of consortia above everything. In 1991, the licence for satellite television was not issued by means of open tender, but was obtained by a consortium in a way which can be described as under-the-table. Now, the review seeks to protect CTV while pleasing Hong Kong Telecom. Ultimately, neither consumers nor the general public will benefit. Withdrawing the liberalization of the subscription television market will in effect deprive consumers of the chance of enjoying more television programmes of new varieties. This is the adverse effect brought about by the Government's decision to withdraw the policy brought about by market liberalization.

Mr President, I also want to talk about our broadcasting legislation. Even if we put aside the issue of opening up the subscription television market, Hong Kong's broadcasting legislation are in fact incapable of coping with changes that have taken place in the present-day broadcasting environment. The "antiquity" of local broadcasting legislation is manifested in two aspects. First, there is a lack of uniformity in the regulatory framework as different media are regulated by different ordinances, many of which are ambiguous. Second, many provisions of the existing legislation are unable to cope with the new

broadcasting environment, such as those concerning limitations on ownerships, monitoring standards for different media, licensing procedures, descriptions contained in licences, and the terms of reference, as well as composition of the Broadcasting Authority. All these have to be updated and restructured. This is exactly what the public has been trying to achieve through the formulation of the Omnibus Broadcasting bill. Regrettably, Mr President, because of political constraints and reasons which cannot be disclosed, the Government has adopted a conservative and timid approach. At the beginning of this year, it announced the shelving of the Omnibus Broadcasting bill, the drafting work of which has been going on for three years. This decision really represents a big scale retrogression of broadcasting planning in Hong Kong!

In contrast, many other Asian countries have taken positive steps to update their own broadcasting legislation. As early as 1994, Singapore reorganized its broadcasting legislation for the purpose of regulating different media according to their respective features. Last year, Taiwan promulgated a Satellite Broadcasting Television Law and started to review and amend its Cable Television Law. While other places in Asia are actively developing their own communication and broadcasting industry, the Hong Kong Government has given up its efforts in this respect. The broadcasting industry in Hong Kong will have to pay a huge price as a result of the Government's giving up of efforts.

Mr President, the Democratic Party is of the view that the Government's broadcasting policy has been fragmentary and void of integration. The future development of the Hong Kong broadcasting industry requires more positive participation by the Government. Therefore, the Democratic Party maintains that the Government must set up an inter-departmental committee in which representatives from the broadcasting industry, the telecommunication field, business sector, members of the public, and scientific research professionals can make joint efforts in determining the orientation and objective of the broadcasting industry in the next three, five or even 10 years. Moreover, as I demanded in a debate on the territory's broadcasting policy in July last year, the Government should lay down forward-looking strategies and plans for the five aspects of development directions, broadcasting legislation, land resources, tax concessions, and human resources development. We need to have a definite blueprint and a clear sense of direction in order to usher broadcasting and communication into a world of perpetual broadness and no restrictions. Only this can give hope to the prospects of the Hong Kong broadcasting industry.

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

Question on the motion proposed.

PRESIDENT: Dr LAW Cheung-kwok 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.

Council shall debate the motion and the amendment together in a joint debate. I now call on Dr LAW Cheung-kwok 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.

DR LAW CHEUNG-KWOK's amendment to MR ALBERT CHAN's motion:

"To delete "open up the" after "and urges the Government to", and substitute with "draw up a comprehensive timetable for opening up the"; to delete "market" after "subscription television" and substitute with", wireless television, satellite television and video-on-demand programme services markets and the introduction of public access channels; furthermore, the Government should"; and to delete ";" after "review and amend the existing broadcasting legislation"."

DR LAW CHEUNG-KWOK (in Cantonese): Mr President, I move that Mr Albert CHAN's motion be amended as set out under my name on the Order Paper. The Hong Kong Association for Democracy and People's Livelihood (ADPL) is in total agreement with Mr Albert CHAN's remarks on the original motion. However, since the scope covered by the wording of the original motion is relatively narrow, I have moved an amendment to it. My amendment aims to stress that the liberalization of the Hong Kong broadcasting industry should apply to all types of television media (not just subscription television). We do not want to see that the market review of each type of television medium is conducted in isolation at different times. This approach of market reviews will inevitably be constrained by the fact that other television media not under review will remain subject to existing terms of operation set down for them by the

Government. Therefore, the ADPL proposes that the Government should immediately draw up a specific timetable for the simultaneous liberalization of all television media so that those already in the business and those enterprises interested in investing in the industry can have a basis to follow. My amendment emphasizes on the importance of a specific timetable for the actual implementation of liberalization and reform. Without such a timetable, the Government may, on various pretexts and even under the influence of those already in the business, continue to place an embargo on the markets of different television media.

There are now two commercial wireless television broadcasters, namely Television Broadcasts Limited (TVB) and Asia Television Limited (ATV); a satellite television broadcaster based in Hong Kong, namely Star TV; and a subscription television broadcaster, namely Wharf Cable Limited (WCL). All of them have very different terms and conditions for their TV licences. For instance, the licences of TVB and ATV will expire in November 2000, whereas that of Star TV, in 2003. The franchise of WCL, originally due to expire in May 1996, has been extended for two years to 1998. The existing policy of the Government is basically that major reviews on individual TV media will only be conducted separately when their respective licences are due to expire. This produces very great negative impacts on any Government attempts to make arrangements for the full-scale liberalization of all television media and relevant new technologies.

The Government now refuses to liberalize the subscription TV market and the wireless TV market on the ground that WCL and ATV are still incurring huge losses. This is not conducive to the interests of consumers and those interested in joining the industry. My own experience tells me that with respect to the room for manoeuvring their figures of profits and losses, enterprises do have a considerable extent of flexibility. If the market has no further room for new competitors, the enterprises concerned should be able to make appropriate judgement and the Government does not need to be over-worried.

In addition, there is a lot of confusion over the broadcasting languages adopted by the various television media. The two wireless television broadcasters are each required to shoulder burden of a separate English channel which is of no economic value. Recently, however, programmes in other Asian languages are also broadcasted. Back in 1991, when Star TV first launched its

operation, it was not allowed to broadcast Cantonese programmes. Later, in 1993, the Executive Council gave approval for it to broadcast Cantonese programmes. Owing to market considerations, the four channels of Star TV which can be received in Hong Kong have not provided any programmes in Cantonese so far. I really cannot understand why a television broadcaster like Star TV, based as it is in Hong Kong and operating under a licence issued by the Hong Kong Government, could have failed to provide any programmes in the language of the Hong Kong people. The Government's approach of reviewing individual TV media at different times will lead to continued confusion over the language policies of television broadcasters.

The kind of confusion found in language policies can also be seen in the Government's approach of according different treatments to different TV media in respect of the advertisements they are allowed to broadcast. Turnover tax and profits tax payable by these media are also markedly different. In conclusion, the ADPL and I maintain that a review on the broadcasting policy must cover all television media on a simultaneous basis. And, based on its existing knowledge of and projections on media technology and market developments, the Government should draw up a concrete timetable for the implementation of its specific policy, with a view to bringing about a full-scale liberalization of the Hong Kong broadcasting industry.

The ADPL is very much disappointed by the Government's earlier decision not to provide a public access channel. Mr MOK Ying-fan of our Association will be speaking in detail on our position regarding the provision of a public access channel.

With these remarks, I move the amendment. Thank you, Mr President.

Question on the amendment proposed.

MR CHEUNG HON-CHUNG (in Cantonese): Mr President, it is evident to everyone that at present the television broadcasting industry in Hong Kong is highly competitive. As far as business operation is concerned, out of the four television broadcasters, only Television Broadcasts Limited recorded a profit in 1995, though it has still fallen by more than 20% than before. The remaining three broadcasters suffered a loss of over \$1 billion each.

On the other hand, even no new television broadcaster appears, video-on-demand (VOD) programme services are still likely to enter the market in 1997, so that the people in Hong Kong would then have more programmes to choose from. The Recreation and Culture Branch has already proposed in mid-March that two "VOD programme service" licences (that is programme services licences) would be issued in the future. Since the television broadcasting market has begun to show signs of saturation, the Democratic Alliance for the Betterment of Hong Kong (DAB) finds it appreciable that the Government has to consider suspending the issue of new pay TV licences in the next two years. Hence, in this motion debate, the use of the term "regret" in relation to the deregulation of the pay TV market is, I am afraid, not appropriate, unless there is sufficient evidence to prove that the Hong Kong Government is intentionally protecting Wharf Cable Limited.

Nevertheless, the DAB is disappointed with the Government's announcement at the beginning of this year to suspend the drafting work on the Omnibus Broadcasting Bill while no promise had been made as to when the drafting work will be resumed. This is because the present television broadcasting policy and the legal framework of the Hong Kong Government are obviously lagging behind technological developments. Let me elaborate this from three aspects:

Firstly, televised images have entered into an era where they are digitally-transmitted rather than transmitted by free air and the audience can now take the initiative to make their own choices. Transmission methods, deemed unimaginable in the past, are now constantly emerging. Hence, the Government's practice of adhering to the convention of categorizing by technology over the past years is really outmoded and can only make the licensing and regulatory systems more complicated and fragmentary.

Secondly, as far as different regulatory mechanisms are concerned, the wireless television broadcasting is now regulated by the Recreation and Culture Branch while in the meantime, the satellite television and cable television are regulated by the Economic Services Branch. Very often, certain television operators would feel dissatisfied with the different standards adopted by different government departments in vetting and making decisions on licensing matters and they also complain about the unfairness of the legal system. Thus, the Hong Kong Government should really try to compile a set of unified and standard rules in order to set up a fairer licensing and regulatory mechanism.

Thirdly, at present, local operators may broadcast programmes through satellites to the regions outside Hong Kong as far as they comply with the codes of conduct on satellite services, without the need to apply to the Hong Kong Government beforehand at all. Obviously, this is unfair to those operators which have been issued a satellite television licence. As the Government does not have the authority in exercising direct regulation in this aspect, this is naturally uncondusive to the development of the satellite television market in Hong Kong.

To solve these three issues, the Government should take the opportunity of enacting the Omnibus Broadcasting Bill to examine on the ways to do so.

As regards the issue of deregulating all television markets, the DAB believes that the best way is for the Government to lay down in respect of the various forms of video services, basic requirements that are reasonable and are in the interests of Hong Kong people. The investors should then be allowed to decide on their own whether or not to enter the competition. Of course, the DAB hopes that the Government, when issuing the licences, can fully consider the possible consequences. For instance, the Government should ensure that local telephone services will not be affected before issuing licences for video services which need to be transmitted through the local telephone network.

The DAB is in support of the establishment of a public access channel. However, the question as to how to prevent the channel from being abused or being used as a forum for making defamatory or irresponsible remarks warrants our concern. We also hope that the Government can continue to study, in light of the fact that the television industry is now mainly business-oriented, the feasibility of setting up a public access channel to make up for the information refused to be broadcasted by television operators on the grounds of inadequate guarantee of rating, so that certain programmes with potential could be broadcasted.

These are my remarks in respect of the television broadcasting policy.

MR ANDREW CHENG (in Cantonese): Thank you, Mr President. Today's motion on the one hand seeks to condemn the Government for failing to honour

the commitment it made in the past and to adhere consistently to the principle of fairness and openness. On the other hand, I wish to, as the spokesman of the Democratic Party on the broadcasting policy, refute specifically those ridiculous arguments for protecting an embargoed paid TV market. The arguments put forward include "the market is lacking support", "unattainable technical requirements", "the public may not necessarily be benefitted" and so on.

The argument for deregulating the pay TV market can be seen at the economic and technological levels. As regards the capacity of the market to accept them, I have the following views:

It is true that one needs to consider whether the market can accept the deregulation of the market. Over the past decade, Hong Kong's TV advertisement market showed a real growth of 7% on average. In the "Study on the Promotion of Hong Kong Service: Final Report", the Government even estimated that the growth of the media market would reach 15% in the following five years. Moreover, it was clearly pointed out in a review report that a number of people still wished to have more choices in respect of pay TV programmes. This finding happens to coincide with those of other market surveys. Mr President, a survey shows that about 40% to 50% of the Star TV and Cable TV audience are interested in viewing new pay TV programmes. In addition, they show great interest in local drama series, news reports on special topics, movies as well as informative and technological programmes. These surveys illustrate three points: First, the development of the broadcasting industry as a whole is enjoying a steady and healthy growth; second, the people have a very strong desire for spending; and third, the existing broadcasting service is not satisfactory.

Mr President, we do not understand why, in estimating the acceptance capacity of the market, the Government and Members from the Liberal Party base their assessment on whether Cable TV will suffer great losses instead of on the development prospects of the market and, most importantly, the consumers' interests. Of course, there must be some people who would have lost money in doing business, but after all, we cannot say that because Cable TV is losing money, others will surely lose money as well. It will be a logical fallacy if the argument advanced was that the market could by no means accommodate new competitors.

The fact that new competitors are willing to join the competition, that TV

advertisement market is profitable, and that there is an overall growth in the media market while the public is willing to pay precisely illustrates the basic law of supply and demand in a market. Those who are not in favour of deregulating the market are really the ones who disregard the law of economics and ignore the current demand of the market, for their only concern is to protect those with vested interests.

As far as the technological level is concerned, Star TV making use of the digit compression technology, can now provide more channels. Therefore, it is technologically feasible and also cheaper to introduce a new territory-wide pay TV channel. This technological advantage is, in the first place, beneficial to new competitors in entering the market. However, the Government considers that if the new competitor should provide the pay TV service at a lower cost, it will be unfair to Cable TV which has paid huge costs for installing the network. Mr President, this is blatant protectionism and a way to protect the big consortia. It is absolutely ridiculous and might stifle the development of new pay TV services!

Mr President, I hope that Members will note that the local technology is completely capable of developing another pay TV station. The question is not whether it is technologically feasible, but rather whether or not the Government would adhere thoroughly to the principle of providing diversified choices and deregulating the market!

Mr President, it is equally puzzling that even a regional pay satellite television should have been vetoed by the Government. At present, many private housing estates have been installed with a device which we call the public satellite television system for receiving satellite transmitted programmes. However, the law provides that "coded" satellite programmes are not to be received. Although the audience need to pay charges for receiving these "coded" programme, the contents of these programmes are diversified, ranging from Disney programmes to HBO, NHK of Japan, TV and movie channels of Star TV and so on. Once Hong Kong is allowed to receive these programmes, residents in individual districts and housing estates will be provided with more choices in diversified programmes.

Although these programmes are not locally produced, the public should be allowed to decide whether they like them or not. A number of local television stations have already provided basic and free television services. The pay TV is aimed at providing alternative and diversified programmes for a small group of

people. Therefore, which programmes suit the paying TV viewers should be decided by the one who pays. The broadcasting market should not practise a patriarchal system in which the Government decides which programmes the people would be interested in.

Mr President, the Government, on the one hand, vetoes the deregulation of the pay TV market, and on the other, allows Cable TV to broadcast advertisements. This decision is once again an act of protecting the consortia's interests as well as creating injustice. Members should note that Cable TV charges its subscribers while TVB and ATV depend on advertisement income. Although these two parties are competing against each other, they are actually relying on different financial sources. The Government's present proposal have obviously violated the above principle. In addition, the cable TV market is not going to be deregulated according to the Government's present proposal, then why should the Government, on the other hand, relax the restriction on Cable TV's broadcasting of advertisement?

Mr President, the Democratic Party's stance towards the deregulation of the pay TV market is crystal clear. We consider that the market can support new competitors; the public welcomes more choices in selecting programmes; and it is also technologically feasible. We cannot see any reason why the policy to deregulate the market in mid-1996 should be abandoned because a television station is losing money.

Finally, therefore, the Democratic Party hopes that the Government will review the franchise arrangements in the light of the increasingly keen competitions, thereby boosting the competitiveness of the broadcasting operators.

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

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

MRS ELIZABETH WONG: Mr Deputy, the current scene of confusion over Hong Kong's broadcasting policy, or the lack of it, calls for a coherent and forward-looking broadcasting policy to ensure a level playing field for all players.

For a start, the current broadcasting policy is a legacy left over from the

past and needs a drastic overhaul.

In less than a decade, broadcasting has undergone some dramatic changes.

The plethora of advancements in terrestrial and satellite telecommunications bring in new protocols and this complicated industry is now the touchstone of modern technology. It has to satisfy demands for information and a thirst for entertainment. And with its new frontiers, it demands a wizardry in management to meet new challenges. Thus, this unstoppable advancement of new technology must be faced resolutely and not at a slow step-at-a-time pace only to snarl up at a later date.

To meet new challenges, the correct policy, I think, must be that broadcasters should be able to compete in a fair and equitable environment and under a sound and open regime, free from the Government's undue interference.

Now all this is good grandiose "motherhood and apple-pie" stuff. But currently, reality is far different from. For example, addition to free TV, we now have pay TV which is something that Hong Kong should be proud of. Yet, the Government appears to be inconsistent in its approach by restricting, on the one hand, any issuance of new pay TV licences; and yet, on the other hand, by allowing the issue of new, albeit two, video-on-demand (VOD) licences. And may I ask why two? What are the criteria for selection? Does one cancel out the other? What are the bases for different policy decisions? So we may ask a host of questions all directed at the concept of fair play and fair competition.

But what does all this mean? How does one enhance competition in this tight market of audience, manpower resources and advertising revenue, without going through some gymnastic market contortions?

Furthermore, how does one globalize markets and still satisfy local operations? Or introduce pay TV and/or other new operators and still enable free TV to compete on an equal footing? These are difficult questions.

Singapore, we understand, provides for the right incentives to attract overseas investors without frustrating their local production. When we talk about the hub of the industry, one wonders whether Hong Kong is acting or reacting a bit too slow and too late.

In contrast, I think, Hong Kong free television operators are faced with

royalty payments set at punitive rates. It is suggested that, to allow true competition, this rather antiquated device of a bygone era should be eliminated altogether or we might see a demise of free TV. This cannot be to the benefit of consumers at large.

Whilst royalty payments may enrich the public purse, this will tie the operators' hands and dent their profit margins. When operators operate on a tight shoe string, something else has got to give. This normally means less jobs for the people and less quality programmes for the audience. In the end, the losers must always be the consumers.

By restricting open competition, and by imposing punitive charges, the Government sends the wrong signals both to international operators and also internal operators alike.

Fair competition must mean what it says: it is equitable competition across the board and not on a selective basis. Broadcasting in a mass communication business provides many new opportunities. The best way to maximize the use of these opportunities must be to ensure fair competition, which in the ultimate analysis means that the Government is not to decide for the market, but should let the market decide for itself.

Mr Deputy, I support the motion.

MR CHOY KAN-PUI (in Cantonese): Early this year, the Recreation and Culture Branch finally decided to shelve the drafting of the Omnibus Broadcasting Bill so that it can attend to other issues which are more urgent in nature. In my opinion, this is a more pragmatic approach for the following three reasons:

First, when the Government embarked on the drafting of the Omnibus Broadcasting Bill, it underestimated both the complexity involved and the need for other complementing factors. There is bound to be a considerable degree of complexity because different media and different rules for operation and regulation are to be covered by one single bill. In addition, given the rapid advancement of media communication technology, it is no easy task to enable the Bill to stand the test of time.

Second, in May last year when Mr Fred TING, then Acting Secretary for Recreation and Culture, attended a Recreation and Culture Panel meeting of this Council, he has revealed that "Since there is not much time left before 1997, if an ordinance is drawn up for no obvious reasons, some people will speculate what the Government is up to." Since the licences of existing broadcasters will not expire until late 2000, shelving the drafting of the Bill will not produce much impact on the broadcasting industry. That being the case, why should a bill involving so many complex issues be enacted in a hurry before 1997?

Third, this Bill deals with the long-term licensing system for franchises and the restriction on foreign shareholdings of local broadcasting licences. Since the issue of franchises will straddle 1997, it ought to be discussed by the Sino-British Joint Liaison Group or dealt with by the Special Administrative Region Government. With the approach of 1997, the issue of foreign shareholdings of local broadcasting licences is particularly sensitive, because most sovereign states in the world regard atmospheric broadcast waves as a part of their sovereignty.

Mr Deputy, despite its undertaking in 1994 Policy Commitments that it will deregulate the pay TV market in mid-1996, the Government now proposes that deregulation be deferred until the review on the television industry is conducted in 1998. The Hong Kong Progressive Alliance appreciates the rationale behind this decision. As far as the diversity of the local broadcasting environment is concerned, the launching of Star TV, Cable TV and the Metro Broadcasting Corporation over the past five year has offered wider choices to the public. Moreover, last year, the Government decided to allow Hong Kong Telecom to offer Video-on-Demand programme services on a trial basis. Following this, some US-based multinational media such as CNN and CNBC set up their Asia-Pacific satellite broadcasting centres in Hong Kong. All these indicate the rapid development of the broadcasting environment in terms of diversity and openness. The urgent task we are now facing with is to work out a regulatory framework for Video-on-Demand programme services and complete the review on the pay TV market as soon as possible.

