

# **OFFICIAL RECORD OF PROCEEDINGS**

**Wednesday, 27 November 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.

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 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, O.B.E., J.P.

THE HONOURABLE FRED LI WAH-MING

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

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 CHAN KAM-LAM

THE HONOURABLE CHAN WING-CHAN

THE HONOURABLE CHAN YUEN-HAN

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 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 LAWRENCE YUM SIN-LING

## **MEMBERS ABSENT**

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

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHRISTINE LOH KUNG-WAI

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE BRUCE LIU SING-LEE

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

## **PUBLIC OFFICERS ATTENDING**

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

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

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

MR CHAU TAK-HAY, C.B.E., J.P.  
SECRETARY FOR BROADCASTING, CULTURE AND SPORT  
MR GORDON SIU KWING-CHUE, J.P.

---

SECRETARY FOR TRANSPORT

MR NICHOLAS NG WING-FUI, J.P.

SECRETARY FOR CONSTITUTIONAL AFFAIRS

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

SECRETARY FOR HOUSING

MR RAFAEL HUI SI-YAN, J.P.

SECRETARY FOR FINANCIAL SERVICES

MR JOSEPH WONG WING-PING, J.P.

SECRETARY FOR EDUCATION AND MANPOWER

MR PETER LAI HING-LING, J.P.

SECRETARY FOR SECURITY

MR TAM WING-PONG, J.P.

SECRETARY FOR TRADE AND INDUSTRY

## **CLERKS IN ATTENDANCE**

MR RICKY FUNG CHOI-CHEUNG, SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, 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>
Import and Export (Fees) (Amendment) (No. 2) Regulation 1996 .....	484/96
Television (Royalty and Licence Fees) (Amendment) Regulation 1996.....	485/96
Marine Parks (Designation) (No. 2) Order.....	486/96
Designation of Libraries (Urban Council Area) (No. 3) Order 1996 .....	487/96
Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) (No. 7) Order 1996.....	488/96
Food Business (Urban Council) (Amendment) (No. 3) Bylaw 1996.....	489/96
Rabies (Amendment) Regulation 1996 (L.N.401 of 1996) (Commencement) Notice 1996.....	490/96
Hong Kong Letters Patent 1917 to 1995 Authorization by the Governor .....	491/96
Official Languages (Authentic Chinese Text) (Quarantine and Prevention of Disease Ordinance) Order.....	(C) 122/96

**Miscellaneous**

Fourteenth Periodic Report in respect of Hong Kong under the International Convention on the Elimination of All Forms of Racial Discrimination

**ADDRESS**

**PRESIDENT** (in Cantonese): We will start the sitting with an address. I have given consent for the Secretary for Broadcasting, Culture and Sport to address the Council on the Television (Royalty and Licence Fees) (Amendment) Regulation 1996, which was gazetted on 22 November 1996 and tabled in this Council today. Under Standing Order 14(5), no debate may arise on the address, but I may allow short questions seeking elucidation on the matters raised in the address.

**Television (Royalty and Licence Fees) (Amendment) Regulation 1996**

**SECRETARY FOR BROADCASTING, CULTURE AND SPORT** (in Cantonese): Mr President, I should like to say a few words about the Television (Royalty and Licence Fees) (Amendment) Regulation 1996 which has been tabled in this Council today.

This amendment regulation serves two purposes: first, it responds to the concern expressed by Members of this Council about the impact of the growing competition faced by domestic television broadcasters for advertising revenue by cutting advertising royalties. We propose to reduce the top rate from 10% to 9%, and to raise the thresholds at which the higher rates apply. This will result in substantial savings for both Asia Television Limited (ATV) and Television Broadcasts Limited (TVB).

The proposed reduction in advertising royalties is the second time in three years, and demonstrates the Government's willingness to respond to changes in the television environment. We shall look again at both the basis and the amount of advertising royalties as part of the comprehensive review of the television environment that we shall undertake in 1998.

Secondly, the amendment regulation will implement the first phase of "full-cost recovery" licence fees. The licence fee is intended to recover the costs that are incurred in preparing and administering the licences of ATV and TVB, including monitoring their services to ensure that they maintain the broadcasting standards which reflect the values of the community. It is right that ATV and TVB, not the taxpayers, should meet these costs.

However, having listened carefully to the views expressed in this Council about the impact of introducing "full-cost fees" immediately, we now propose to phase them in gradually over a period of five years. Accordingly, the amendment regulation provides for 20% of the full cost to be recovered in 1997. In 1998, we shall raise the rate of cost recovery to 40%, and so on, until full cost recovery is achieved in 2001.

The combined impact of these changes will be to reduce significantly the amounts paid by ATV and TVB to the Government. Even after "full-cost fees" are phased in by 2001, both stations will still be better off in this respect than they are today.

Thank you, Mr President.

## ORAL ANSWERS TO QUESTIONS

### Poverty Problem

1. **MR FRED LI** asked (in Cantonese): *It is indicated in several surveys on the poverty problem published in recent months by community organizations and tertiary institutions that the problem of disparity between the rich and the poor in the territory is acute, and that the low-income group is leading a very difficult life. In this regard, will the Government:*

- (a) *inform this Council of the main causes giving rise to the present poverty problem;*



- (b) *give a response regarding the findings of the surveys conducted recently by the Oxfam Hong Kong and the Hong Kong Council of Social Service that the extreme poverty of the low-income group has been caused by the continuing increase in the rental of domestic premises; and*
- (c) *consider revising the present policy of reducing the number of public rental housing flats, so that more people in the low-income group can be accommodated in such flats, thereby alleviating their burden in meeting rental expenses; if not, whether it will adopt other measures to narrow the disparity between the rich and the poor?*

**SECRETARY FOR HOUSING** (in Cantonese): Mr President, some degree of income disparity exists in any society. In all countries, economic growth is the primary means of generating income increases for the community at large. Given Hong Kong's continued economic growth, the income of every income group, including low income households, has registered substantial gains. Over the past decade, median household income in Hong Kong has increased by 239% in nominal terms, far higher than the 125% increase in the Consumer Price Index (A). After discounting inflation, this reflects a substantial growth of income in real terms by 51%.

In recent years like many developed economies, Hong Kong has been undergoing structural transformation from a manufacturing-based to a service-oriented economy. This has led to a strong and increasing demand for professional, managerial, supervisory and technical personnel, and hence a faster increase in salaries and wages for people in these jobs than for people in other jobs requiring a lower level of knowledge and skill. Income disparity thus widens as a natural consequence. Such a widening does not reflect the whole picture of income distribution in Hong Kong as it does not take into account welfare and other social provisions by the Government to help those in need, including those in the lowest income group.

We should also remember that Hong Kong is a free market economy. There is no barrier or impediment to entry into jobs in different sectors, occupations or professions. Through the exercise of talent and hard work, people can increase their income, improve their standard of living and move up

the social ladder over time.

As regards Part (b) of the question, there is no evidence or statistical information to support the argument that domestic rent increases, either in the private sector or in the public sector, have caused financial hardship to those in real need. Over the past five years, the average annual rental increase for private housing units has been 7.5%, which is lower than inflation and lower than wage increase.

As regards public housing rents, they are well below the affordability level. On average, the median rent-to-income ratio for tenants is 