Mr Deputy, I would be happy to see a free, pluralistic, open, fair and competitive broadcasting environment in Hong Kong. However, as haste makes waste, if we liberalize the markets of pay television, wireless television, satellite television, and Video-on-Demand programme services too drastically and too rapidly without working out some corresponding supervisory frameworks, a

vicious competition will result. The printed media of Hong Kong experienced the eruption of a vicious competition late last year. As a result, a number of newspapers closed down. This is certainly not beneficial to both the printed media in terms of diversity and readers in terms of range of choices. A lesson must be learnt from this experience, and it is thus especially important that market liberalization regarding the electronic media must be worked out carefully because their operation involves far bigger investments than the printed media. And, the printed media simply cannot stand comparison with the electronic media in terms of penetration scope and size of patronage. Should vicious competition arise as a result of an over-hasty liberalization of the market, it will produce impacts on social stability which we cannot bear to overlook.

Mr Deputy, at a time when the public are still not used to the idea of pay TV services, Cable TV will need more time to develop its market and stabilize the size of its patronage. At present, the expansion of Cable TV patronage is not satisfactory, and this can be evidenced by the losses incurred year after year. Under such circumstances, the addition of another pay TV station will only trigger vicious competition. As for Video-on-Demand technology, it is still undergoing an experimental stage all over the world, and there is a lack of experience in its commercial application. In the absence of any examples which the Government can follow, it should first draw up a corresponding regulatory framework as soon as possible. Regarding the market liberalization of wireless television and satellite television, since long-term franchises and the relatively sensitive of issue foreign shareholdings are involved, if we disregard the relevant circumstances and factors to talk about liberalization in the abstract, all will become mere armchair talks.

Mr Deputy, the Hong Kong Progressive Alliance has always maintained that for the formulation of the territory's broadcasting policy and any substantial changes related to it, the 1997 factor must be taken into account and so must the need to maintain social stability, a sound investment environment, and the conditions conducive to fair and healthy competition. The broadcasting policy of a place not only relates closely to sovereignty and social stability but also involves the complex issues of the operation and regulation of different media. Therefore, at this stage, no drastic change should be made to our existing broadcasting legislation and policy; otherwise, it will become a blow dealt to our existing broadcasting environment which is basically sound. This will not help maintain Hong Kong's leading position in the broadcasting industry of Asia.

Mr Deputy, I so submit.

MR LEUNG YIU-CHUNG (in Cantonese): Mr Deputy, the Government has been emphasizing that the development of the broadcasting industry in Hong Kong is very satisfactory, with keen competition among the various broadcasters. This, however, represents only a narrow view. The fact is that over the past few years, the Government of Hong Kong has failed to review in detail the overall regulatory mechanism in response to changes in technological developments and market needs, and it has also failed to lay down an integrated strategy for the long-term development of the industry. All it has done is some fragmentary research in respect of individual areas, thus resulting in a lack of policy projection; even the Omnibus Broadcasting Bill became abortive owing to political reasons. The Hong Kong broadcasting industry has gradually lagged behind those in European countries, in the United States and even in neighbouring Taiwan, Japan and Singapore!

Undeniably, with the developments of satellite television and cable television, the number of television channels available to the people of Hong Kong has increased many-fold, from four at the beginning to, theoretically, 28 now, and more choices are to be expected shortly (including Video on Demand services). But, let us not forget that those families living in certain large-scale housing estates or residential blocks which are still unable to receive satellite television or cable television.

In fact, if we compare Hong Kong with other neighbouring places in the region, we will notice that the number of choices available to the people of Hong Kong is far smaller than that found in Taiwan or Japan. In the case of Taiwan, for example, an average household has 60 or 70 channels to choose from while its counterparts in Hong Kong have 28 at most. For those without satellite television or cable television, the situation is worse — they have only four channels to "choose from". Actually, the people of Hong Kong should have been able to enjoy more choices, if it were not for the Government's faulty policy which has restricted their choices: since there is only one subscription television broadcaster, the only choice is either to take it or leave it. Also, it may well be that an available choice is really a Hobson's choice, as in the earlier case of a "choice" between the "Judge Bao" series of TVB and that of ATV.

If the Government is at all sincere in allowing consumers to derive maximum benefits and enjoy the best choices under a broadcasting environment characterized by pluralism, openness and free competition, it must promptly formulate a well thought-out and long-term broadcasting policy, which should cover, among other things, the opening up of the subscription television market to bring in competition. Frankly speaking, the current Government policy of protecting the interests of cable television through an extension of its exclusivity period and the refusal to open up the market will not only harm the interests of the people by restricting their choices, but will also, I am afraid, provide undesirable negative assistance to the developments of cable television. The reason is that absence of competition will mean fewer choices and a failure to cater for the preferences of minority viewers. Hence, even fewer people would be interested in hiring the services of subscription television. On the contrary, if the public can enjoy a greater diversity of programmes through the introduction of competition, more families would be interested in a subscription television. In the case of Taiwan, for example, the boom of its subscription television industry is due precisely to the encouragement of competition under a policy that allows the issuing of several subscription television licences for each single area.

Furthermore, I strongly urge the Government to re-consider the establishment of a public access channel for non-governmental organizations to communicate with the public so that the freedom of speech can be further implemented through a widened forum of public opinions.

I think that for Hong Kong to maintain its leading position in the Asian broadcasting industry, we need a major structural overhaul. First, under the Government's existing regulatory framework, the various media are categorized on the basis of their transmission technology and modes of charging, meaning that the Government will issue licences for wireless broadcasting, cable broadcasting and satellite broadcasting, depending on the transmission technology involved. Furthermore, there are two types of television licences, namely, subscription television licences and non-subscription television licences. However, with the rapid development of new technology, such a licensing system has failed to cope with the new situation. For that reason, we maintain that the Government should take the Consumer Council's advice of replacing the existing licensing system with one under which the various media are categorized on the basis of network distributions, types of programmes provided and the catchment areas concerned. This can equip the regulatory framework with added flexibility to cope with new technology and new services. And, in order to

ensure that the provision of programmes and services will not be monopolized as they are by just a handful of television broadcasters, the Government should further examine whether network providers should be barred from programme provision through restricting their role to network provision only. It is hoped that Members of the public can thus enjoy a greater diversity of programme choices.

The gradual merging of broadcasting, telecommunication, and information technology has become a worldwide trend. To maintain Hong Kong's competitive edge, the Government must take proactive steps to meet the changes brought about by technological advances. It should reorganize the relevant policy branches and create a new policy secretary post for the purpose of overseeing policies on broadcasting, telecommunication and information technology. It should also provide sufficient resources for policy studies and the formulation of long-term development strategies so that an environment conducive to the development of Hong Kong into an information centre in Asia can be created.

Finally, I propose that the Government should hold within this year a summit meeting on broadcasting, telecommunication, and information technology policies at which members of the public can air their views. The Government can then understand the needs of the public, of the people engaged in the broadcasting, telecommunication, and information technology industries, and of non-governmental organizations. Discussions among the parties concerned can also be held during the meeting to find out how Hong Kong can be developed into an Asian information centre in the twenty-first century.

Mr Deputy, I so submit.

MR SIN CHUNG-KAI (in Cantonese): Mr Deputy,

Video-on-Demand Programme Services and Pay TV are not to be Confused

I would like to raise some questions concerning the video-on-demand (VOD) programme services and pay TV. The arguments about the deregulation of pay TV are closely related to the regulation of VOD because the Government has often raises the point that VOD and cable television are competing for the same market. The Government might even think that from a pragmatic point of

view, VOD is pay TV in disguise. So, even the pay TV market is not deregulated, there should not be any serious problems since the public could still have new programmes to choose through VOD.

The Democratic Party is of the opinion that such a viewpoint confuses the nature of VOD and that of pay TV. What we have been asking for is that the pay TV market should, in accordance with the 1994 policy commitments, be deregulated and new competitors be brought in. On the other hand, VOD is a new medium brought about by the technological development in recent years. Its uniqueness and targeted market are not exactly the same as those of pay TV. Therefore, a new framework and arrangement should be established in respect of the regulation and licensing procedures of VOD.

The development of the information superhighway is an important lifeline of our future economic and social developments. Basically, the Democratic Party applauds the VOD programme services. By means of the information superhighway, VOD provides entertainment and information to the general public, and this is worth supporting indeed. Nevertheless, we consider that the nature of pay TV and that of VOD must not be confused, which may otherwise hinder the deregulation of the pay TV market.

Differences between VOD and Pay TV

Members can well imagine that it would not be possible for the VOD service providers to produce their own television programmes. Given that all programmes are brought from the outside, it would be impossible for the service providers to produce such programmes as local news, dynamic information programmes, television series, talk shows and so on. Therefore, the competition between pay TV and VOD will definitely focus around films, music programmes or one-off television programmes. From the angle of programme contents, the competition between pay TV and VOD is "limited" and "market-specific". VOD is not, as people outside the trade suggest, pay TV.

Another difference between VOD and pay TV is that VOD can be available any time upon the request of viewers. Therefore, in terms of "interaction", VOD is not to be rivalled by pay TV. In the past, when we switched on the television set, we have no control over what sorts of programmes to be broadcasted. Under such premise, the Government is obliged to, on behalf of the public, regulate the contents of the television programmes to ensure that

they conform with the standard of public morality. While such philosophy and means of regulation are applicable to traditional televisions, they are not necessarily applicable to VOD programme services.

Legal Framework for Monitoring VOD

The two differences I just mentioned about VOD are very important as they illustrate that VOD has its own characteristics with respect to the content of services and its mode of transmission. To compell VOD to follow the regulatory rules adopted by pay TV or conventional televisions is over-simplifying the matter! As the Telecommunication Ordinance is unable to control the content of television programmes, the Democratic Party has to stress that VOD should be subject to the control of the Television Ordinance to ensure that its programmes content is in line with the moral expectation of the public. Nevertheless, in light of the uniqueness of VOD, the regulating framework for VOD must be comparatively looser. We therefore propose that VOD services should be regulated by special licensing terms and conditions laid down by the subsidiary legislation under the Television Ordinance.

Licensing procedures for VOD should show no favouritism for large consortia

Another decision made by the Hong Kong Government is that only two VOD licences will be issued and the terms and conditions of which will be similar to those of pay TV licences. The Democratic Party is opposed to this proposal, since limiting the issue of licences would only result in the monopoly of VOD by large consortia as well as making small companies incapable of entering the VOD market. In fact, at present, there are three new regular telecommunication network companies in Hong Kong which can build their own network as well as developing telephone services and VOD programme services. In future, more network providers which can transmit VOD programmes will also emerge. Such an objective environment is, in fact, conducive to a further deregulation of the VOD market, thereby preventing the monopoly of related services by large consortia.

The Democratic Party's position on this issue is that no limitation should be imposed on the issuing of VOD licences. Companies of different scales may, in accordance with the expectations and needs of the market, decide the types of services to be provided and the number of operators. As I proposed earlier, the terms and conditions with respect to VOD licences should be promulgated by

way of subsidiary legislation. Operators that meet these terms and conditions will be eligible for applying for the licences.

Conclusion

We consider that it is only through competition that we can prevent the monopoly of large consortia and bring numerous benefits to the public. We are well aware that this time the Government will again cite many reasons for shirking its responsibilities to deregulate the licensing and regulation of VOD as well as using the infringement of the interests of pay TV as an excuse. In spite of this, I would like to warn the Government that the Recreation and Culture Branch has all the say in making decision for one of the crucial sections of Hong Kong's future information superhighway. If the Government is only concerned about the interests of large consortia and acted unfairly to other operators, and even to the extent of ignoring the interests of consumers, it will be tantamount to destroying the superhighway.

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

MR MOK YING-FAN (in Cantonese): Mr President, under the licence of Wharf Cable, the Government is entitled to have the right of access to three of the Cable channels free of charge. And since 1994, the Government has committed itself to considering the designation of a public access channel in Hong Kong.

A public access channel is a non-commercial, free-of-charge cable television channel which the public can make use of to broadcast their own productions or express different views. It is regrettable, however, that the Government announced in 1995 that it decided to abandon the designation of public access channels. The Hong Kong Association for Democracy and People's Livelihood (ADPL) and I are deeply dissatisfied with such decision.

We consider that it is imperative for one of these three channels to be designated as a public access channel so that certain non-governmental organizations, individuals and minority groups in society, such as the aged, the disabled and children, can express their views and explain their position or predicament through the television media to enable the society to understand the crux of their problems from various angles.

In present-day Hong Kong, more than 98% of the households have

televisions, the setting up of a public access channel is, in fact, very important to a pluralistic, democratic and open society. The transmission of information is one of the important elements of social culture while television broadcasting has a more far-reaching impact on the brewing of public opinions and social value. The setting up of a public access channel will therefore, enable the public to exercise their rights to express their own culture of thoughts through televisions so that a greater diversity of voices can exist in society whereas the public may hold extensive discussion on some policies and matters which are more contentious in nature. In so doing, our freedom of speech, which is all along of paramount importance, can be safeguarded. This can also prevent the complete monopolization of the two commercial broadcasters, which often leaves us with no choice except either "Hong Kong Today" or "Focus of Focus". I think this is not constructive insofar as the development of Hong Kong is concerned.

At present, a number of western countries have already set up public access channels. I think it is necessary for the Government to follow the successful examples of these countries. Of course, we are aware that there are numerous technological, managerial and financial problems in respect of the setting up of a public access channel. But if the Government had the sincerity, I believe such a channel is worth its cost.

A Member also mentioned earlier that the technological developments in Hong Kong as well as other parts of the world at present have already met the requirement and now is the right moment for development. But why does the Government, at this point in time, stay put and refuse to make progress, but has instead gone back to square one? This is extremely puzzling to us indeed.

In view of these, the ADPL and I would like to urge the Government again to re-consider the need and the importance of setting up a public access channel in order to tide in with Hong Kong for developing itself into a free, pluralistic, open and fair broadcasting environment.

With these remarks, I support Dr the Honourable LAW Cheung-kwok's amendment.

MRS SELINA CHOW (in Cantonese): Mr Deputy, the motion today in short, is both empty and impractical, imparting a strong feeling that some laymen are trying to lead professionals. This motion is at best of some academic interest

only and cannot produce any practical significance. In a way, it is similar in approach to the pledge made by the Government in 1994.

The first part of the original motion states that this Council expresses regret that the Government has not honoured its policy commitment made in the 1994 policy address to open up the subscription television market. I do not quite agree with this because what really deserves our regret is that in 1994, the Government casually wrote out a cheque which could not be honoured. At the very beginning, the Government simply did not have any statistical data which could enable it to make projections on the development prospects of the subscription television market. Solely because of the high-sounding appeal of market liberalization, it made a glib promise of opening up the subscription television market by writing out a cheque post-dated to the licence expiry date of the Cable Television Limited (Cable TV).

The Government's mistake of making this glib promise was caused by its complete ignorance of the market situation of the broadcasting industry, and by its failure to consider the effects of technological development on the very nature of the industry. Let us look at the 10 years between 1986 and now. As the saying goes: "several rounds of changes can come about within 10 years", and the broadcasting industry is no exception. Originally, there were only two television stations in the field of television broadcasting, but the decade in question saw the emergence of satellite television and subscription television, each of which offers many alternative channels. Recently Video-on-Demand (VOD) service has also come into existence. All these have produced great impacts on the broadcasting industry and have brought about fundamental changes to the market.

These changes should not be assessed in isolation because all sectors of the broadcasting industry will affect one another. And, since the various broadcasters have a common group of target viewers, their ratings will lead to fluctuations of their financial conditions. In 1994, when the Government made the glib promise of opening up the subscription television market, Cable TV had only started operation for less than one year. At that time, the Government did not even know how the subscription television market would operate, nor could it foresee the emergence of VOD services. How can we request the Government to honour a promise made out of ignorance, regardless of whether the promise made at that time is still reasonable and feasible today?

It may well be argued that as a law of market economics, market

liberalization will be submitted to self-regulation. While this is theoretically correct, the factor of practical feasibility must be considered when putting the theory into practice. Market liberalization is a broad, general direction. If we are to achieve the desired objectives under this broad direction, the maturity or otherwise of the market must be examined. Market liberalization of an unregulated and random nature will only create market chaos, which will make it all the more impossible to create the conditions conducive to the development of the entire broadcasting industry. A responsible government simply should not take any rash actions. I believe that those who can still remember the tragic reduction of local television stations from three to two many years ago will not object to what I said, especially when the actual circumstances of the television broadcasters are not that promising now. I must correct what the Honourable Andrew CHENG has said by clarifying that with the exception of Television Broadcasts Limited (TVB), all the rest of the television broadcasters in Hong Kong, namely, Cable TV, Asia Television Limited (ATV), and Star Television Limited (Star TV) are incurring losses. Actually, if investors are to be attracted, the first thing is to have a favourable business environment. If investors cannot see any prospects, how can they be persuaded to invest in the industry. Some of the current rules imposed by the Government on the broadcasting industry has made people doubt whether the Government wants to have a healthy and dynamic broadcasting industry in Hong Kong or whether it is concerned only with how much benefit it could squeeze out of the broadcasting industry.

Years ago, the Government started to levy royalties on the broadcasting industry on the ground that broadcasting air waves are a kind of public resources. The amounts of royalties are determined according to revenue instead of actual profits, and for that reason, they cannot reflect the decreasing value of broadcasting air waves as a kind of public resources amidst diversified competition and an increasing number of competitors. If the Government considers opening up the market merely from the perspective of increasing its revenue, it will throttle the broadcasting industry by killing its goose to get its eggs, in addition to tarnishing the reputation of Hong Kong.

Let us look at the royalty policies of other places. The United States Government does not levy royalties; the Singapore Government levies royalties at a rate of 2.5%; the Taiwan Government does not have such a thing as royalties, but the profits tax payable by the television companies will be put into a broadcasting development fund to promote and develop the entire industry. This is a far-sighted policy.

The original motion requests the Government to maintain the territory's leading position in the Asian broadcasting industry. This is not what the Government can or should do, and positive efforts to achieve this goal can be made only by the industry itself under sound financial conditions. What is more, the success or otherwise of a broadcasting business depends wholly on the status, recognition of standards and audience appeal which its own programmes enjoy both locally and internationally. Achievements in these respects in turn depend completely on the training and development of the relevant personnel. Only programme production can be soul of broadcasting, and the investment, education and trial and error involved can bear fruits only in the long-run, which means that the establishment of a firm foundation will require a lot of manpower, financial resources, time as well as determination. That being the case, what Singapore has opened up in recent years is not really its own broadcasting industry because Singaporeans are still severely restricted in television production and creativity, and they are still denied access to a number of international broadcasting services. How can we say that such a situation is an opening up of the broadcast industry? We can only say that, from a commercial point of view, Singapore is providing a venue for airing the programmes of foreign broadcasters. Singapore is the venue today, but if another place can offer conditions which are even more commercially attractive, it may replace Singapore for the achievement of that purpose tomorrow.

Therefore, regarding the issue of opening up the subscription television market, I think it is indeed wise of the Secretary for Recreation and Culture to decide after a review that the granting of a second subscription television licence should be withheld for the time being. However, for the sake of offering the public a variety of choices, I propose that when considering the issue of VOD licences, the Government should not limit the number of licences to two, though the specific services of individual licensees must be defined clearly.

We do not support the original motion and the amendment. As a matter of fact, if implemented as they are, the motion and the amendment will only strip the Government of its ability to respond flexibly to this rapidly changing industry. As to the Omnibus Broadcasting Bill, I have already stated my position very clearly. Given the poor Sino-British relations as at present, forcing the Government to ignore the 1997 hurdle will simply be tantamount to asking the Government to "bang her head against the wall" unnecessarily.

Mr Deputy, I so submit in opposition to the original motion and the amendment.

MR PAUL CHENG: Mr Deputy, there has been much debate about the regulation of pay TV and the provision of Video-on-Demand services over the last few months. Details of the arguments aside, we must ask ourselves why these services find a place in the market: we want to have more choices, and the quality of those choices to be enhanced through competition.

While deregulation can be effective in stimulating competition, going too far too quickly can stifle investment, without which both choice and quality suffer. What we need is an orderly and progressive programme of deregulation, where the interests of the community-at-large and investors are well-balanced. I intend to elaborate on a few points which, I hope, the Government will seriously consider before introducing legislation to this Council.

Firstly, the provision of television programmes, irrespective of the chosen medium of transmission, should come under local regulation. These regulations should reflect local market conditions, respect local customs and standards. Moreover, it is only fair to all competitors that they be subject to the same legislative control if they are providing the same content of services to local viewers. I, therefore, urge the Government to consider bringing forward a set of legislation, or by amending current ordinances, to focus on the content of services delivered by different service providers.

Secondly, we should look at the market in its totality. Our present situation calls for a review, including both the policy and the legislation. The complexity and velocity of technological advancement makes it very difficult for us to catch up with appropriate regulations. Furthermore, the definitions themselves become increasingly blurred. For example, when does telecommunication become television or *vice versa*? We must find a way to circumvent this hurdle, while not stifling our own market and technological development. As part of our review, we should look at how this situation has been handled, or is being handled in other international markets. We may be able to learn from others' experiences.

Thirdly, let me repeat and emphasize that I support an orderly deregulation of the marketplace. There exists a considerable inertia to services for which the viewer pays, and our domestic market is small. If we forge ahead in disregard of our market development; if we force too rapid a pace for deregulation, it will only lead to instability and unnecessary financial risk for the industry. In other

words, we must allow a reasonable return of profits to investors in order to sustain competition. With competition, viewers have more choices and the quality and diversity of programmes will hopefully be improved. Needless to say, the pace of deregulation ties in with our economic performance and public sentiments. The Government should then keep the issue under regular review. Any changes proposed should observe the equilibrium between the interests of investors and the public.

Mr Deputy, I support the need for a comprehensive review on policy and legislation, but because time and circumstances have changed, I do not feel it is fair and reasonable for us to condemn the Government for being inconsistent. I shall, therefore, vote against the original motion.

Thank you.

MR HOWARD YOUNG (in Cantonese): Mr Deputy, the original motion today advocates for the upkeeping of Hong Kong's leading position in the broadcasting industry. To remain in the leading position, a number of prerequisites must be fulfilled. First of all, we need to have advanced science and technology; secondly, we need to have brilliant talents; and thirdly, we need to have very sufficient financial resources.

Regarding science and technology, I do not think Hong Kong would have any serious problems. We do not have our own achievement in this respect, but we could introduce such into Hong Kong from all over the world with duty exemption and exemption from many custom procedures. As for human resources, although consumers are the ones benefitted from the broadcasting industry, staff recruitment is nonetheless the business of the investors or the operators of these broadcasting institutions, whereas financial resources are provided by the shareholders. Under such circumstances, what should we do to obtain sufficient human resources and financial resources? We should study and find out the right way to compete with our rivals and to open up the market in order to enhance our resources. Advancement in science and technology also enables other media, the entertainment businesses as well as the broadcasting businesses to have diversified development, in view of such, a much wider choices have in fact been provided for the consumers.

To the competitors in the business, Hong Kong with its six million population is too small a market, its capacity for various kinds of business is indeed very limited. In my opinion, our market could not afford to be

monopolized on one hand, and cannot accommodate an unlimited number of broadcasters on the other. At present, the supply is able to meet the demand in the market, there might even be an excessive supply. I do not see that there is an excessive demand here. We have to encourage healthy competition but not vicious competition because the latter will dampen the investors' desire to invest. In the end, the business will not be running at a profit or the quality of the service provided will be very poor, it is certainly not in the interests of the consumers. This applies not only to the broadcasting industry but to other trades as well, in particular the services sector.

In fact, when reviewing its broadcasting policy, the Government should consider ways to enable the broadcasting industry to make sound developments. For instances, the Government should consider lowering the royalties levied on the two broadcasters because such a levy is not in line with the reality of Hong Kong, it should also allow the Cable TV to have commercials. As a long term strategy, the Government should create a fair and equal environment for all kinds of media to compete with each other. This could encourage broadcasters to put in more capital in the trade and to hire more brilliant talents. It is only through so doing that Hong Kong can maintain its leading position as the broadcasting hub in Asia. So I echo the point that the Honourable Mrs Selina CHOW has made on behalf of the Liberal Party and object to the motion today.

PRESIDENT'S DEPUTY: I now invite Mr Albert CHAN to speak on the amendment to his motion. You have five minutes to speak on the amendment.

MR ALBERT CHAN (in Cantonese): Mr Deputy, Dr the Honourable LAW Cheung-kwok moved an amendment to my motion which urges the Government to draw up a comprehensive timetable for opening up the subscription television market and other television media markets. To me, this amendment is as superfluous as carrying coal to Newcastle.

Firstly, my motion urges the Government to honour its policy commitment of opening up the subscription television market. This principle is clear. Although many Members who have spoken just now did not agree to the wording of my motion, nobody objected to the principle of the opening up the market. The Government has to honour the policy commitment it made in 1994 because the decision to open up the subscription television market in mid 1996 was made

after a lot of consultation works and reviews. If we say that the decision was made under a situation where the layman leads the professionals, then the present situation is equally the same since the Secretary for Recreation and Culture is a layman and is leading the broadcasting industry of Hong Kong. Under our political system, all Administrative Officers are non-professionals, I believe Members are well aware of this fact. I think the bone of contention between the public and the Government is whether the Government has honoured its policy commitment of opening up the subscription television market in 1994, rather than whether a timetable should be drawn. These two issues are entirely different. Otherwise, if the Government draws up a timetable under which the subscription television market is scheduled to be open in 1998, it will then be an extension of the Cable TV's monopoly in disguise and will delay the opening up of the market. If that be the case, what difference has it made? Drawing up a timetable alone is by no means the focus or the original motive of my motion.

Another superfluous point is in relation to the satellite television's franchise, which in fact does not exist. The existing satellite television market is open and the relevant policy is also open, such that different broadcasting institutions, overseas or local ones alike, can apply to the Government for a regional satellite television licence. The Television Broadcasts Limited is one example. It is now applying for a licence to provide through other media satellite television services for places other than Hong Kong. So Dr LAW's request to open up the satellite television market is not in tune with reality because the market is already open. I do not understand why he has to make such a request.

I welcome Dr LAW's support to the introduction of a public access channel. In fact the Democratic Party has been fighting for that for years. In the past, I have urged the Financial Secretary to allocate fund for the development of a public access channel from the annual budget, but this request was unfortunately turned down by the Government. Today's debate is on the policy to open up the subscription television market. In view of such, I cannot support Dr LAW's amendment simply because he shares our idea and supports the introduction of a public access channel, after all, his amendment is different from ours in terms of wording and content, in particular in relation to the subscription television market. If we support his amendment, the Democratic Party's stance on subscription television will become very confusing. Mr Deputy, because of this reason, the Democratic Party cannot support Dr LAW's amendment.

SECRETARY FOR RECREATION AND CULTURE (in Cantonese): Mr Deputy, I should like to deal first with the deregulation of the pay TV market, then turn to the topic of the Broadcasting Bill, before explaining why I think that, in large measure, we already have a free, diversified, fair, open and competitive broadcasting environment.

Deregulation of pay TV

The decision to delay deregulation of the pay TV market was bound to be unpopular in certain sectors, so it was not one we took lightly. The invitation to attend this Council to explain our policy is not entirely unexpected. The Council is, of course, at liberty to criticize the decision. But I hope and trust that Members will want to hear the reasons behind it, and that having heard them, I hope and trust that most Members will conclude, as we did, that it was the right decision in the difficult circumstances we faced.

When the Government first awarded two pay TV licences to Hong Kong Cable Communications Limited in 1989, it gave the licensee protection from direct competition for six years. The reason was the need to give the licensee a reasonable chance of recouping its substantial investment in a territory-wide cable network. Following the collapse of that consortium in 1990, a pay TV licence was awarded to Wharf Cable Limited in 1993. Once again, the Government decided to offer an exclusivity period to provide the operator with a head start. On this occasion, the exclusivity period was halved to three years.

The length of that exclusivity period reflected the best judgement of those responsible at that time, but longer periods are not uncommon. For example, Singapore Cablevision enjoys a seven-year monopoly in pay TV. By 1995, despite good progress in rolling out its network, Wharf had not met its subscriber and revenue targets, and it was becoming clear to the Government that it might be necessary to review the commitment given in 1994. As my predecessor explained to this Council in July 1995, total and immediate deregulation at the end of the exclusivity period could create confusion and chaos. At the same time, he announced a review of the pay TV market, preceded by an economic assessment of deregulation, to look at how the pay TV market could be deregulated in a structured and orderly manner, with minimal impact on both existing and potential broadcasters.

Mr Deputy, I want to stress a point that we still think that the decision made in 1994 was right, but new study and new data revealed that the situation

has changed by 1996. Under these circumstances, I believe a responsible government absolutely needs to review the "right" decision made in 1994 and make a new decision to suit the new circumstances. We have made this decision and we find this most appropriate. That economic assessment, completed earlier this year, made it clear that deregulation would have more than a nominal effect on existing broadcasters. In fact, if we did deregulate completely, it seems doubtful if Wharf would break even before its licence expired in 2005. Even allowing unlimited competition from video-on-demand (VOD) could jeopardize the economic viability of Wharf Cable.

We face a dilemma. On the one hand, we are committed to deregulating the pay TV market, and we also want to facilitate the development of VOD programme services and not stand in the way of technological progress, which is of great importance to the development of the so-called Information Superhighway in Hong Kong. On the other hand, complete deregulation could have a disastrous effect on the existing pay TV licensee. While research may show that viewers would like more choice, it also shows that the prices they are prepared to pay are unrealistically low. The take-up rate for pay TV in Hong Kong indicates clearly that the pay TV market cannot accommodate another large-scale pay TV operator now.

One solution would be to deregulate the market completely, and let Wharf Cable battle it out with whichever competitors who wish to enter the market. That is very tempting. But in such a battle, Wharf Cable would be handicapped because it had responded positively to the Government's clearly stated preference for a capital-intensive cable system. Competitors would be able to use cheaper digital satellite technology. And would the collapse of Wharf Cable at this juncture be in the interests of Hong Kong? I think this would not be in the interests of Hong Kong. For one thing, it would bring to a premature halt one of the main routes of the Information Superhighway in Hong Kong. For another it would result in the announcement to the public the failure of a high technology venture utilizing huge capital just at the time when the eyes of the world are upon us. Would this do Hong Kong any good? Would it be helpful to the confidence of investors in Hong Kong? I do not think so.

Our proposed solution is a compromise. We propose to delay further deregulation of the pay TV market until after a review of the television environment in 1998. In the meantime, we also propose to offer two VOD programme service licences once the legislative framework has been put in place.

In response to the points made during the consultation period, we shall be considering how we can accommodate the interests of those with both large and small-scale VOD operations in mind.

Like any compromise, nobody gets everything they want, and everybody can find something to criticize in it. But, in our view, it represents the best balance achievable in the public interest. It should permit Wharf Cable to continue deploying its fibre-optic cable system, and providing choice to Hong Kong's viewers. It enables VOD to proceed. And it introduces a measure of competition in the provision of paid-for television programmes.

Moreover, this is not the final step. In my view, deregulation is inevitable, not just because we remain firmly committed to it as an objective, but also because of technological and market developments which are progressively lowering or eliminating the barriers between markets. I certainly hope that it will be possible in 1998 to move quickly to full deregulation of pay TV and VOD programme services, and to set out the timetable for allowing new terrestrial TV services using digital technology. Mr Deputy, I want to offer a guarantee to Members that we shall do so, but, with the benefit of experience, Members will understand if I do not attempt to pre-empt developments in the future. As regards the possibility of a public access channel, the Government concluded only 12 months ago that such a channel was neither necessary nor a cost-effective use of resources, and I can see no reason to change that assessment now.

Finally, I would like to reiterate that we propose that a comprehensive review should be conducted in 1998. Please do not forget that there is only one and a half years before 1998. I am not talking about five to 10 years later but only 18 to 19 months. I do not find such a delay unacceptable and I think that it is very reasonable.

Broadcasting Bill

Let me turn now to the Broadcasting Bill, which has consumed so much time, both in this Council and in the Recreation and Culture Branch, but which has still not seen the light of day. I can well understand Members' frustration at the delays in bringing this Bill to the Council. But I am convinced that if we had pressed on with the drafting of the Bill, not only would it still be shuttling between my Branch and the Attorney General's Chambers, but we should still not

have completed the pay TV review or published proposals for the regulation of VOD programme services. Nor would we have any hope of introducing it into this Council by the end of the current session.

Frankly, this would have been unacceptable. Having been patched and mended many times before, Hong Kong's broadcasting legislation is neither pretty nor fashionably up-to-date. But it would have been foolish to strive for perfection at the cost of delaying the pay TV review and VOD programme services. Investors making plans for new television services need to know now what Government's policies are, and not wait until some time in the future, when we have finished drafting the Broadcasting Bill.

The announcement by the front runner, Hong Kong Telecom, that it would not start its VOD programme services until mid-1997 means that we do not need to rush amending legislation to this Council during the current session. But neither can we afford to be diverted by less urgent tasks. Consider what needs to be done if VOD programme services are to be available from mid-1997. We shall need to enact legislation and call for bids. Prospective service providers will need time to prepare their licence applications and we shall need time to evaluate them. Successful applicants will need a licence several months before they start operations, so that they can procure and install the necessary equipment and conclude programme supply agreements. All this requires that the regulatory framework should be in place early in the next legislative session.

The only practical way to do this in the time available is to amend the Television Ordinance, since there is no realistic prospect of getting the Broadcasting Bill ready in time. So, like an old garment that has been patched and mended many times in the past, we shall have to amend the Television Ordinance once more. I am afraid that it must serve a little longer before we can finally discard it.

This is not the disaster that some have claimed. The Broadcasting Bill would serve to codify much of the policy and practice we implement through the present combination of primary legislation, regulations, codes of practice and licences. But it would not, as some imagine, enable us to leapfrog developments in broadcasting technology. Actually, we cannot make legislative provision for technological developments that have not happened. And we do not in any case intend to use the Bill to amend the terms of existing licences, none of which expire before the end of the century. Setting aside the Bill has

enabled us to speed up amendments to the Telecommunication Ordinance, and to achieve rapid progress with important policy decisions on cross-media ownership and other ownership issues.

In respect of the Broadcasting Bill, I would like to stress that one to two members have just mentioned about the political environment or factor and even given some ulterior reasons to explain why we have decided to shelve the drafting of the Bill. I can say such sayings are incorrect and are not supported by facts. We have made this decision on the basis of the actual incumstances and the decision is not related to politics at all and there is no ulterior reasons whatsoever.

Broadcasting environment

The motion urges the Government to create a free, diversified, open, fait and competitive broadcasting environment, so as to maintain Hong Kong's leading status in Asia. I share the view of the Honourable Albert CHAN that these are important attributes of any policy to promote Hong Kong's broadcasting industry. But I would argue that, in large measure, we have created an environment that is as free, diversified, open, fair and competitive as can reasonably be expected.

Clearly, it is diversified. Hong Kong's consumers can choose from commercial television, pay TV, free-to-air satellite TV, as well as publicly-funded and commercial radio, and soon, VOD. For the same reason, no one would argue that our broadcasting environment is not highly competitive. Indeed, with three out of four locally-based broadcasters losing money, or to put it crudely, with only one company having ever made any money in the history of television in Hong Kong, one could argue that it is rather too competitive. With the advent of VOD programme services, the television environment is set to become even more competitive. Consumers should benefit from even greater choice, and highly competitive pricing.

Our broadcasting environment is as free as anywhere in the world; indeed, it is a good deal freer than many of our competitors. We are committed to maintaining that freedom. For this reason, we intend to scrap unnecessary powers to prohibit radio programmes, something we have already done in respect of television programmes. We shall be introducing an amendment to the Telecommunication Ordinance to achieve this objective later this month.

In common with broadcasting regulators around the world, we retain powers to limit the participation of overseas controlled companies in the domestic broadcasting industry. This reflects a long-established policy that domestic broadcasters should be domestically-controlled. But while there are limits on the controls which may be exercised by non-Hong Kong residents, there are no absolute prohibitions or limits on foreign ownership, unlike most other broadcasting regimes. Ownership is diversified, with broadcasters from both the public and private sectors, and participation by both locally and foreign-owned companies. The Broadcasting Authority already has the discretion to permit majority overseas ownership of a domestic broadcaster if it sees fit. We do not intend to be stampeded into hasty changes by misplaced worries over 1997. But we shall monitor the evolution of other broadcasting regimes, and consider in the context of the 1998 review of the television environment whether there is a case for opening up the market to greater overseas participation.

Our broadcasting environment is also fair. All broadcasters know where they stand in terms of the programming standards they are expected to fulfil. There is no hidden agenda. All broadcasters who want a licence must expect to pay the full cost of administering that licence. They should not expect to be subsidized by taxpayers. All broadcasters who enjoy the right to use a limited public resource such as the air waves, or the preferential right to carry advertising or charge subscriptions, must expect to give the public purse a share of the revenue they derive from these privileges.

Likewise, all broadcasters operating in the same sector, whether terrestrial satellite or pay TV, can expect to have the same rules applied to them. In devising these rules, we have regard to the circumstances of each sector. For example, those broadcasters who by virtue of their licences can broadcast television programmes over the air waves rather than relying on less cost-effective means must expect to pay for the greater value of that privilege. Of course, circumstances changes and what was fair yesterday may not be fair today. We have made it clear that where there are fundamental changes in the television environment, we are ready to look again at the issue of royalties. I take the points made by some Members, and can assure them that we shall be giving careful thought to the points made by broadcasters in the course of public consultation on the VOD regulatory system and the pay TV review, before asking the Executive Council to advise on our fitful commendations.

The Honourable Mr Albert CHAN has asserted that we are falling behind Singapore as an Asian broadcasting hub. Clearly, there is more than one broadcasting hub in Asia, just as there is more than one aviation or shipping hub. This is a natural consequence of the spread of satellite broadcasting technology. But none of this diminishes the importance of Hong Kong as a regional media hub. In addition to providing the home-base for Asia's largest regional broadcaster, STAR TV, several of the world's largest broadcasters have chosen to uplink from Hong Kong, including CNN and NBC, which last month added a new channel to its line-up.

The Honourable Mrs Selina CHOW has just talked about the openness of Singapore and I will not give any more comments here, especially before I pay Singapore an official visit upon invitation by the end of this month, as I do not want this to affect my mood during the upcoming visit.

For those seeking to address Asia's largest market, China, there are particular benefits to their locating in Hong Kong. Nowhere else can match the combination of proximity, knowledge of market conditions, and the wide range of business and official contacts which make doing business in China so much easier. That is why both the Chinese Television Network and the Chinese Entertainment Television Broadcast Limited chose to set up here.

Of course, there is much more to regional broadcasting than simply beaming signals up to a satellite. Hong Kong's qualitative edge in the regional broadcasting market is the excellence of its support facilities. We have the supporting facilities that broadcasters need. For instance, regional offices of the world's biggest advertising agencies, the best qualified audience research companies and the most respected news bureaus, Asia's most sophisticated pre-and post production facilities, as well as the region's most advanced telecommunications companies. Just as important, we have a critical mass of broadcasting talent which is probably unmatched in East and South-East Asia. In short, we have all the ingredients that international broadcasters need to make their business work.

Mr President, although political factors, political environment and ulterior reasons are brought forth in today's debate. I am glad that Members have made comments or suggestions calmly. We cannot respond to the suggestion or

comment made by each member here but I am sure we would consider these comments when we returned to our office.

Mr Deputy, finally I would sum up briefly the central tenet of the Government's response to this motion, it is that we share the same basic goal as Mr Albert CHAN, but that we believe that it would be in the best interests of Hong Kong to take slightly longer to get there. Or to put it another way: to proceed in an orderly way step by step. We firmly believe, therefore, that there is no justification whatsoever for a motion to be moved which "deeply regrets" decisions we made. And I deeply regret that Mr CHAN has to express to us his deep regrets, it is because the decision we made are not only fully justifiable and entirely reasonable and logical but are also in Hong Kong's best interests. Thank you, Mr Deputy.

THE PRESIDENT resumed the Chair.

Question on the amendment put.

Voice vote taken.

PRESIDENT: I think the "Noes" have it. The "Noes" have it.

Dr LAW Cheung-kwok rose to claim a division.

PRESIDENT: I have already declared that the "Noes" have it.

PRESIDENT: Mr Albert CHAN, you are now entitled to your final reply and you have six minutes out of your original 15 minutes.

MR ALBERT CHAN (in Cantonese): Mr President, I would like to thank Members for their remarks and the Secretary for Recreation and Culture for his frank interchange of ideas. Just now, he described the debate today as being conducted in a calm and moderate manner, but he has not listened to my final

reply yet (*laughter*). I believe many Members will appreciate the difficulties which the Government is facing. However, we cannot share the optimism of the Secretary for Recreation and Culture; today's success cannot necessarily be taken as success forever. Although the Secretary for Recreation and Culture's views and stance are different from ours, our exchange of views on this occasion is obviously beneficial and constructive.

Now, let me speak in response to several issues. A Members mentioned the royalties paid by Asia Television Limited (ATV) and Television Broadcasts Limited (TVB), and the Secretary for Recreation and Culture replied that a review would be conducted if there were fundamental changes in the broadcasting environment. I welcome this promise and hope that it can be honoured in the future. Frequently, and very much like a kind of habitual practice, "a Secretary may say something to negate what he said before", and "an incumbent Secretary may also negate the stand of his predecessor". Am I right? In fact, this promise is not difficult to fulfill, and will not involve any political complications too. As far as the existing broadcasting environment is concerned, any observant person can see that fundamental changes have already occurred, as evidenced by the presence of terrestrial TV, cable TV, and the taking place of many other new developments, including Video-on-Demand (VOD) programme services. How can it be said that the broadcasting environment has seen no fundamental changes? I eagerly hope the review in question can be carried out as soon as possible.

Concerning pay TV, the stance of many Members is ambiguous. On the one hand, they claim that do not support the Government's attempts to liberalize the market; on the other hand, they support VOD programme services. I would like to make it clear that the Democratic Party has never advocated an immediate and total liberalization of the pay TV market. Instead, in view of market demand and objective realities, the more sensible step is to phase-in the liberalization of pay TV services in a planned and systematic manner. That said, if market liberalization is to be restricted on the ground that a consortium is incurring losses, I am really baffled as to why the Government still liberalized the pay TV market at a time when ATV was suffering losses. Likewise, I also cannot see why the Government still approved the licensing of VOD programme services when both ATV and Cable TV were suffering losses. VOD programme services are in part interactive services which do not involve broadcasting. However, obviously, part of these services can be regarded as similar to pay TV services, and can both be regulated by the Television

Ordinance. Therefore, the argument of the Government is self-contradictory. If other operators are to be protected, not so many markets should be opened up until Cable TV and ATV can also make profits.

Superficially, the Government is against opening up the pay TV market. However, in practice, it has already agreed to do so because it is going to issue two VOD licences which are to be regulated by the Television Ordinance. Actually, this kind of license issuance is tailor-made especially for Hong Kong Telecom. I think it is very unfair. If cable TV licences, or genuine cable TV licences, are to be issued all consortia should be allowed ample time to bid for such licences. There should be no secret arrangements, nor should any pretexts be invented to offer special service to some particular consortia.

Mr President, the Government has just said that it is caught in a dilemma. Well, in life, we are often caught in dilemmas, and so are consortia. And, at times, when I have to select the programmes to watch, I am caught in a dilemma too. Since there are so many sports channels and movie channels, one can hardly decide which to select, and making a decision is indeed very difficult. Difficult as the situation is, the Government should still remain clear-headed so that it can proceed or step back whenever necessary; it must never allow itself to become muddle-headed. However, the Government has really turned muddle-headed, thus jeopardizing the interests of Hong Kong consumers, especially television viewers.

I would like to turn to the Honourable Mrs Selina CHOW's remark, which referred to this motion of the Democratic Party as a laymen's attempt to lead professionals of the field. I have no comment on such a remark, as the Secretary for Recreation and Culture is indeed also a layman in the sense referred to. In regard to pay TV, however, the stance of the Liberal Party is extremely ambiguous. It has placed the interests of consortia above public interests, and it wants only to protect the vested interests of consortia, without bothering to consider a full-scale opening of the market and what the essence of a market economy should be. As far as its responsibility is concerned, the Liberal Party is not supposed to protect the profit-making prospects of any particular consortium. Instead, it should protect our free market economy, so that it can operate under fair, open and reasonable conditions. This is a fundamental principle of capitalism, under which it is inappropriate for some dictatorial and franchised corporations with vested interests to advance their own interests by trying to influence decision-makers through some connections. This is not in

line with the fundamental rationale behind economic liberalism. Where in the world, I venture to ask, can we find a democratic city with only one pay TV station? Therefore, as a policy, the refusal to liberalize the market because some consortia are incurring losses is retrogressive and backward in nature. It is not yet 1997, but it seems that someone is already advocating planned economy. This is in contravention of the Basic Law, and I hope members of the Preparatory Committee will take note of this problem.

Mr President, the stance of the Democratic Party is very clear: while protecting the operation of the market economy of Hong Kong, steps should taken to phase-in

The digital timer showed 0604

PRESIDENT: Mr Albert CHAN, I am afraid you have to stop now, but I will allow you two more sentences to conclude your speech.

MR ALBERT CHAN (in Cantonese): Given the existing circumstances surrounding this problem, the motion of the Democratic Party is in fact very moderate, and seldom are we so moderate. Our only profound regret is that we have not reprimanded the Honourable Mr Paul CHENG. I hope Members can support such a moderate and reasonable motion.

Thank you, Mr President.

MRS SELINA CHOW: Mr President, can I ask for a clarification?

PRESIDENT: You wish to seek elucidation from Mr CHAN?

MRS SELINA CHOW: Yes, Mr President.

PRESIDENT: Please state your point.

MRS SELINA CHOW: Could Mr CHAN elaborate on which satellite city

within the City of London has two cable services?

PRESIDENT: Do you wish to respond, Mr CHAN?

MR ALBERT CHAN (in Cantonese): Mr President, if Mrs Selina CHOW want me to name those countries and places where more than one pay TV licences have been issued, I can name a dozen or more of them, including Canada, the United States, Singapore, Taiwan and Japan. In many of these cities and countries, more than one pay TV licences have been issued. Some other places may be less well developed in this respect, but we should not learn from these underdeveloped places or follow any bad examples. We should learn from some successful developments which have benefitted consumers. Thank you, Mr President.

MRS SELINA CHOW: Mr President, the clarification was asked on the basis of the City of London. Is that a clarification or not?

PRESIDENT: Mr CHAN, do you wish to respond? You do not necessarily have to respond.

MR ALBERT CHAN (in Cantonese): Mr President, my response is already very clear. If Mrs Selina CHOW has any problem in understanding

PRESIDENT: That means you do not wish to respond.

Question on the original motion put.

Voice vote taken.

PRESIDENT: Council will now proceed to a division.

PRESIDENT: I would like to remind Members that they are now called upon to vote on the question that the motion moved by Mr Albert CHAN be approved. Will Members please register their presence by pressing the top button and proceed to vote by choosing one of the three buttons below?

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

Mr Martin LEE, Mr SZETO Wah, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Mr Andrew CHENG, Dr Anthony CHEUNG, Mr Albert HO, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr Bruce LIU, Mr MOK Ying-fan, Miss Margaret NG, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE, Mrs Elizabeth WONG and Mr YUM Sin-ling voted for the motion.

Mr Allen LEE, Mrs Selina CHOW, Mr Ronald ARCULLI, Mrs Miriam LAU, Dr LEONG Che-hung, Mr Eric LI, Mr Henry TANG, 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 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.

Mr CHIM Pui-chung abstained.

THE PRESIDENT announces that there are 26 votes in favour of the motion and 22 votes against it. He therefore declares that the motion is carried.

REVIEW OF MAJOR ADVISORY AND STATUTORY BODIES

MR BRUCE LIU to move the following motion:

"That this Council urges the Government to conduct a comprehensive

review on the roles and functions of major existing advisory bodies (such as the Labour Advisory Board, the Transport Advisory Committee and the Social Welfare Advisory Committee) and statutory bodies (such as the Housing Authority and the Hospital Authority), and to adopt appropriate measures to enhance their representativeness, accountability and transparency."

MR BRUCE LIU (in Cantonese): Mr President, I move the motion standing in my name on the Order Paper.

The political system of Hong Kong is not only characterized by its executive-led nature, but also by the existence of an advisory system and a considerable number of statutory bodies. These committees and bodies play a very important role in the formulation and implementation of policies concerning the livelihood of the public. Let's take the Labour Advisory Board and the Transport Advisory board as examples. Both of them are advisors to the Government and the Government often formulates its policies in the light of their opinions. Their influence therefore exerts considerable impact. As regards statutory bodies, the Housing Authority and the Hospital Authority are two examples. Both of them possess substantial decision-making power, they can formulate policies on public housing estates and hospital services respectively. These statutory bodies are like "semi-government" organizations extended from the Government, and the roles they play should by no means be neglected.

When the Government first set up advisory and statutory bodies, its main intention was to draw in the elite of the society so as to enable a wider participation in the formulation of its policies, a lot of political problems could then be solved by means of the channels set up by the Government. Besides, to provide services through statutory bodies outside the civil service framework could enhance efficiency and the flexibility in management. However, things have changed as time passed by. Not only the education level of the Hong Kong people has generally been raised, there have also been developments of representative government and the three-tiers of representative government are now directly elected by the public. Besides, while the Government has taken into account openness, responsibility and accountability when implementing its policies the public's consciousness of participation has also been greatly increased. As such, government by "the consensus of the elite" in the past can no longer fit in with the new political circumstances. If these advisory and

statutory bodies still adopt the covered up system of the colonial times, they will be reduced to "private clubs" of certain sectors. If that be the case, members of the public who are concerned with social affairs will have no choice but to express their opinions outside the establishment, or even express their dissatisfaction by challenging the establishment. Hong Kong is already proceeding along the road of democratization, we should be aware that the age of "consensus of the elite" is transcending into the age of "communal consensus". If representatives from a greater variety of classes and trades of the society are allowed to join such bodies, policies could be more rationally formulated while different needs of the various strata in the society could be catered for to a greater extent. All these would have a positive effect on the stable development of the society.

I will now analyze the problems of these bodies in terms of their representativeness, accountability and transparency and suggest directions for improvement.

1. *Representativeness*

At present, members of these advisory and statutory bodies (with the exception of the Labour Advisory Board) are appointed by the Governor. Since the Government has the power to "take its pick," it tends to appoint people with similar views to be members of these bodies for the sake of operational efficiency and convenience. Unless the Government is under substantial political pressure, people whose views are not in line with that of the Government will probably be excluded. A recent example is the Housing Inspection Committee. Under such circumstances, the opinions of these bodies will inevitably be biased and inclined towards the Government. A maxim for good management says — "listen to both sides and you will be enlightened; pay heed to only one side and you will be benighted". In order to ensure that the policies formulated are in the interests of the public, the Government should solicit opinions from all parties concerned. However, as most of the members of the existing advisory and statutory bodies are professionals or businessmen, the opinions of the grassroots are neither given appropriate attention nor suitably reflected.

Last week, the Hong Kong Association for Democracy and People's Livelihood (ADPL) has carried out a survey on the representativeness of the advisory and statutory bodies and has successfully interviewed more than 500 members of the public who are above the age of 18. Among the interviewees

who have heard about the advisory bodies and were willing to express their opinions, 65% were of the opinion that these bodies were not representative enough, while 80% of them believed that their representativeness should be enhanced. These findings have thus shown that a review on these bodies is imperative.

2. *Accountability*

The composition of these advisory and statutory bodies has determined the extent of their accountability. Since members are appointed by the Government, they are naturally accountable to the Government and not to the public. Although the Legislative Council can monitor the Government's operation on behalf of the public, these bodies are not government departments and are therefore constitutionally beyond the control of the Legislative Council. Although the Legislative Council can still make use of its power to approve appropriation of funds to monitor these advisory and statutory bodies, it cannot do anything about those which are financially independent (the Housing Authority is one such example). The degree of freedom these bodies enjoy is far greater than that of the government departments which are closely monitored by the Legislative Council, no wonder they are referred to as "independent domains" by some members of the community.

3. *Transparency*

If the public do not have any channel to learn about the issues under discussion in these advisory and statutory bodies or to have access to the relevant information and papers, it is absolutely impossible for the public to monitor them. At present, the number of advisory bodies is approaching 300, but only a little more than 140 of them conduct open or partly open sessions, most of which are meetings of area committees and district boards. On the other hand, only about 190 of these bodies allow public access to their information and materials; and there are only 21 which would have their annual reports published. Working behind closed doors to such an extent has undoubtedly deprived the public of their right of access to such issues and contradicted the principle of freedom to discuss and participate in public affairs in a democratic society.

Since the advisory and statutory bodies have the above-mentioned short-comings, they should be reviewed and reformed without delay. In order to enhance the representativeness, accountability and transparency of these bodies,

the ADPL suggests that:

1. The Governor should aptly appoint more members of the three-tiers of representative government as well as the grassroot representatives to such bodies so as to enhance their representativeness;
2. The Administration should require these bodies to openly disclose all their meetings and papers to the public except information concerned is classified as confidential or sensitive in nature. Besides, the advisory committees should also be required to publish annual reports to give the public an account of their work; and
3. These bodies should be more closely monitored by the Legislative Council.

Some people might worry that to review and reform these bodies would bring about changes to the existing executive-led political framework, politicize such bodies and would thereby slow down their operation. However, the ADPL believes that even if the above-mentioned reforms were being made to these bodies, the executive-led system will not be affected in anyway, for the power to appoint members is still in the hands of the Governor, while the Government still enjoys the power to decide whether it will adopt the advice and proposals made by these bodies.

As regards the criticism of politicization, to those who make such an allegation, I would like to ask: Are businessmen and professionals in and out politically neutral, and they do not represent the interests of any party at all? If businessmen and professionals could have representatives appointed to important positions in these bodies, why could the grassroot level not have their appropriate representative to reflect their opinions? It is really unreasonable to sacrifice the interests of the grassroot level for efficiency and administrative convenience. Besides, when the representativeness and transparency of these bodies are enhanced, different opinions could then be reflected to and considered by the bodies concerned, and policies could then be formulated with more emphasis on the interests of the public. In that case not only could the credibility of these bodies be improved, policies could also be implemented more smoothly.

The Government may have different views in respect of the proposal to disclose all meetings and papers to the public. It would perhaps argue that the

papers to which some committees and bodies have access are confidential and sensitive in nature, or that opening up the proceedings of meetings to the public may hinder members from giving frank opinions. Yet, to the ADPL, these reason are flimsy. If these committees and bodies have to deal with information which is confidential and sensitive in nature, they can then hold the meetings concerned in camera. But for the rest of their meetings, they should be kept open to the public as far as possible. I think it is unnecessary to worry about the possibility that members may refrain from speaking freely if meetings were made open to the public. Since there is freedom of speech in Hong Kong, there are equal expression opportunities for all kinds of opinions. Besides, the public has learnt to accommodate and respect views that are not in line with their own. At present, the meetings of the three-tiers of representative government are open to the public, but we do not see any members who have been affected by the open sessions and who would be afraid to express their views. We can still witness a contention of a multiplicity school of thoughts during such meetings which is a healthy situation.

It is necessary to take the proper actions which conforms with the development of democracy. The ADPL urges the Government to seriously review the present roles and functions of the advisory and statutory bodies and to adopt effective measures to enhance their representativeness and transparency so as to fit in with the present development of the political system towards openness and accountability to the public.

With these remarks, I propose the motion.

Question on the motion proposed.

PRESIDENT: Mr IP Kwok-him 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.

Council shall debate the motion and the amendment together in a joint debate. I now call on Mr IP Kwok-him 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 IP KWOK-HIM's amendment to MR BRUCE LIU's motion:

"To delete "major" and "(such as the Labour Advisory Board, the Transport Advisory Committee and the Social Welfare Advisory Committee)"; and to delete "(such as the Housing Authority and the Hospital Authority), and to adopt appropriate measures" and substitute with ",conduct extensive consultation exercise targeted at specific bodies and formulate an overall policy on the establishment of advisory bodies by the executive authorities, so as"."

MR IP KWOK-HIM (in Cantonese): Mr President, I move that Mr Bruce LIU's motion be amended as set out under my name on the Order Paper.

At present, the number of advisory and statutory bodies in Hong Kong is approaching 300. Their role is to offer proposals to the Government on issues in a diversity of perspectives and areas as well as to reflect and convey to the Government the interests and demands of the general public, with a view to ensuring that the policy-making process does not proceed behind closed doors or depart from the general public.

Article 65 of the Basic Law stated that "the previous system of establishing statutory bodies by the executive authorities shall be maintained." In this connection, this hitherto effective system of advisory bodies will remain a part of the government of the Special Administration Region after 1997. We note that there have been some changes in the roles and functions of these advisory bodies in recent years. Many government policies were already presented to the Legislative Council for consideration before any public consultation and discussion with concerned statutory bodies have been conducted. In view of such new situation and new development, the Democratic Alliance for the Betterment of Hong Kong (DAB) is of the view that the Government should now conduct a review on the existing advisory and statutory bodies, so as to enable these bodies to perform their roles and functions more effectively.

Mr President, in order to achieve good results in this review, we should first identify clearly the roles played by these advisory and statutory bodies under the Government's constitutional framework. In general, advisory and statutory bodies are set up to: (1) exclusively canvass public opinions on government

policies; (2) advice the Government on individual policy and serve as the "think tank" for individual policy branch; (3) exercise certain administrative powers on behalf of the Government; and (4) perform arbitration and monitoring works for the Government. All advisory bodies, no matter what functions they perform, are a part of the executive-led Government, their establishment and appointment of members should always rest with the executive machinery.

Mr President, I move an amendment to the motion of the Honourable Bruce LIU today because the scope of the review that Mr LIU's motion called for is far too limited. The DAB thinks that the review to be conducted must be integral and comprehensive. Since different advisory bodies and statutory bodies would have different functions — some involve matters of territory-wide nature and some involve professional matters — it is necessary to target at specific bodies with related scope of responsibilities in the course of the review and conduct extensive consultation to collect views from various sectors. Mr LIU has recently tabled a Member's Bill calling for the appointment of more elected Members of this Council to the Housing Authority. The DAB has reservations about this proposal. The role of the Legislative Council is to monitor the operation of the Government. If there are any administrative deficiencies and irregularities on the part of the Government and the advisory bodies, Members of this Council will have to play their role as monitors of the Government and give their comments or suggestions with a view to rectifying the mistakes. As such, the DAB has reservations about direct participation by too many Members in the statutory bodies which are responsible for policy formulation and performance of specific duties, for this would mean that Members have to discharge executive and monitoring functions concurrently and thus render their roles confusing.

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

Question on the amendment proposed.

MR AMBROSE LAU (in Cantonese): Mr President, in the past decade, an extensive advisory framework has already been established in Hong Kong. Under this framework, advisory committees corresponding to different policy areas have also been set up. These committees comprise not only government officials but also learned members of various sectors in the society who wish to contribute their specialized and professional advice to the Government.

Through these advisory bodies the Government could tap on professional advice from elites of various sectors and trades as reference for decision making. This system has been functioning so effectively over the years that it has become a major feature of the political system of Hong Kong. For this reason, the Basic Law recognized the system of advisory bodies and provided under Article 65 that "the previous system of establishing advisory bodies by the executive authorities shall be maintained." However, since the introduction of representative government, the system of advisory bodies has been subject to considerable setbacks. The Government has apparently brought certain characteristics of representative government to the system of advisory bodies, thus entailing to a certain extent changes in the roles and functions of the advisory bodies. In view of this, the Hong Kong Progressive Alliance believes that the roles and functions of advisory committees need to be clarified from three different aspects.

Firstly, should members of advisory committees participate in the capacity as an individual or as a representative of the organizations or political parties they belong to? Judging from previous practices, members of advisory committees are mostly persons of representative of the sectors which come under the terms of reference of the committees concerned. They contributed their time and expertise to offer advice to the Government. Therefore, as a matter of course, these members should join the committees in the capacity as an individual.

Secondly, are these committees purely advisory in nature or should they be empowered to make decisions? Initially, the purpose of the Government in setting up advisory committees was to collect opinions outside the executive framework, the advisory committees did not have a say in the final decisions on policies. However, with the introduction of representative government, the resolutions made by some major advisory bodies were after extensive media coverage being taken as policies introduced by the Government. Some people have started to believe that advisory committees should no longer be advisory in nature, and instead, they should be empowered to make decisions. However, under a executive-led political system, advisory committees obviously should not be transformed into policy-making bodies.

Thirdly, should advisory committees be responsible to the Government or should they be accountable to members of the public? This involves the questions of accountability and transparency of advisory committees.

Without affecting the generality of their effective operation and functions, advisory committee should provide sufficient transparency to such an extent that members of the public will be able to understand their work. As to the question of accountability, we have to take into consideration the fact that the power to make decision rests with the Government and that it is government officials who will be held responsible for any irregularity in policies. Therefore, members of advisory committees should be accountable to the Government which, in turn, is accountable to members of the public. If we demand that members of advisory committees be accountable to the public, that the transparency of these bodies be enhanced, and that the details of discussion as well as members' views be made public, members of the advisory committees will then be subject to unnecessary public pressure as well as political pressure coming from all sides of the community. Under such circumstances, they will not be able to speak with no reservation from their professional and technical knowledge and experience in an impartial and fair manner, thus defeating the advisory committees' purpose of giving valuable advice to the Government.

Mr President, I so submit.

MR ALLEN LEE (in Cantonese): Mr President, when formulating or amending policies, the Government will consult relevant advisory bodies for their advice. As for advisory bodies, they are even entrusted with the power to determine and implement policies. If their accountability, representativeness and transparency could be enhanced, these bodies could certainly formulate policies that are more beneficial to the public. For this reason, the Liberal Party supports this motion.

Regrettably, I found that a great majority of sub-committees set up under the advisory and statutory bodies conduct meetings behind closed doors and do not welcome media coverage. Some even refuse to make public their agendas, and would, at best, only give brief accounts of the resolutions made in post-meeting press briefings. In present-day Hong Kong which is characterized by openness, this practice is apparently outdated. While all sittings of the Legislative Council are open sessions in which public attendance is welcomed, these bodies conversely reject media coverage on their discussions concerning issues which are closely related to the public. I believe this practice warrants review and deliberation.

Mr President, I believe that the main purpose of the Government in setting up these advisory and statutory bodies is to hope that during its policy-making process, there will be a responsible institution with both expertise and general

representativeness which will genuinely consult the public and reflect their opinions, so that the policies it formulates will be acceptable and recognized by the general public. Anyhow, it is our hope that all members of these bodies are appointed under fair and open circumstances and that they will reflect their opinions to the advisory committees in an honest and impartial manner.

Regarding the amendment of the Honourable IP Kwok-him, we are of the view that an executive-led system is the policy that the Administration has consistently been using to govern Hong Kong. Judging from the stability of the Hong Kong Government and the effectiveness it has attained in the implementation of policies over the past decades, this strategy is remarkably successful. Therefore, the Liberal Party supports the Hong Kong Government in maintaining such a *modus operandi*. The advantage of the executive-led system is that unnecessary political rows can be avoided. Under this system, advisory committees are set up mainly to genuinely consult the public on policies proposed by the Government, to reflect promptly and directly the real situation in Hong Kong, and to strengthen the communication between the Government and the public so as to enable the formulation of reasonable policies. It is, therefore, worthwhile to maintain this hitherto effective and remarkably impressive strategy in governing Hong Kong.

I understand that some people mistakenly assume that members of an institution must be returned by election in order to enhance its representativeness. This misconception is easily comprehensible because a lot of people equate election with representativeness. I wish to point out that for any assembly responsible for discussing, considering and monitoring operations within the government framework, it is a matter of course that their members should be returned by election. However, if executive authorities or advisory bodies set up to formulate policies are to have their members returned by election, it will unnecessarily give rise to political wrangling, thus jeopardizing their efficiency and objective judgement. To prevent these bodies from being politicized while at the same time enhance their representativeness, the best possible way is to require the Government to explain in clear terms the criteria that it would consider when appointing members to these bodies and the qualifications required of these appointed members so that the public could make their assessments. In addition, meetings of these bodies should be conducted in public as far as possible, so as to enable members of the public to understand their operation.

Mr President, the Liberal Party profoundly believes that the executive-led system lays the foundation on which the social stability of Hong Kong is built.

For the advisory and statutory bodies set up under this system, insofar as accountability is concerned, the terms of reference of these bodies should be explicitly stated; where representativeness is concerned, representative agencies, organizations and personnels in the fields concerned should be incorporated extensively; and where transparency is concerned, these bodies be subject to public monitoring in accordance with the standard of openness and fairness. We believe that these are the foundations which enable the society to makes progress. If the Government of Hong Kong were to remain as one of the most effective administrative regimes in the world, the executive-led system must be retained. Advisory bodies set up under this system must also enhance their communication with the public in a variety of aspects and take vigorous steps to make improvements to various policies so that Hong Kong will continue to be a place where people can live and work in peace and contentment.

Mr President, with these remarks, I support the motion and the amendment.

MR LEE WING-TAT (in Cantonese): Mr President, the Green Paper on the reform of political system published in the 1980s and the Governor's political reform package introduced in 1993 triggered off widespread debates among the public in respect of the democratic development of Hong Kong's three-tier structure. However, no comprehensive review has ever been conducted on the operation of statutory bodies and advisory boards and committees. Today's debate is a good start.

Mr President, in the past, the Government used to devolve part of its policy-making and executive powers to some government-appointed statutory bodies for execution. It would also consult the relevant advisory boards and committees before making policy decisions. All that was done under the guise of respecting the opinions of the public or of enhancing the operational flexibility of these statutory bodies with a view to improving their efficiency. However, more importantly, the Government could make use of the decisions of these statutory bodies and advisory boards and committees to counteract the dissenting views of the Legislative Council grounded on public support. These statutory and advisory bodies were often used by the Government as "golden helmets" to resist the opinions of the Legislative Council and the public.

In addition, the Government does not have to be held responsible for the decisions made by these bodies, nor does it have to be accountable to the public or be held responsible for any mistake in policy. Of course, the above comments do not mean to say that statutory and advisory bodies do not have any role to play or cannot play a more positive role. However, the fact that their compositions are not well balanced and that their meetings are held in camera, coupled with insufficient information dissemination and infrequent public accountability, will easily turn these bodies into "stringed puppets" of the Government.

Take the four statutory bodies, namely, the Airport Authority (AA), the Mass Transit Railway Corporation (MTRC), the Kowloon-Canton Railway Corporation (KCRC) and the Hospital Authority as examples. The AA, the Board of the MTRC and the Managing Board of the KCRC have absolutely no representative at grassroot level. Among the 20-odd members in the Hospital Authority, only two are representatives from patients' organizations. The meetings of these four bodies are all held in camera. The only information available to the public is the material that has been screened by the relevant bodies. The Government always claims that these statutory bodies have balanced representation. This is mere self-deluding. Perhaps the term "balanced" is defined by the dictionary reserved exclusively for internal use in the Government as something that is under the control of the Government, the commercial and industrial sector and the senior echelon of the community. The very first step that these bodies should take to open themselves up is to conduct their meetings in public, and meetings are to be held in camera only when there are commercially sensitive items on the agenda. The two municipal Councils are statutory bodies and they are doing remarkably well in this respect. They hold meetings in public and meetings will only be held in camera when discussing confidential items. I also hope that these bodies would at least publicize the papers for public access after meetings and hold press briefings more frequently.

Mr President, within the newly-appointed membership to the Housing Authority (HA), it is obvious that there are more public representative and more grassroot members. However, in the past few years, the appointment of members to the HA were rather conservative. The apparent changes introduced this year are obviously responses to the Member's Bills introduced by the Honourable Mr Bruce LIU and myself seeking to reform the composition of the HA. It is unacceptable for measures to be taken only at times of emergency. What we need is a system, we do not want to have the will of the officials, to guarantee the balanced representation of these bodies. HA's recent "major

move" to cast a wider net in respect of the membership in fact testifies that the view long held by us is correct. If the HA and the Housing Branch hold that the composition of the HA has always been well balanced and well represented, then there is no need for them to make such major changes this year. Even so, the HA still has failed to open up itself and made itself accountable to the public. I have the following comments to make with respect to the further opening up of the HA:

- (i) All meetings of the Standing Committees under the HA should be conducted in public, only when tenders or sensitive items are involved could the meetings be held in camera. This can avoid the abusive classification of papers into a class that remains confidential.
- (ii) The information classification system of the HA should be reviewed comprehensively while papers submitted during meetings should be made public after meetings.
- (iii) The Chairman and the members of the HA should attend the meetings of the Housing Panel of the Legislative Council to answer Members' questions on major housing policies.

Of course, the most fundamental reform would be to replace the existing Governor appointed system by a system whereby the appointment list would have to be tabled in the Legislative Council and be approved. With a check and balance of powers, a balanced membership within the system could then be guaranteed in the HA while the inclusion of representatives from all walks of life could also be ensured.

Mr President, the Government and some members of the public as well as certain political parties allege that the requirement for the appointment lists of statutory bodies, such as the HA, to be endorsed by the Legislative Council is acting against the spirit of an executive-led government. In fact, I feel that they are "sticking labels indiscriminately on others" as a result of a lack of justifiable grounds for opposition. Is the submission of lists of public officers for endorsement by the Legislative Council essentially a politicized requirement and against an executive-led government? Article 90 of the Basic Law stipulates that "in the case of the appointment or removal of judges of the Court of Final Appeal and the Chief Judge of the High Court of the Hong Kong Special Administrative Region, the Chief Executive shall, obtain the endorsement of the Legislative Council....". At present, the appointment of the judges does not

have to obtain the approval of the Legislative Council by resolution, but according to the Basic Law, the appointment of judges of the Court of Final Appeal after 1997 will have to obtain the endorsement of the Legislature. According to the logic of the critics and the opponents, is the Basic Law politicizing the appointment of judges? Is the Basic Law turning the executive-led government upside down? I really hope that they would think twice before raising objections.

Mr President, we support the amendment moved by the Honourable IP Kwok-him. As a matter of fact, statutory body is one of the relevant components of our constitutional structure. Mr IP's proposal is to conduct a major review over these bodies. Of course, the Chinese side may object to the conduct of review over the constitutional structure or over any component thereof, but under the principle of "Hong Kong people ruling Hong Kong", all political parties should hold fast to their standpoint despite opposition from the Chinese side. All the more, I hope that the Democratic Alliance for Betterment of Hong Kong (DAB) will agree to the Democratic Party's proposal, which is to request the Government to publish a Green Paper on this part of our constitutional structure in order that views from the public could be solicited.

MR PAUL CHENG: Mr President, I agree with the call for the Government to review the roles and functions of Hong Kong's statutory and advisory bodies. Hong Kong as a community will benefit from more transparency, and more representation, in these organizations. And yet, while supporting the spirit of both the original motion as well as the amendment, I think it is important that we keep in mind the differences between statutory and advisory bodies and avoid lumping them together.

In my opinion, requiring the advisory bodies to become more accountable is to misinterpret their purpose and functions. These bodies offer advice on specialized subjects to the Government that it can either accept or ignore. This Council's involvement in the set-up and day-to-day operation of advisory bodies would be counter-productive for the following reasons:

1. It would introduce an unnecessary and burdensome new constraint on the operation of such bodies, thus reducing their effectiveness and value;

2. Many qualified individuals may be put off from joining these bodies, further diminishing their effectiveness; and
3. It may bring more political considerations into play, thereby raising questions as to the validity and independence of the advice provided.

By all means, make the work of advisory bodies more transparent, so we know about their recommendations and the rationale behind them, but do not straightjacket them by making them directly accountable to this Council.

Having said this about advisory bodies, however, I must make it clear that Hong Kong's statutory bodies are a different matter. I think the Legislative Council should play a greater role in the establishment and operations of statutory bodies, as well as in the appointments to such bodies. These organizations, often recipients of large amounts of public funding and charged with major decisions over public policy, must be accountable to the community. This Council's involvement would ensure that this is the case.

Mr President, with these qualifications, I have no problem supporting either the original motion or the amendment because I agree that an overall review should be conducted.

Thank you.

MR FREDERICK FUNG (in Cantonese): Mr President, on behalf of the Hong Kong Association for Democracy and People's Livelihood (ADPL), I will continue to present some of our views on the motion moved by the Honourable Bruce LIU. Moreover, I will speak specifically on the roles played by the Labour Advisory Board (LAB) and the Housing Authority (HA) and on their representativeness.

The Labour Advisory Board

I remember that the LAB was first established to provide a forum for the employers and employees to conduct consultation and discussions regarding labour policies, legislation, and to advise the Commissioner for Labour. At

present, the LAB consists of six labour representatives who are elected by various labour unions in a one man one vote manner. Over the years, the representatives elected have solely come from the leftist unions, the rightist unions and the civil service unions. On the other hand, the six representatives from the management side are elected by the major chambers of commerce in Hong Kong while the Commissioner for Labour or the Deputy Commissioner will assume the post of chairman.

Judging only from the above-mentioned composition, Members probably think that the LAB has considerable representativeness to enable it to play a rather important role in consulting labour policies. However, I think that it is far from the true picture.

First of all, at present the chairman of the LAB is a government official. He may not be able to respect the views of the labour representatives. More importantly, the agenda of the LAB discussion is decided by the Government, and the LAB itself has absolutely no right to take the initiative to propose any agenda for discussion. For example, some LAB members have wished to discuss the labour importation schemes in the LAB's meetings earlier but the proposal was refused by the Government.

On the one hand, the LAB is subject to restrictions as far as the agenda is concerned and, on the other, the Government always has a tacit understanding with the management side. As long as certain policies have "solicited the same response" from the Government and the management, it will tantamount to reaching a consensus in the LAB. Without the support and nodding of the management, the Government will not accept relevant proposals or suggestions. In other words, although each of the management side and the labour side has six representatives, the management and the Government have all along been playing the leading role in the LAB. In the past, the Government often said the LAB had reached certain consensus, but in fact the so-called consensus is sometimes not a real consensus as the LAB has probably not been able to truly reach any agreement with the labour side. A good example is the Protection of Wages on Insolvency Ordinance which was discussed in this Council in January. Throughout the discussion, the views of the labour representatives were not fully considered and respected, but the conclusion drawn was that the LAB had reached a consensus. Although the ceiling of compensation proposed by some Members at that time would not increase the burden of employers, the Government and the management were still reluctant to make changes or improvement to the rights and welfare of employees. This shows that the

representativeness of the LAB and its sincerity in improving labour policies are not adequate. Under various restrictions, the LAB is unable to truly play the role of conducting consultation and discussing labour policies. Its accountability and transparency are also limited.

The progress of legislation in Hong Kong relating to labour interests has hitherto been slow. The Government's policy has always been to move one step forward only when being pushed once. It seems that the role played by the LAB so far is merely to recognize certain policies and discuss them in a restrictive manner.

All in all, the so-called management and labour consultative system advocated by the Government has never made itself popular in Hong Kong. What is more, the Government has not seriously dealt with the necessary changes in the roles of the LAB and other advisory bodies to correspond with the pace of democratization of the Hong Kong society.

Both the ADPL and I consider that, as an advisory body of the Government, the LAB should play an important role, and its position should not be replaced by this Council. The Government should review the operations, roles and representativeness of advisory bodies such as the LAB. For example, both the management and the labour representatives of the LAB should have the right to propose agendas; domination by government officials in the LAB should be reduced; the number of the management and labour representatives should be increased so that representatives of unions holding different views could join the LAB and have to the LAB's role and terms of reference upgraded, and so on. All these will enable the collective mechanism of employer-employee negotiation to operate in a more mature manner. Apart from this, before formulating any labour policy, the Government should fully consult both the management and labour sides as well as various political parties for their views and have a good grasp of the opinions collected. For instance, the Government can arrange for members of the LAB to attend meetings of the Manpower Panel of this Council on a regular basis to enhance the communication between the LAB and this Council. I believe these changes can really make consultation possible prior to deciding on policies.

The Housing Authority

In a bid to amend the Housing Ordinance, Mr Bruce LIU from the ADPL

and Mr LEE Wing-tat from the Democratic Party submitted a Member's Bill respectively to this Council recently. However, the HA took a series of actions over the past month, and I feel that the actions are aiming to relieve the pressure exerted by Members on the HA.

First of all, in March this year, the HA issued to its members a paper aiming to increase its openness and accountability. The specific measures introduced include holding annual meetings; exchanging views on housing policies and issues with members of the three-tier representative government; increasing the frequency of visiting housing estates and private buildings by members in order to have a good grasp of public feeling; and making open the discussion papers of the HA for public inspection. Yet, I think the HA smacks of cheating others as well as itself if it considers that these measures are adequate. Firstly, the so-called regular open meetings, are merely referring to the annual meetings and quarterly meetings, which are held four to five times a year. As housing policies are subject to changes from time to time, the exchange of views between such a large number of members and the HA should not be confined to an hour or so when they can only gather together to express their own views without having any discussions or debates and yet say that exchange of views has already been done. This can hardly produce any supervisory or monitoring effect. Secondly, during official visits to housing estates, what Members usually see is the bright side of the estates which looks very much like a "prototype". If HA members wish to have a good grasp of public feeling, they should make more visits "in plain-clothes" instead of spending so much time on social activities. As regards making the papers open to the public, the HA should have done it long ago. In view of these, I think the measures taken by the HA to increase its openness and accountability are far from adequate and the measures adopted are of a very low level too.

Another relatively obvious change of the HA is the expansion of its appointed members from 25 to 32 last month. However, the increase in the number of appointed members is not tantamount to having a balanced development in policy discussion. It is because, after all, according to the existing appointment system, the Governor has the absolute power to appoint anyone. However, the Governor himself is only a representative of the British Government and he lacks acceptability by the public. Therefore, we consider that unless the future Chief Executive is returned by one man, one vote election, and the boards and committees under him are indirectly monitored by the public, otherwise this Council, as an assembly wholly returned by election, should have

a certain degree of supervisory authority on the various boards and committees of the Government. In this respect, the HA is a very obvious example. I hope that we can review this system at this time.

With these remarks, I support the motion.

MR ALBERT HO (in Cantonese): Mr President, just now I have listened very attentively to the speeches made by several of my colleagues in this Council. They respectively represent different political parties in stating their position. As a whole, we have reached some basic consensus, that is to say, all of us are in support of a comprehensive review. I believe even the Honourable IP Kwok-him, who puts forth the amendment, agrees that a report should be prepared after the completion of the review and public consultation should be conducted. With this spirit, therefore, we will support the motion and its amendments.

Just now, it seems that several of my colleagues generally agree that in light of the increasing openness of society nowadays and the tendency of institutions to democratize, those statutory and advisory bodies that are in authority should increase their transparency, accountability as well as the representativeness of their composition. Nevertheless, I notice that there are also some varying views. The major differences are, firstly, as far as accountability is concerned, the line drawn by Mr IP Kwok-him is that the executive-led Administration must not be challenged. As regards representativeness, the Honourable Allen LEE holds that not only those members who were elected have representativeness. As a matter of fact, what is meant by representativeness? This is a controversial issue indeed. Besides, there are some Members who mentioned that political tussles should not be extended to statutory bodies. I believe from these few focuses, we can see the dissident views we have in today's debate.

The Democratic Party holds that in carrying out reforms, those advisory and statutory bodies in authority must follow the course we have just mentioned, that is to say to enhance transparency, accountability and representativeness of their membership. Of course, I very much agree with the Honourable Paul CHENG in saying that the situation might be different if the bodies concerned are purely advisory in nature. What I said just now is mainly targeted at some of the bodies which are vested with authority.

First of all, as far as transparency is concerned, the manner in which many statutory and advisory bodies discuss their business really gives people the impression that black-box operations are in progress and that such bodies are divorced from the reality and acting blindly. Of course, we understand that different bodies have different roles and it would be more advantageous for discussions to be conducted behind closed doors under certain circumstances. Nevertheless, I think Members agree that the direction we should follow is to, under ordinary circumstances, have the meetings opened to the public to allow the general public, the mass media and interested organizations to attend so as to achieve a monitoring effect, and this is worth doing too.

I would like to propose some specific criteria here to state under what circumstances should statutory and advisory bodies hold meetings in camera. Firstly, when involving commercial decisions and commercial confidentiality would be affected; secondly, when involving the appointment, dismissal, transfer, promotion or punishment of staff, that is to say, the administrative problems of these bodies are involved; and thirdly, redress cases or handling of appeals are involved. We agree that under the above-mentioned circumstances, meetings may be held behind closed doors. But if meetings were to be held in camera under other circumstances, we have to be convinced that the meetings are so held out of the consideration of public interests. Therefore, we should not accept the holding of meetings in camera as a general practice.

Secondly, insofar as accountability is concerned, we think that all institutions that are vested with authority, especially their persons-in-charge, should, like the policy secretaries or departmental staff of the Government, submit papers to the relevant panels of this Council and attend meetings to answer questions when formulating policies. As far as I understand, the existing legislation and Standing Orders have made no provision requiring these statutory bodies to send representatives to attend the meetings of this Council. Instead, they are merely being invited to attend the meetings, and it will be up to them to decide whether to attend the meetings or not. But I hope this can be turned into a legal obligation. Apart from this, in formulating future plans and estimates, they should also hold open consultations and give submissions to this Council for discussion. Like government departments, they should also be subject to the supervision of the Commissioner for Administrative Complaints and the Director of Audit. Generally speaking, the Prevention of Bribery Ordinance should also be applicable to these bodies. The Government should consider requiring individual bodies to publish the agreements and performance pledges they draw up every year and list out their services and attainable targets in their annual reports. They should also be required to prepare the relevant

information for public reference.

Mr President, the most controversial issue is the representativeness of these bodies. As the Democratic Party holds that the representativeness of statutory bodies is of paramount importance, relevant organizations should be allowed to nominate representatives to join these bodies. The recently introduced Legal Aid Service Council Bill, for instance, has set a precedent for allowing relevant bodies to nominate representatives into the Council, and the finalized list should be able to gain the approval of this Council. In my opinion, only in so doing can we give expression to having the executive accountable to the legislature, instead of having the legislature challenging the executive-led administration. Of course, advisory bodies may deal with the matters in a more flexible manner. But I still consider that various service organizations should be consulted as far as possible for the purpose of electing representatives.

Finally, it is my view that political parties should also play a certain role instead of refusing to let their members join these bodies on the ground that the admission of political parties in such bodies would pose challenges to the executive establishment.

These are my remarks.

DR LEONG CHE-HUNG: Mr President, I would first like to declare my interest as a member of a few of these indicated advisory and statutory bodies, and it is exactly with the experience of serving these bodies for quite a few years that I would be expressing my views.

Firstly, I have to say that many of these bodies do have inherent problems for which I would join the call for a review of their functions and role.

Playing a role of rubber stamp or scapegoat

By experience, many of us who have sat in advisory bodies do often times feel that many of these bodies are just "rubber stamping" bodies. Agendas are set by the Administration and papers are so prepared to project only the angle that the Government would like members to visualize. There are examples where the chairmen of some of these advisory bodies are not even allowed to alter, let alone set, agendas.

For years, Mr President, I personally have been calling for an independent

secretariat for some of these bodies so that data and research could be done to give members an in-depth look of the other side of things that the Administration would purposefully or otherwise hide to achieve its aim. As a rubber-stamping body, knowing only a part of their argument, members of these bodies are just scapegoats when the Government comes under political pressure. "We have already sought advice of the community" would be the Government's usual defence.

Many statutory bodies are not given a proper role. Others are given a role but the goal posts are constructed according to the needs, the requirements or, to put it crudely, the pleasure of, the Government.

Hospital Authority as a typical example

Take the Hospital Authority (HA) as an example. The role of the HA perceived is to manage the public hospitals to the satisfaction of the public and the staff within a budget comparable to as if the HA did not exist. Members of the then Provisional Hospital Authority worked hard on it, basing on the principle of cost comparability, to produce a package that would retain, recruit and stimulate staff to provide the best for patient care. The ultra hard work of the board members amounting sometimes to six to seven meetings a week bore fruit. Public confidence and sentiments are high, at least up till now. Even very senior civil servants are quietly telling me how good the service is.

Obviously, the Government sees now it is the time to move the goal posts — achieving cost comparability is not enough. HA staff must also abide by housing benefit and double benefit control even though you are saving money. The ideology of board members are shattered, their unstinted effort in providing a successful hospital service is water under the bridge. What is the role of the HA? What is the role of board members? Why should they work so hard for the Government — they would ask?

Mr President, this morning, there were reports of the Executive Council's decision in principle to establish a new salary and benefit package for new recruits of the HA. The reports also stress that any decision of the Executive Council could be construed as final and it is a matter of when the action would be taken forward. In short, a decision by the Administration has been made. Yet, yesterday the HA Board was only hinted by government members that the Government is suggesting such a change, and that the HA Board would be given

more information, and the Government will be awaiting the HA Board's deliberation.

If the media reports are true, then Mr President, the Government has sold the HA down the river. It has made a mockery out of the HA and the HA is obviously led to become the scapegoat, to bear the brunt of objecting staff through no fault of their own. Maybe it is the actual role of the HA or perhaps any statutory body, or is it not? The Government has a lot to answer.

Representativeness net cast not wide enough

Let us look at another fallacy of the government system. There are now reported over 300 such advisory and statutory bodies. Each, I must say, is a good training ground for the public and non-civil servants to have a chance of a glimpse into certain aspects of the government system and learn as it was the intricacy of the Government. It is therefore good training grounds for the concept of Hong Kong people ruling Hong Kong.

Yet, regrettably it is usually the same group of people who are appointed to one such body who will be appointed to the next. The net is therefore not cast wide enough to recruit the many *creme de la creme* that the community may have in reserve.

The same accusing finger has to be pointed towards our next sovereign when the same people are appointed to the National People's Congress, the Chinese People's Political Consultative Conference, the Hong Kong Advisors and so on and so forth.

Transparency vital for monitoring accountability

The second aspect of the motion is on measures to improve accountability, representativeness and transparency of these bodies and their members.

The spirit of this, Mr President, is something any democratic institution cannot deny. It is imperative, therefore, that the Government must seriously look ahead and devise measures so that such could be achieved.

Take representativeness as an example. This could be achieved through the Government explaining in detail the reasons behind the appointment of each individual into these bodies. It could also be achieved by the Government

selecting from nominees of a representative professional body, for example. Some will no doubt and some have already called for elections to come up with the membership. But who should be the candidate of these elections. Should it be the elected leaders of society, or should it be the candidates from all over the territory from those who are interested?

The questions of course will be: Do the elected persons sitting on specific boards have the expertise? Will the boards be politicized and therefore hamper progress?

As such, Mr President, while I agree to a more representative base of these bodies, I do have reservations on adopting an election procedure for membership into these bodies. In the same way, I do have my reservation on fixed appointments of directly elected legislators to these bodies. Other than just basing on representativeness, Mr President, in these days of open government, it is imperative that each and every citizen should have the right to know what is happening and to monitor the performance, not only of these advisory bodies, but also members of these bodies. On such basis, I do call for open meetings of these bodies, so that the public could see that there is no hidden agenda and at the same time, the performance and the accountability of each member, no matter how they attain their membership, could not escape the watchful eyes of the public. Thank you.

MR YAM SIN-LING (in Cantonese): Mr President, on 24 April, I queried the Government in the form of an oral question about the criteria governing recommendations to the Governor on the appointment of unofficial members to various committees, boards and advisory committees. I was not satisfied with the Government's reply because I thought it lacked substance and simply attempted to gloss over the question. In a supplementary question, I asked the Government whether it could provide this Council with the reasons for appointments after the appointments concerned had been formally made. The Government consequently replied that information related to appointed persons belonged to the category of personal particulars, which should only be discussed internally and should not be made public. However, we do not really need to know the strictly personal particulars of appointed persons. For instance, when the Government appoints an architect to the Housing Authority, all we need to know is the kind of experience this architect has — whether, for example, his experience is related to public housing construction, or to working for private property developers. All we require is such kind of information.

Therefore, I basically agree that policy regulation should be established. I do not mean the formulation of a blanket policy, I only think that separate policies applicable to individual policy branches and departments should be formulated. Such policies should specify clearly how individual policy branches and departments are to set up advisory bodies. The way how members are appointed should be made public so that Legislative Council Members can be acquainted with the reasons for appointment, and the factors considered when working out the composition of the committees concerned as well as the government officials who took part in making the decisions. In fact, the meetings of most of these committees are held behind closed doors. That being the case, members of the public, and even we Legislative Council Members, have no way of knowing the issues discussed. For this reason, we hope to have a more in-depth understanding of the appointment of members to these committees.

The Honourable CHOY Kan-pui, the Honourable LEE Wing-tat and the mover of the motion today, the Honourable Bruce LIU, have expressed great concern over these advisory bodies. Why are so many Legislative Council Members and members of the public so concerned about this issue? Does this mean that these committees have functioned poorly, and have low transparency and inadequate representativeness? I think there is no need for me to explain any further, members will know the answer! The old system of appointed membership based on government officials' subjective views is behind the times and runs counter to the trend toward democracy. The Hong Kong Government's practice of collecting the views of the elites was suitable only in the former times when public opinions were suppressed or when channels for voicing views were inadequate. It was a time when a middleman was required to narrow the gap between the public and the executive-led colonial government. Yet, all that could be achieved normally was just a "narrowing of the gap" between the two sides instead of an "integration" of their opinions. Nowadays, however, Hong Kong can no longer refrain from following the worldwide trend toward democracy, which emphasizes on the interests of the people and the significance of widespread public consultation. Certainly, we do believe that the Hong Kong Government has the sincerity to consult widely and listen to as many opinions as possible. However, through the operation of advisory bodies and the limitations imposed by their appointed membership, the Government still seeks to ensure that the subjective views of its executive arms can prevail over public opinions more easily. Therefore, we strongly urge the Government to consider a wider spectrum of opinions when appointing members of advisory

bodies. It is also urged to refrain from window-dressing and from making pretences of responding to public opinions. In the case of the Labour Advisory Board (LAB), for example, the Government is ostensibly being fair as the labour side and the employers' side are each given six seats the LAB. However, of the six members on each side, one is appointed by the Government. Therefore, the labour side may well have only five votes out of the total of 12 votes in meetings. Besides, of the five members on the labour side, two are representatives of civil servants who may only be indirectly affected by the general labour rights in the private sector because they are employed by the Government under special employment contracts and terms and conditions. That being the case, the labour side may only have three direct votes and two indirect votes out of the five votes. A composition as such cannot adequately reflect the opinions of workers. This imbalance in the composition is purposely created by the Government and in so doing, the Government seems to be misleading members of the public.

With regard to the Hospital Authority (HA), some 75% of its members belong to the high income brackets in society. Can they appreciate the hardship of the masses? The Government may think that these wealthy businessmen or professionals who have experience in managing major industrial and commercial concerns can bring about higher administrative efficiency, better deployment of human resources and more effective utilization of resources to the HA. But, how does it really work out? Just a few days ago, a staff organization of the HA spent more than \$10,000 on its own on taking out a newspaper advertisement which alleged that "the HA is not choosing the right people to fill its posts", and that there is "a proliferation of waste" and "poor management". The most alarming of all is the allegation that "the HA's expenditure is four times higher than that of the former Medical and Health Department". It is precisely the establishment of the HA that has led Members of this Council to reproach the Government for its seeming attempts to conceal some "all-too-apparent" truth. This is, indeed, the best example to illustrate that the system of appointed membership for advisory or statutory bodies based on the subjective views of government officials will involve a certain degree of risk. This is also the case for certain comparatively authoritarian states. While these states have made remarkable economic achievements, their people still do not support authoritarian political regimes because they feel that democracy can offer better assurances. If the Hong Kong Government can appoint more representatives from among the populace to these bodies, these bodies will certainly have more channels to collect opinions, and can thus respond to the needs of the people more promptly and be subject to more thorough supervision.

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

MR ERIC LI (in Cantonese): Mr President, I have served as a member in many advisory bodies of the Government. Although I have not done any serious counting, I believe I should have served on almost 30 of them. Since I am the Chairman of the Social Welfare Advisory Committee, which is one of the bodies referred to in the motion today, I asked Mr President whether there would be any conflict of interests on my part. And, the direction I received is "no". Therefore, I can still speak and vote on this motion. In the debate today, many Members have mentioned the need to review the various advisory bodies. Since they have referred to the advisory committee which I chair, I think I have to say something, lest people may think that the present condition of the Social Welfare Advisory Committee is so poor that substantial reforms have to be introduced before it can function satisfactorily.

When I accepted the appointment offer, one of the first Government officials to contact me was Mrs Elizabeth WONG, who is also present here today. I believe she can still remember that when she contacted me, I stated very clearly to her that if I assumed the chairmanship, I would definitely continue to adopt an independent stance in relation to all issues raised by the Government for discussion, and that I would make decisions according to my opinion and those of the committee, instead of simply accepting whatever papers handed to us by the Government. Mrs WONG readily accepted this view of mine. I have served as the Chairman of the Committee for four years, and have been dealing with the Government on a basis of mutual respect. Over the years, the Social Welfare Advisory Committee made many decisions which were different from those of the Government, yet, despite our amendments, reservations or even refusal to render support, the Government has respected our opinions. Of course, the Government's respect for our opinions does not mean that the Government would accept whatever we say. Very often, the Government simply does not accept our opinions and would not incorporate our opinions in its decisions. Therefore, it is somewhat exaggerating to say that we are vested with very great authority. In fact, very often, the Government does not adopt the proposals we have made or chooses not to implement them immediately. However, in relation to agendas, it cannot be said that there is a total lack of transparency or members' input. The Committee would welcome suggestions on agenda items from any members and there is no question of total Government

control in this respect. In the past, there were times when we added to the agenda items of ourselves and held discussions on the agendas. I think all members enjoy this right of freedom.

As regards transparency, after an agenda has been prepared, we will give clear instructions to the Information Officers concerned that it can be released to the public. I will meet reporters in less than five minutes after the Committee has reached a decision and would disclose every detail related to the decision. I will even brief the media very thoroughly on the papers handed to us by the Government (except those which are classified as confidential).

Concerning representativeness, in its last term of office, the Committee was composed of five Legislative Council Members from the major political parties: the Democratic Party, the then Meeting Point, the Liberal Party and the Democratic Alliance for the Betterment of Hong Kong. At present, the Committee also comprises three Legislative Council Members who are either directly elected or indirectly elected. I can say that I support very strongly the participation of Legislative Council Members in advisory bodies. In quite a number of motion debates held during the last Legislative Council session, I have also encouraged and invited the Government to appoint more Legislative Council Members to the major advisory bodies.

Besides, we need not worry too much about the problem of political tussling. In the Social Welfare Advisory Committee and other committees in which I have served or even chaired, there has been no obvious political tussling in their operation. It would do not harm and there will be no problem for each member to make known his or her stance. Anyway, our conclusions will be more on the side of professional advice because this is more useful to the Government. However, does this mean that members of the political parties are therefore gagged? Definitely not. Dr the Honourable YEUNG Sum and the Honourable LAW Chi-kwong are members of the Social Welfare Advisory Committee and we respect their right to free expression. They can express their personal opinions and the opinions of their party in the meetings of the relevant panels of the Legislative Council. The conclusions reached by the advisory committee cannot restrict them in any way. To say that the advisory committee is a "killer helmet" is much exaggerating.

As regards accountability, although I am not elected by the public, I often receive many letters or other materials before and after almost every meeting of

the advisory committee. Besides, many organizations would approach me and if time allows, I would meet them. If I have done anything wrong, some organizations will question me in public and I am always willing to accept such questioning. Although sometimes I feel that I have been wrongly reproved, I am still prepared to face the criticisms. I believe that one cannot say it is excessive that a public figure should face criticisms of all kinds.

However, if the role of advisory committees which offer professional advice based on individual expertise were all turned into politicized opinions, and if representativeness, on its very mention, is the type of representativeness brought about by voting and elections, or that accountability only comes about from elections and votings, with the consequent expression of increasing politicized views, and then to say that these are signs of progress, I would not dare to concur. While I think there should be evolution, the exact extent of evolution is a matter of individual judgement. At present, advisory committees are certainly playing the role as a component of the administrative establishment which enables the Government to listen to various expert advice before formulating its policies. These experts have the right to speak but no right to decision-making. Mr Paul CHENG is right in saying that committees which are advisory in nature are very different from statutory bodies. Very often, statutory bodies are restricted by the Independent Commission Against Corruption, the need to observe conflicts of interests and their internal regulations, while advisory committees are not.

I agree that a review should be conducted. Since I believe that not all the 400 advisory committees have reached the current stage of development of the Social Welfare Advisory Committee, it will be a good thing if they can all have a uniform image or a more definite positioning. However, with regard to all the major reforms mentioned by the Members who spoke just now, I would not give my support. I am especially against the proposals that the executive should share its powers in this respect with the legislature and that the Legislative Council should send people to monitor the work of the advisory system or the government departments. I think it is undesirable to have an overlapping of the roles of the legislature and the executive. Since the amendment is comparatively safer, I would support the Honourable IP Kwok-him's amendment. I am against the original motion, but this does not mean that I would support all the proposals made by the Members who have spoken.

MRS ELIZABETH WONG: Mr President, I rise to support this motion only

because, as the wording of the motion suggests, it calls for a comprehensive review of the current practice.

Let us all recognize the fact that a democratic process of change is compatible with Hong Kong's unique executive-led Government, which cannot lead without followers. In order that policies are supported and in order that Hong Kong people work together towards a common goal and a common good, there is a need to rationalize the current structure of advisory committees and statutory boards, which are a legacy of the much less open and much less accountable days of yesteryear. Although the personalities of some of the members, as mentioned by the Honourable Eric LI, are very open and accountable, like the Honourable Eric LI and Dr the Honourable LEONG Che-hung, we should not be dependent on personalities. We are talking about the system. It is the system that needs to be examined. We are not talking about people. We are talking about the system. We must have a system which is reliable and I think a comprehensive review would be very useful. It may take a little time to complete the comprehensive review, but it is very useful.

However, Mr President, permit me to share with this Council, some of the *cri de coeur*: cries from the heart, as put to me by many civil servants whom my constituency represents. They tell me that, with all this talk of a provisional legislature, with all the indications that China wants this Council to get off this legislative train in 1997 — which is only next year — and with no hope of knowing what is going to happen next, nothing can be more uncertain. Nothing can be more peremptory, and nothing can be more pre-emptive and people feel more brutalized now than ever before. As put in one newspaper, people's nerves are frazzled and they do not really want too many changes within the system today. There is a pervasive feeling in the Administration that too many changes in boards and committees will create a helplessness over what to do next. They consider it unnecessary and undesirable because these are the situations that ordinary civil servants have no control over. So I would suggest very seriously that the Government should comprehensively review the system, having regard to the sentiments of the Civil Service.

Mr President, far be it from me to emotionalize the issue, or to dramatize it, it is my duty, I think, to reflect to this Council the voices of the silent majority as put to me in the best interests of Hong Kong.

I respectfully therefore reiterate that the executive-led Government, staffed

as it is by an excellent Civil Service, is proudly one of the best features that we have in Hong Kong. It is important and only right that we respect the mood of the Civil Service today. In considering the future, I ask that the Civil Service be allowed to serve the Hong Kong people in the best way they can without having to carry the weight of sudden burden arising from sudden and ill-considered action.

In supporting this motion and this review to be conducted by the Administration, I hope that the powers that be take the sentiments of the Civil Service into serious account and respect their views. Thank you, Mr President.

MISS MARGARET NG: Mr President, I welcome the opportunity to discuss the roles and functions of the numerous advisory committees and other statutory and non-statutory bodies, and thank the Honourable Bruce LIU for his motion. I hope the Administration feels the same.

There are, as I said, numerous such bodies which have grown over the years. At an earlier stage of Hong Kong's constitutional development, they were swept together under one umbrella as evidence of the "consultative" Government.

These bodies are widely disparate in nature, function, and composition. Many of them have also acquired new roles and new significance, being put to new use as the times changed. The flexibility of the nature of many of them has allowed for that. Others have kept closely to their well-defined original purpose. Yet others have become rather obsolete.

Roughly, I would divide these bodies into three categories:

1. Advisory committees with no decision-making power. They may be statutory, that is, established by specific provisions in a statute, or non-statutory. But this does not reflect on their relative importance. The Labour Advisory Board is, for example, a non-statutory body of tremendous importance.
2. Committees or bodies with virtual decision-making power, although theoretically they only recommend. A very important example is

the Judicial Services Commission, which makes recommendations to the Governor for the appointment of judges. The tradition is that the Governor will follow the recommendation of the Commission.

3. Decision-making bodies with full executive powers including the power over financial resources. The most prominent examples are the Housing Authority and the Hospital Authority.

The complexity of this system of committees and bodies can be seen even if we just focus on the first category, namely, the purely advisory ones.

They, in fact, serve a multitude of purposes:

1. There is the purpose of obtaining expertise from the private sector — free professional advice, if you like. I include in this also the advice of the intelligent layman, who tells the Administration how a proposed policy may be reacted to by the public.
2. There is the purpose of reducing possible resistance to an intended policy: By hearing objections beforehand, the Administration may consider changes to avoid the worst criticism.
3. There is the closely related purpose of forestalling opposition by prior consent through representatives of the interest groups most directly concerned.
4. There is the purpose of providing a forum for bargaining or negotiation. The most notable example is, again the Labour Advisory Board where representatives of employees and employers are brought together, with the Government playing the role of mediator, in order to get to a balance more or less acceptable to both sides.

These are by no means exhaustive. They are meant to be illustrations of the many purposes such bodies may be made to serve.

All of the members are appointed by the Governor except where expressly identified by law, for example, *ex officio* members. And the criteria of appointment varies with the purpose and role, and have evolved down the years.

In the past, members of the business or professional community were frequently chosen for their knowledge, experience as well as readiness to serve the public through advising the Government.

However, as the trend for greater participation and representativeness grew, appointment on the basis of democratic nomination became increasingly evident. The importance here is mandate rather than expertise. The interesting question is: Would it be viable, at the next stage, to replace appointment with election?

Mr President, this is very much a question to be carefully but thoroughly explored. I would expect that no one model will be universally suitable. We must, for example, recognize the Government's right, indeed the need, to choose their advisors with whom they are consulted in confidence and with minimum inhibition. However, where this happens, the other side of the coin is that the Government must remain solely responsible for the decision reached, without being allowed to use the advice received as an excuse.

In the main, we must be looking for greater representativeness in membership and more direct accountability to the public, and of course greater transparency. I would invite the Administration to accept that representativeness and accountability must be ensured where there is power, particularly the control of resources. However, ultimately, we must set up the kind of committees or bodies which work, not just what sounds good on paper.

Mr President, this is a timely point to carry out a review, so that we do not change at random and only in response to pressure, but do so fully knowing our direction. We now have a fully elected Legislative Council for the first time. Members, and the public, naturally would want to know to what extent bodies should now be directly responsible to this Council, and to what extent this Council have power to control their membership and the way they operate.

I believe democracy is not concerntraing power on any group of human beings, whether executive or legislative, but always to seek to share power, to give autonomy where it is viable. My honourable friend, Mr Albert HO, impressed me tremendously last week in his speech in support of the Legal Aid Services Council (No. 2) Bill when he said that, even where this Council has the power to supervise a government department, if we do not have the time or mechanism to discharge the responsibility properly, we must entrust the job to someone else. With respect, I endorse that. I look forward to more autonomous power be given to such bodies as the Labour Advisory Board suitably buttressed with rules of democratic procedure, so that this Council will

always respect and defend the decisions that they have reached.

We must be both bold and sensitive — sensitive to the many needs of good government, and bold in reaching the right solution. I support a review, Mr President, and I support the motion and the amendment.

Thank you.

MR LO SUK-CHING (in Cantonese): Mr President, in the past when Hong Kong was under colonial rule, the British Administration in Hong Kong, in view of the insufficiency of the basis of popular representation, established a huge advisory structure targetted against the work of different departments and their different policy areas, and set up corresponding advisory bodies. Through the channel of several hundred advisory bodies, the Government adopts the advice of representative figures and professionals from different trades, professions and sectors. These people present to the Government plans and strategies in respect of the various policies made by the Government, and reflect to a certain degree the views of people from various classes and various interest groups. Of course, under such a system of "elitism", it is inevitable that the Government would be more or less inclined towards the business sector, the professionals as well as certain specific interest groups in decision making. However, the Government is able to operate very efficiently without breaking too far away from people's wishes. Therefore, a consulting Government has long been a political feature of Hong Kong.

In the wake of the pledged return of sovereignty to China by 1997, and on the basis of targets predetermined by the Sino-British Joint Declaration and the Basic Law, democratic politics has gradually been developed in Hong Kong. Since the 80's, the Government has been actively promoting representative government, the Government has also privatized government departments which are substantially involved in matters relating to people's livelihood, or turned them into enterprises. Some public statutory bodies have been established one after another, and their leadership has gradually shifted from public officers to those who are not. In recent years, as a result of the changes in the political environment, the roles and functions of these advisory or statutory bodies have experienced certain subtle changes.

It was found that the criteria for the appointment of members of these

advisory or statutory bodies were that representative individuals or professionals in the trades or sectors related to the bodies' tasks would be appointed. However, in recent years, appointment has been politicized, and in appointing the relevant members, the Government tends to take the individuals' political stand and political background into consideration. If this trend goes on developing, it may lead to the politicization of these advisory bodies, or make them embroiled in endless political rows, such that these bodies may not be able to perform the functions as required.

These advisory bodies were originally part of the executive framework and they gave advice to the relevant government departments. At present, some political bodies attempt to change them into another kind of public opinion bodies, and they place excessive emphasis on the representativeness of the composition of these bodies; some political bodies also attempt to change the mode of operation of these advisory bodies which were originally part of the executive framework, the members of which were appointed by the executive authorities, and which were accountable to the executive authorities. In a word, they attempt to change the decision-making process of Hong Kong, from the currently executive-led to that of a legislative-led. For example, they are going to submit a Private Bill to the Legislative Council, with a view to giving the Legislative Council a veto power in respect of the appointment of members of the Housing Authority. If this becomes a precedent, it will bring about a tremendous structural change in some statutory and public bodies, or in the several hundred existing advisory boards and committees. This will fundamentally change the current executive-led mode of operation. This will really undermine the mode of operation where the executive and legislative authorities each perform their own duties and mutually exercise checks and balances.

Mr President, I very much applaud the enhancement of the representativeness, accountability and transparency of advisory and statutory bodies, especially those substantially involved in matters relating to people's livelihood. The policies in the past under "elitism" which were biased towards the business sector and some interest groups should now be rectified. However, we should distinguish clearly between the roles respectively played by the executive and legislative authorities and define clearly the differences between advisory bodies within the executive framework and bodies with popular representation. Mr President, I support a comprehensive review of the overall policy on the establishment of advisory bodies by the executive authorities, and an extensive consultation.

These are my remarks.

MR WONG WAI-YIN (in Cantonese): Mr President, at present there are some 300 advisory bodies of varying sizes in Hong Kong. Some of these bodies do indeed play the only role of rendering professional advice to the Government, and their influence is relatively small. However, some others are extremely influential, to the extent that they are even vested with the authority in decision-making. The Transport Advisory Committee (TAC) belongs to the latter category. All members of the TAC are appointed by the Governor, while the Secretary for Transport, the Commissioner for Transport and the Commissioner of Police, or their representatives, are the *ex officio* members of the TAC. The duty of the TAC is to advise the Governor-in-Council on the broad range of issues related to transport policies. Since its members are appointed by the Governor, both the Governor and the Executive Council respect its views. In the case of the fares increase applications submitted by franchised public transport operators, for example, the recommendations of the TAC will normally be accepted by the Executive Council and successfully adopted as final decisions.

According to existing legislation, with the exception of the Mass Transit Railway (MTR), the Kowloon-Canton Railway (KCR) and the Light Rail Transit System (LRT), applications for fare increases submitted by all other franchised public transport operators have to be examined and approved by the Executive Council. However, in reality, the role of examination and approval played by the Executive Council is simply a matter of procedural formality, because it is the TAC which has the real authority to determine the rates of fare increases. The Democratic Party is of the view that since public transport is a daily necessity of the people and can produce a significant impact on their living, the public must be widely consulted before rates of fare increases are determined. However, the Governor-appointed TAC is composed of 14 members only, with three of them being government officials. What is more, the incumbent TAC chairman does not even have any previous experience of working in the TAC, he was appointed straight to the chairmanship of the Committee and was not familiar with its operations. Furthermore, there is no popular representation in the entire TAC, and all its discussions and deliberations are not made public. Thus, the TAC is a body with very low transparency and accountability, not to mention representativeness. It is really unacceptable that public transport fares which

affect several millions of Hong Kong people should be determined by a body like the TAC.

Furthermore, we have noticed that the decisions made by the TAC always deviate from the wishes of the public, and very often such decisions are biased towards private companies. Take bus fare increases as an example. In the past few years, the rates of fare increases applied for by Kowloon Motor Bus Company (KMB) were terribly high, and members of the public never stopped voicing their opposition. Although the TAC did slash the rates of increases requested by KMB, the rates still turned out to be on the high side in the end. For example, the rates of increase recommended for KMB by the TAC in 1990, 1991, 1993 and 1994 were higher than that of inflation, ranging from 11.2% to 15.3%. No wonder KMB's profits are often close to the maximum permitted return rate of 16%. This year, the way that the TAC handled the application for fare increases by China Motor Bus Company (CMB) is even more surprising. It is well-known that the service standard of CMB is poor. However, instead of making positive efforts to improve its services, CMB has simply concentrated on a continuous expansion of lucrative cross-harbour routes to increase its profits. Under these circumstances, the public were already discontented with the 9% increase requested by CMB, and found this rate of increase unacceptable. Surprisingly, however, the TAC itself initiated a proposal on increasing the rate of increase for CMB to 10.7%, and this proposal was accepted by the Executive Council. What has aroused even more discontent is that the meetings of the TAC are not open to the public; members are not required to account for and justify their decisions. This gives people the feeling that the TAC is surrounded by secretiveness, which runs counter to the direction of an increasingly open legislature. For these reasons, it is necessary for the Government to conduct a prompt review on the various aspects of the TAC such as its role, terms of reference and composition so as to increase its accountability, transparency and representativeness.

Moreover, with the development of our elected legislature, the Legislative Council has also become increasingly proactive. At present, many public policies are required to be submitted to the Legislative Council's various panels for discussion. For decisions which will produce great impact on the people's livelihood, such as fare increases of ferries, trams and taxis, they even require legislative approval. Although the approval of the Legislative Council is not required for the fare increases of buses and the three railways, two Members from the Democratic Party, namely, the Honourable LAU Chin-shek and the

Honourable SIN Chung-kai have submitted their respective Member's Bills in the hope of revising the fare increase mechanism for the bus companies and the three railway companies so that future fare increases of buses and the three railways will have to be approved by the Legislative Council before implementation. Therefore, we recommend that when the Government is considering ways of enhancing the transparency and accountability of advisory bodies such as the TAC, it should also take account of the relationships between these bodies and the Legislative Council and redefine the roles of these advisory bodies, or even take one further step as to examine the need for their very existence.

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

MR NGAN KAM-CHUEN (in Cantonese): Mr President, just now the Honourable IP Kwok-him remarked that the executive authorities rather than the Legislative Council should be responsible for the establishment of advisory and statutory bodies. Now I wish to further point out that the establishment and operation of advisory and statutory bodies are basically effective, though there is still room for improvement and enhancement.

As the direction for long-term development, the Democratic Alliance for the Betterment of Hong Kong (DAB) agrees that more representatives of public opinions should be admitted into the advisory and statutory bodies concerned, and extensive public participation should be accommodated to tie in with the development of our political system in recent years. But I personally feel that the Administration should standardize the forming of the advisory and statutory bodies according to their respective roles and functions. Moreover, their members should continue to be appointed by executive authorities instead of being returned by direct election.

At present, there are over 300 advisory bodies in Hong Kong. Each of them has its own unique role to play and functions to perform, and the size of its coverage also differs from one another. But in simple terms, these advisory bodies can be divided into two types: one which is more professional and the other more inclined to the people's living. For the former, the size of its coverage is smaller but the technical component is greater; for the latter, its work has an extensive social impact. For example, the Transport Advisory Committee is vested with the authority to recommend fare increases for a large number of public transport bodies, while the decisions made by the Housing

Authority (HA) can even affect nearly half of the population of Hong Kong. Therefore, it is imperative that more public representatives be included. As regards some regional advisory bodies, they should be able to accommodate more representatives of public opinions on a broad basis.

Mr President, some hold that the infiltration of representatives of public opinions into advisory bodies would lead to politicization of their work and impede their fair and professional judgement. But nowadays, as we are more and more politically open, these advisory bodies are subject to more and more political pressure because of the shortcomings in their composition. The admission of representatives of public opinions on discretionary basis will relieve such kind of pressure and make the advisory bodies more acceptable to the public. Moreover, the inclusion of popular representatives does not mean that professionals will be excluded. And even amongst the professionals, there may be some who have elected background. The two of them can indeed complement each other.

In spite of this, no matter how the Administration enhances the representativeness of advisory bodies, still the most important principle is for the executive authorities to play a leading role in setting up advisory bodies instead of having the Legislative Council to make decisions.

As regards the accountability of advisory bodies, they are naturally accountable to the executive organs which established them. This Council may monitor and query the executive authorities so as to make the advisory bodies accountable to it.

Actually, accountability includes a number of aspects and directions. Some hold that in order to increase accountability, the supervisory power of this Council must be expanded. But as a matter of fact, advisory bodies can also be directly accountable to the "users". The HA and the Hospital Authority may organize regional consultative meetings or public hearings to directly listen to the views and queries of the "users". Strengthening this Council's supervisory role may not necessarily be the best option.

At present, advisory bodies are being monitored by various departments, both inside and outside the government framework. The Audit Department is responsible for the assessment of the financial performance of advisory bodies on a value-for-money approach; the Commissioner for Administrative Complaints (COMAC) is responsible for monitoring whether decisions made are fair, and the

Hospital Authority and the HA have now been admitted under the terms of reference of the COMAC.

Mr President, I believe improving the transparency of the operation of advisory bodies will help strengthen accountability. Unfortunately, less than half of the existing advisory bodies completely or partially make their meetings open to the public. Some worry that if the meetings are too transparent, it will affect members' enthusiasm to speak up and would also lead to the leaking of confidentiality. But on the other hand, meetings which are too much under wraps do not meet the needs of Hong Kong in opening up the society. Therefore, the Administration should lay down clear criteria in deciding which advisory bodies should make their meetings open to the public and the degree of the openness. If the meetings cannot be made open because they involve sensitive or confidential information, the Administration should make the agenda open to the public as early as possible, and press releases should be arranged after the meetings to inform the people of the result of the meetings. The Administration should also make it convenient for the people to gain access to the information related to the advisory bodies. As for some highly professional advisory bodies, it may not be necessary for them to make the meetings open to public as the public may not have the interest in or need for such attendance. All these bodies have to do is to release reports regularly to explain their work.

In conclusion, the DAB agrees that the roles and functions of existing advisory bodies should be reviewed in order to decide whether or not it is necessary to make improvements. However, the improvements concerned must not go against the principle of establishing advisory bodies by the executive authorities.

Mr President, these are my remarks.

MR LAW CHEUNG-KWOK (in Cantonese): Mr President, I will speak on the Honourable Bruce LIU's original motion with particular reference to the Transport Advisory Committee (TAC) to show clearly that it is necessary for the Government to review the structure and operation of major advisory bodies.

Transport is closely knitted with the people's livelihood. The Government's latest survey on household expenditure showed that travelling expenses accounted for 7% to 8% on an average of the total expenditure incurred by members of the public. This shows that the fares of public transport and fare adjustments will affect the people's lot directly. Being a consultant on the Government's transport policies, the TAC is responsible for advising the Governor in Council on various issues that transport policies generally involve, and its aim is to improve the services for commuters and the transportation of goods. But ironically, everyone knows that all members of the TAC are appointed by the Government. Its members are drawn from professionals and the elite from various sectors, and only elected representatives or those who have the people's mandate are missing. Basically, it can be said that the composition of the TAC is very detached from the masses. For a long time, the TAC has operated with a fairly low degree of transparency. It was only until September 1995 that the TAC decided to make its agenda, which was kept confidential previously, known to the public in the morning of the day the meeting is held. The specific contents of the meetings, however, have not been made public so far. The incumbent Chairman of the TAC once remarked that he did not wish to make the meetings entirely known to the public for such arrangements would have a bearing on the discussion and the making of speeches by TAC members in meetings. We, indeed, have no idea at all as to on what grounds he made such remarks.

Plainly enough, the aim of the TAC is to improve transport services for the public and to consider transport policies. Without the participation of the public or representatives of public opinions, the representativeness and accountability of the TAC become greatly questionable. May I ask how many TAC members make use of public transport frequently? To what extent will they be affected by fare adjustments of public transport? Regarding their consideration of the applications for fare increases of public transport, I have nothing to say except that it can be said to be "absolutely objective". It has been the usual practice of the TAC to accept without any question the applications for fare increases by transport operators. In January this year, it even suggested an increase of 10.7% instead of 9% that CMB originally asked for and just now the Honourable WONG Wai-yin has also mentioned this. It seems that the TAC is being generous at the people's expense.

Although the TAC, being an advisory body, does not have the power to veto or amend the final proposals of the Government, it can at least exert certain influence on the Government's transport policies and has a certain active role to play in monitoring the operation of public transport and the fares. Regarding the drastic reduction of the number of official members sitting on the TAC and the increase in the number of unofficial members to enhance the TAC's independence, the Association for Democracy and People's Livelihood (ADPL) would like to express our support. However, we consider that this arrangement is still inadequate. To broaden the TAC's representativeness and enhance its credibility, the ADPL and I would like to put forward the following proposals: Firstly, the composition of the TAC should be restructured so that a certain ratio of members should have the people's mandate or should be able to reflect public opinions; and secondly, the TAC should make known its meetings to the public to enhance its transparency. Moreover, the ADPL would like to call on the Government to bring the operation of the three railways under the jurisdiction of the TAC. At present, the passenger capacity of the Mass Transit Railway, the Kowloon-Canton Railway and the Light Rail Transit accounts for one third of the total passenger capacity of public transport, it is therefore absolutely unreasonable to exclude these three railways from the jurisdiction of the TAC.

With these remarks, I support the motion.

MR SIN CHUNG-KAI (in Cantonese): Mr President, the subject of this motion is the review of the advisory framework. In fact, I think, this topic relates to part of the constitutional system. I do not understand why the Government has only sent the Secretary for Home Affairs or an official from the Home Affairs Branch to reply to the questions we raised. In fact, should officials from the Constitutional Affairs Branch be included as well? I doubted very much why the Government should have handled the matter this way.

The second point I wish to make is that the colonial era has passed and a time which features "one country two systems" and "Hong Kong people ruling Hong Kong" will come next year. The existing system of advisory bodies is outdated and a system which will be more acceptable to the people of Hong Kong and which will allow the people of Hong Kong to participate more should be instituted after 1997. However, today I would like to concentrate on some

statutory bodies related to transport matters.

At present, Hong Kong has two large public transport operators, namely the Mass Transit Railway Corporation (MTRC) and the Kowloon-Canton Railway Corporation (KCRC), both are public bodies wholly-owned by the Government. They are statutory bodies respectively established under the Mass Transit Railway Corporation Ordinance 1975 and the Kowloon-Canton Railway Corporation Ordinance 1982. The ordinances stipulated that these two corporations must conduct their business according to prudent commercial principles to satisfy the reasonable requirements of the public transport system of Hong Kong. The ordinances also empower the Board of the respective corporation to manage the corporation and be responsible for operating, developing and improving railway services. The corporations are also vested with the authority to determine the fares, borrow loans from outside organizations and develop properties. The Government monitors the MTRC and the KCRC through controlling the composition of their Boards. Under Section 4 of the Mass Transit Railway Corporation Ordinance and Section 3 of the Kowloon-Canton Railway Corporation Ordinance, the Chairman of the Board and all of its members must be appointed by the Governor while the Secretary for Transport and the Secretary for the Treasury are *ex officio* members of the Board.

Being the major kinds of public transport in the territory and in view of their huge patronage, the MTR, KCR and the Light Rail Transit (the "three railways") have a significant impact on people's livelihood. Obviously, it is inadequate to monitor their operations through the appointment of members to the Boards. Take fare adjustment as an example. At present, once the rate of fare increase has been determined by their Boards, MTRC and KCRC can effect a fare increase upon notifying the Executive Council. No matter how strongly members of the public and the Legislative Council oppose it, the two corporations can still ignore such oppositions and increase their fares. The passengers, being consumers, are totally unsafeguarded. In order to ensure that the two railway operators provide the public with speedy and high quality railway services and charge a reasonable level of fares which the public can afford, it is necessary to enhance the accountability and transparency of MTRC and KCRC and step up monitoring of the two railway operators.

In fact, the fare adjustments of all privately-run franchised public transport in Hong Kong are now monitored by the Government. When the four franchised bus companies propose to increase their fares, they must obtain the approval of the Executive Council before putting a fare increase into effect.

When the franchised ferry companies, the Hong Kong Tramways Limited and taxi operators want to increase their fares, after obtaining approval from the Executive Council, the proposal should also be passed by the Legislative Council in the form of subsidiary legislations before implementing fare increases. However, MTRC, KCRC and LRT, being publicly-run transport corporations, enjoy autonomy in the determination of fares instead and they are not monitored by the Executive Council and the Legislative Council when adjusting their fares. This is unfair to privately-run public transport operators and is even more unfair to members of the public.

The Democratic Party has consistently stressed that MTRC and KCRC, as public transport corporations set up to serve the general public, should not only operate on prudent commercial principles, but also consider their social responsibilities of providing speedy and high quality railway services to the public at reasonable charges in order to meet the needs of Hong Kong. The objective of their business should absolutely not be "making huge profits" and they should be adaptable and flexible when determining their fares. Apart from considering their operational and financial situations, they should also consider whether the level of fares is acceptable and affordable to members of the public.

Given that railway services have now become a necessity to the public, high fares will certainly increase their travelling expenses, which will be directly increasing the burden of the public. Therefore, the three railways must be very cautious when adjusting their fares and they need to extensively consult the public.

At present, the Boards of the two railway corporations wholly control the fare increase of the three railways. This does not only mean a lack of extensive consultation, but also a lack of representativeness. Take the recent fare increase of the MTRC as an example. The increase affected 77% passengers to an extent of over 7% to 13.6%. Despite persistent public opposition, the MTRC simply turned a deaf ear to it while confidently claimed that the rate of fare increase was less than the rate of inflation. We found it indeed unacceptable that MTRC should ignore the desire and interests of the public.

Mr President, the Democratic Party considers it necessary to review the composition of the Boards of the MTRC and KCRC. In order to safeguard public interests, the Democratic Party decided to effect an improvement on the existing system through which the Government monitors MTRC and KCRC. In this connection, I will shortly table a Member's Bill at this Council to amend the

Mass Transit Railway Corporation Ordinance and the Kowloon-Canton Railway Corporation Ordinance with a view to revising the existing mechanism governing fare increases of the three railways. In that case, applications for fare adjustment proposed by the three railways in future will be subject to the approval of the Executive Council and will have to be tabled in the form of subsidiary legislation for passage by the Legislative Council before implementation. As the Legislation Council is a statutory body monitoring the Government and public bodies and as all Members are now elected, the Legislative Council can be said to be a body which is most representative of public opinions. For this reason, I think it is necessary to monitor the two railway corporations through legislative means.

With these remarks, I support the Honourable Bruce LIU's motion. Thank you.

MR ALBERT CHAN (in Cantonese): Mr President, in relation to this issue of reviewing advisory and statutory bodies, I will comment briefly on the Town Planning Board (TPB), the Land Development Corporation (LDC) and the Airport Authority only. Regarding the composition, operation and transparency of meetings of these statutory bodies and major advisory committees, many Members have expressed a lot of views and comments just now. Their views and comments are also applicable to the three bodies I mentioned earlier.

TPB is a statutory body appointed by the Governor under the Town Planning Ordinance (Cap. 131). It comprises seven official members and 24 unofficial members and is chaired by the Secretary for Planning, Environment and Lands, who is the *ex officio* Chairman. The Director of Planning is the vice-Chairman of TPB.

With regard to its terms of reference under the Ordinance, TPB is to draft plans and to consider applications for permission in respect of plans. It is also responsible for handling objections to its decisions. Its composition is similar to those of many other boards or committees. Regarding the unofficial members of TPB, it is rather absurd that none of its 32 members comes from the grassroots and those who represent public opinions.

LDC was set up on 10 December 1987 under the Land Development

Corporation Ordinance (Cap. 15) and formally came into operation on 15 January 1988. The main duty of LDC is to improve the standard of the environment and housing in Hong Kong and to attain a better appearance for the territory. LDC undertakes and implements urban renewal, and must operate under prudent commercial principles. LDC is also a statutory body, comprising four official members and ten unofficial members who are all appointed by the Governor. Only one of its members is a directly-elected Legislative Council Member, and there are at least three businessmen, one architect, one surveyor and two lawyers. Many of its members are either professionals or are personnels from the industrial and commercial sector.

The Airport Authority (AA) was set up by virtue of the Airport Authority Ordinance, with all its members appointed by the Governor. When the Airport Authority Bill was submitted to the Legislative Council, the Democratic Party attempted in vain to move amendments to the composition and operation of the Airport Authority. However, we will definitely try again in future. The Airport Authority is a statutory body, and its Board is composed of one Chairman, one Chief Executive Officer, six official members and nine unofficial members. Of the nine unofficial members, seven are businessmen; three members are mainly engaged in banking business; one member is from the legal profession while another one is an engineer.

These three statutory bodies all exert immense significance to the development and many other aspects of the territory. Their significance is profound in relation to such matters as land formation, town planning, airport services and urban renewal. However, the members of these three bodies lack representativeness. Of all the 63 members of these three bodies, only one of them is an elected Legislative Council Member. Their members are mostly from the industrial and commercial sector, and there is a high likelihood of direct and indirect conflict of interests. These three bodies function with an extremely low degree of transparency and hold all their meetings under strict confidentiality. Although LDC and the AA do publish their own annual reports, the information provided is extremely piecemeal. For TPB, it even does not publish any annual report. Since the meetings of these three bodies are kept confidential, it is very difficult for outsiders to know what have been discussed, what the agenda was and so on. From time to time, the members of these bodies become the subjects of rumours and media reports, some of which are involved in suspected entanglements of interests among them, and many criticisms have been made. Although it is very difficult to verify these rumours and reports, such media

coverage have nevertheless aroused the suspicion that these members may have offered favour and assistance to one another by taking advantage of their different backgrounds. However, it is invariably difficult to prove whether such offers of favouritism and assistance really exist and I think even the Independent Commission Against Corruption will also find it difficult to probe into their dealings. Operations as such may jeopardize public interests.

Mr President, I raised a written question on LDC today. The question, which is very simple, enquires about the number of projects completed by the LDC since its establishment and the amount of profits generated from each project. I only asked about the profit LDC earned from each project but in the reply it is only mentioned that eight redevelopment and renovation projects have been completed since the establishment of the LDC in 1988. As for the profit of each project, LDC states that it is not appropriate to disclose the detailed financial data of individual projects.

Mr President, LDC is a body wholly-owned by the people of Hong Kong. There is no justification for its reluctance even to answer my simple question as to the profit generated from each project. What secrets are actually being kept? Is there anything that must be withheld? My question is just a simple one. I am not asking LDC to disclose the names of the consortia it works with, nor am I asking it to disclose the details of their co-operation or the amount of profit to be allocated to these consortia. I am not asking about these commercially sensitive questions. I am merely asking about the profit generated from each project, but, the LDC has likewise declined to disclose the information required. This instance of "black-box operation" has enraged the community and caused widespread discontent.

Members have commented on many aspects of the issue and I think there is a consistency in thinking that these statutory bodies, which have a bearing on the interests of the Hong Kong people, should enhance their transparency and work for a higher level of public acceptance and recognition.

Furthermore, let me inform the Government beforehand that if it does not move amendments to the Town Planning Ordinance, particularly on the composition of TPB, at the Legislative Council by this July, the Democratic Party will propose a Member's Bill to amend the relevant provisions of the Town Planning Ordinance. Thank you, Mr President.

PRESIDENT: I now invite Mr Bruce LIU to speak on the amendment to his motion. You have five minutes to speak on the amendment, Mr LIU.

MR BRUCE LIU (in Cantonese): Mr President, I would like to add a few points regarding the amendment moved by the Honourable IP Kwok-him.

First of all, with respect to the formulation of an overall policy on the establishment of advisory bodies by the executive authorities, the Hong Kong Association for Democracy and People's Livelihood (ADPL) basically agrees that it is necessary for the Administration to formulate such an overall policy for these advisory bodies, under which their composition, criteria of appointment, operation, and public accountability are to be specified. I urge the Government to introduce effective measures which can enhance the representativeness, accountability and transparency of these bodies when formulating such a policy.

Secondly, the ADPL also agrees that reviews and public consultation regarding these bodies should be conducted. However, we do not want to see that consultation is used as an excuse for delaying reforms. In fact, with regard to the issue of advisory and statutory bodies, many Members have pointed that various problems today and these bodies have been constantly criticized by the public. Take the Transport Advisory Committee (TAC) as an example. If the TAC has adequate credibility and representativeness, I guess the Honourable LAU Chin-shek would not have moved his Member's Bill on stepping up the supervision of bus fare increases; if the public housing policies made by the Housing Authority (HA) have not deviated from the people's wishes, the Honourable LEE Wing-tat and I would not have to move Member's Bills to enhance the representativeness of the HA. I think consultation and reforms can afford to coexist, and they can proceed at the same time in a way just as "walking on two legs".

Thirdly, Article 65 of the Basic Law stipulates that the existing system of establishing advisory bodies by the executive authorities shall be maintained. This Article does not imply that we are not allowed to reform these advisory bodies. What I am advocating is just a reform of the existing system of advisory boards and committees for the purpose of keeping abreast of the current development of society. I do not mean to uproot or negate the system altogether. Moreover, attempts at reforming the system of advisory committees and statutory

bodies are within the scope of "Hong Kong people governing Hong Kong" and "a high degree of autonomy". This is one of the many rights enjoyed by Hong Kong. Therefore, reforming these advisory bodies is actually an act of "triple compliance" — compliance with the Basic law, the Sino-British Joint Declaration and the social situation of Hong Kong. The three principles I have put forth are also meant to enhance the representativeness, accountability and transparency of these bodies. They are certainly in keeping with the overall policy of the executive authorities in the establishment of advisory bodies.

Fourthly, following an in-depth study of the wording used in the Honourable IP Kwok-him's amendment and a telephone conversation with him, I have reached the conclusion that when compared with my original motion, the Honourable IP Kwok-him's amendment is more capable of implementation. Firstly, the Honourable IP Kwok-him's amendment states in very definite terms that reforms required for advisory bodies should cover representativeness, accountability and transparency; secondly, the amendment also ascertains that extensive and targeted consultation is already required even under the existing British Administration in Hong Kong.

Since the Honourable IP Kwok-him supports the view that the representativeness, accountability and transparency of these advisory and statutory bodies should be enhanced, I also support his amendment. I also hope that the Honourable IP Kwok-him will support the Member's Bills on the reorganization of the HA to be moved by me and the Honourable LEE Wing-tat later on because these two Bills aim to enhance the representativeness of the HA. These are my remarks.

PRESIDENT: I would just remind Members to stick to the amendment and the motion in hand.

SECRETARY FOR HOME AFFAIRS: Mr President, the current network of advisory and statutory bodies has developed over several decades in response to the changing needs and character of our society. It is an effective and well-trying system that plays important complementary roles to that of the other parts of government, including the three tiers of representative government. I am pleased to have this opportunity to explain how the system works and respond to the issues raised by Honourable Members in this debate. Before I do so, however, I would like to pay tribute to those public-spirited ladies and gentlemen who have expended much time and effort in serving on various advisory and

statutory bodies.

Roles and functions

Mr President, there are at present some 300 advisory boards and committees. Of these, about 80 are statutory bodies. The remainder have been established by administrative means. Each advisory body gives advice to the Government in a specified area of activity according to its terms of reference. The areas covered range from fundamental livelihood issues such as housing, labour issues, education, social welfare, medical care and transport to highly specialized and technical matters, such as the operations of our securities and futures markets or radiological protection. There are also boards and committees that advise on the affairs of particular districts or neighbourhoods, such as the Area Committees and District Fight Crime Committees.

In addition to the advisory boards and committees, there are a host of statutory bodies that have been set up primarily to perform an executive function. Some of these manage publicly-owned corporations such as the Kowloon-Canton Railway Corporation or the Mass Transit Railway Corporation; others, such as the Hospital Authority and the Airport Authority, are responsible for the provision of public facilities. There are also charitable statutory bodies, such as the Tung Wah Group of Hospitals and Po Leung Kuk. Yet another group are the statutory boards that deal with appeals under a whole range of ordinances.

The examples I have given illustrate the extremely diverse nature of the roles and functions of our boards and committees. It is a key strength of the system that it can encompass such a wide range of requirements.

Composition and membership

Our overriding objective in making appointments to boards and committees is to secure the services of the best available persons to meet the requirements of the board or committees concerned. Each appointment is made on the basis of the merits of the individual concerned, taking into account their personal ability, expertise, experience, integrity and commitment to public service. Due regard is also given to the need to ensure a good balance of expertise, experience and backgrounds among the membership of the particular

board or committee as a whole. Where appropriate, this will include appointing people with experience in district affairs.

In considering appointment to boards and committees under their purview, Branch Secretaries and Department Heads also bear in mind the need to ensure a reasonable turnover of membership and that individual appointees do not have an excessive workload. Accordingly, we try to avoid appointing an individual to sit on more than six bodies at any one time. We also do not normally re-appoint an individual who has already served on a particular body for six years. These are, however, not hard and fast rules. Some committees may find it necessary to retain the services of members for a longer period, either because they possess particular expertise or to provide continuity.

Representativeness

The motion refers to a need to enhance representativeness among the membership of our boards and committees. Several Honourable Members have argued that this could be achieved by giving this Council a greater say in the appointment process. As a matter of general principle, the composition of government boards and committees should broadly reflect the interests and views present in the community. However, in making appointment, we must also give due regard to the functions of the individual body and the types of business that it deals with. Hence, for boards and committees which give advice to the Government on issues directly affecting the general well-being of the community, it is natural that the Government would tend to appoint more members with experience of and interest in community affairs. On the other hand, appointments to bodies that advise on specialized matters need to include a relatively higher proportion of persons with the necessary expertise. In some cases, we invite professional bodies or other organizations to nominate members to the bodies in which they have a direct interest. For some statutory bodies, provision for this is laid down in the ordinance concerned.

There are currently proposals before this Council for changing the present appointment system in respect of one statutory body. The proposals would require the approval of this Council for appointments and specify that a certain number of members from the three-tier system of representative government must be appointed. The Administration strongly opposes these proposals. The present system works well because it enables the Government to make appointments based on individual merit to meet the needs of the body concerned.

Giving the Legislative Council powers to vet candidates proposed by the Government is likely to be seen as politicizing the choice of appointees, thereby reducing the pool of independent and candid advice, on which the system vitally depends. The three-tier system of representative government and the advisory and statutory bodies play highly effective complementary roles. The proposal to require members of the three-tier system of representative government to be appointed to these bodies in large numbers would reduce their complementary character and introduce undue rigidity into the appointment system.

Accountability

The motion also calls for greater accountability in our system of boards and committees. This suggests that there is an accountability gap. But accountability is concerned with ensuring that someone is accountable for decisions taken or policies adopted. The Hong Kong system of government already provides for this, in particular, with the Administration being fully accountable to this fully-elected legislature.

The purpose of the system of advisory boards and committees is to allow the Government to obtain advice from persons of a range of backgrounds and expertise at an early stage of the policy making process. The advisory bodies act as an initial sounding board or "think-tank". The issue of accountability is not relevant at this stage because no decisions have been taken. Indeed, proposals and recommendations emerging from the relevant advisory boards and committees in the case of major policy initiatives are invariably subject to close scrutiny by the Administration before they are taken further. Members of the three-tier system of representative government also play a significant role in shaping the final outcome of this process. Once a decision has been made, the Administration is of course fully accountable for it.

The role of the boards and committees performing executive functions is quite different from that of the advisory boards and committees. These executive bodies operate with a high degree of management independence to deliver services to the public. In many cases, such bodies are required to operate in accordance with prudent commercial principles. This is done because this is the most efficient and effective way of providing the services concerned. Although such bodies are entrusted with executive powers, policy responsibility remains firmly with the relevant policy secretaries. And it is the policy secretaries who are accountable to this Council.

In short, our system of government is a fully accountable one, with accountability resting, in the final analysis, with those who are responsible for policies of the day. There is no accountability gap that needs to be filled.

Transparency

As Hong Kong has become more sophisticated, the community has rightly come to expect greater openness with respect to the Government's decision-making process. It is natural that this expectation of greater transparency should also apply to advisory and statutory bodies, given that they deal with important matters affecting people's day-to-day lives. The fact is that we have done a great deal in recent years to meet this expectation. Measures adopted to increase their transparency include, where appropriate, conducting meetings in public, making papers and reports available for public inspection, holding regular press briefings and issuing press releases. To date,

- (a) over 130 boards and committees conduct their meetings, either wholly or partly, in public;
- (b) nearly 190 make their papers/reports available for public inspection;
- (c) almost 240 regularly hold press briefings after meetings; and
- (d) about the same number issue press releases to inform the public of their work.

In short, we have been matching changing community expectations with far greater transparency.

Conflict of interests

It is of fundamental importance to our system of advisory and statutory bodies that members should tender their advice and conduct the business of the bodies concerned in an impartial manner. To help ensure that this is done, the Independent Commission Against Corruption has drawn up guidelines on a two-tier system of declaration of interests. For those boards and committees

that have extensive influence over policy and financial matters, the chairmen and members are required to register their general pecuniary and personal interests on first appointment. This register of interests is updated regularly and made available for public inspection. When a matter that raises a potential conflict of interests for a particular member is brought up for discussion at a meeting, the member concerned is requested to make full disclosure of his or her interests and withdraw from further discussion of the relevant matter. For other boards and committees, the guidelines provide for the chairmen and members to declare interests as and when a matter for discussion at a meeting raises a conflict of interest. All advisory and statutory bodies have been asked to adopt one or the other of these two systems according to their own needs and the nature of the business they deal with. Over 320 advisory and statutory bodies have done so to date.

Conclusion

Mr President, the current system of advisory and statutory bodies serves us well. It is an integral part of our system of government that has evolved over time. The roles and functions of the bodies concerned should not be confused with that of the three-tier system of representative government. They play complementary not rival roles. The system of advisory boards and statutory bodies works because it is flexible. A key element of this flexibility is the Government's ability to appoint from a wide cross-section of the community on the basis of individual merit. The introduction of restraints on the current freedom of appointment would bring unwelcome and damaging rigidity.

The relevant Policy Secretaries and Heads of Departments will continue to keep the individual advisory and statutory bodies for which they are responsible under constant review to ensure that they meet the changing needs and expectations of the community. There is no need to undertake an overall review of the roles and functions of all advisory and statutory boards and committees as proposed by Honourable Members. A comprehensive review would only be appropriate if there was good reason to believe that the system is in need of fundamental change. We reject any such suggestion. The system is working well and needs no overhaul.

With these remarks, I urge Honourable Members to reject the motion moved by the Honourable Bruce LIU and the amendment proposed by the Honourable IP Kwok-him.

Thank you.

Question on the amendment put.

Voice vote taken.

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

Mr LEE Wing-tat, Mr Albert HO and Mr Bruce LIU claimed a division.

PRESIDENT: Council will now proceed to a division.

PRESIDENT: I would like to remind Members that they are now called upon to vote on the question that Mr IP Kwok-him's amendment be made to Mr Bruce LIU's motion. Will Members please register their presence by pressing the top button and proceed to vote by choosing one of the three buttons below?

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

Mrs Selina CHOW, Mr Martin LEE, Mr SZETO Wah, Mr Edward HO, Mrs Miriam LAU, Dr LEONG Che-hung, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Frederick FUNG, Mr Michael HO, Mr LEE Wing-tat, Mr Eric LI, Mr Fred LI, Dr YEUNG Sum, Mr Howard YOUNG, Mr WONG Wai-yin, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Andrew CHENG, Mr CHENG Yiu-tong, Dr Anthony CHEUNG, Mr CHEUNG Hon-chung, Mr Albert HO, Mr IP Kwok-him, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr LEE Kai-ming, Mr Bruce LIU, Mr LO Suk-ching, Mr MOK Ying-fan, Miss Margaret NG, Mr NGAN Kam-chuen, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE, Mrs Elizabeth WONG and Mr YUM Sin-ling voted for the amendment.

Mr David CHU voted against the amendment.

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

PRESIDENT: Mr Bruce LIU, you are now entitled to your final reply and you have five minutes out of your original 15 minutes. But please stick to the question.

MR BRUCE LIU (in Cantonese): Mr President, a moment ago, the Government rejected Members' request for a comprehensive review in its final reply. I am very disappointed at the Government's reply. In view of the fact that the majority of Members vote for this amendment today, I hope the Government will realize that both Members and the public wish to have a comprehensive review on these colonial advisory committees and bodies. If the Government refuses to do so, I can say in advance that Member's Bills seeking to challenge these committees will be put forth one after another. I hope the Government can get prepared for this early. Before making such preparations and holding consultations, we suggest that the Government should first dress itself up just like what the Housing Authority(HA) has done. Recently, the HA has made some improvements. I think the Government has made these improvements on its own initiative before Members put forward the two Member's Bills. I hope the Government will be as smart as the Secretary for Housing and do the same in respect of other advisory committees without delay.

Secondly, I urge the Democratic Alliance for the Betterment of Hong Kong (DAB) to publish a green paper for the public because they have proposed to launch a comprehensive, extensive, in-depth and purposive consultation. By then, the Hong Kong Association for Democracy and People's Livelihood will lend strong support to and take part in the consultation.

Due to the time constraint, I would only add a few points. First of all, representativeness. A great majority of Members agree that these statutory bodies and committees should have representativeness, and this is of paramount importance. As the Honourable NGAN Kam-chuen has just said, the bone of

contention is that all members should be appointed by the executive authorities rather than the Legislative Council and the Legislative Council should never poke its nose into such affairs.

First of all, the Honourable IP Kwok-him and I have proposed a motion and an amendment today but I think we do not have the motive to ask this Council usurp the power of appointment of the executive authorities. I agree very much to the Honourable Albert HO's comments that we hope that these bodies will allow the related bodies to nominate some members in order to increase its representativeness. But the Honourable NGAN Kam-chuen is of the opinion that it would be best if the Government can even be solely responsible for the appointment of elected members. This is exactly what I have queried.

The public will ask why these members should be appointed by the Government. Why should A be appointed rather than B? Why are more members appointed from one sector rather than the other?

This appointment system needs to be improved in line with social changes. Besides, I echo the Honourable YUM Sin-ling's point that the Government has to explain to the public its criteria for appointment. If the Government simply appoints members on the basis of expertise, this is a very vague criterion indeed.

In a democratic country, in addition to the parliament, some other statutory bodies are also returned by election. This may be the direction of development which Hong Kong will have to consider at a later stage. But in view of our present situation, it may be more suitable for us to learn from the Labour Advisory Board (LAB) first. The way in which the LAB is composed is very advanced and other statutory bodies may follow its pattern. As a big brother among advisory bodies, the LAB is most advanced and is in the vanguard of all advisory bodies. We hope other advisory bodies can make improvements in every aspect.

Secondly, accountability. The executive authorities have to be accountable to the legislative authorities. But I do not want to institutionalize this "independent kingdom". Presently, there are a lot of statutory bodies which cannot be monitored by this Council. As a Chinese saying goes, "Officials compel civilians to rebel". Should the public fail to oversee how these decisions are made, they will surely think of some ways to improve the situation. Therefore, that's why I have just said that a lot of Member's Bills will be put forth

one after another.

Thirdly, transparency. A majority of Members support that the transparency of these committees should be enhanced and the Government must explain to the public why two thirds of the committee meetings are still held in camera. Why are some meetings openly held while some not? Why is there such a practice?

The buzzer sounded a continuous beep.

PRESIDENT: Mr LIU, time is up now.

MR BRUCE LIU (in Cantonese): I am grateful to Members for having spoken so enthusiastically. I hope the Government would carefully review on the issue and make the relevant responses as soon as possible. Thank you.

Question on the motion as amended by Mr IP Kwok-him put.

Voice vote taken.

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

Mr Albert HO claimed a division.

PRESIDENT: Council will now proceed to a division.

PRESIDENT: I would like to remind Members that they are now called upon to vote on the question that the motion moved by Mr Bruce LIU as amended by Mr IP Kwok-him be approved. Will Members please register their presence by pressing the top button and proceed to vote by choosing one of the three buttons below?

PRESIDENT: Still one short of the head count. Before I declare the result, Members may wish to check their votes. Are there any queries? The result

will now be displayed.

Mrs Selina CHOW, Mr Martin LEE, Mr SZETO Wah, Mr Edward HO, Mrs Miriam LAU, Dr LEONG Che-hung, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Frederick FUNG, Mr Michael HO, Mr LEE Wing-tat, Mr Eric LI, Mr Fred LI, Dr YEUNG Sum, Mr Howard YOUNG, Mr WONG Wai-yin, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Andrew CHENG, Mr CHENG Yiu-tong, Dr Anthony CHEUNG, Mr CHEUNG Hon-chung, Mr Albert HO, Mr IP Kwok-him, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr LEE Kai-ming, Mr Bruce LIU, Mr MOK Ying-fan, Miss Margaret NG, Mr NGAN Kam-chuen, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE, Mrs Elizabeth WONG and Mr YUM Sin-ling voted for the motion.

Mr David CHU voted against the motion.

Mr LO Suk-ching abstained.

THE PRESIDENT announced that there were 37 votes in favour of the motion as amended and one vote against it. He therefore declared that the amended motion was carried.

ADJOURNMENT AND NEXT SITTING

PRESIDENT: In accordance with Standing Orders, I now adjourn the Council until 2.30 pm on Wednesday, 15 May 1996.

Adjourned accordingly at twenty-seven minutes to Nine o'clock.

Note: The short titles of the Bills/motions listed in the Hansard, with the exception of the motion moved by the Secretary for Recreation and Culture under Section 100(A) of the Interpretation and General Clauses Ordinance, the Companies (Amendment) Bill 1996, the Employees' Compensation (Amendment) Bill 1996, the Noise Control (Amendment) Bill 1996, and the Plant Varieties Protection Bill, have been translated

into Chinese for information and guidance only; they do not have authoritative effect in Chinese.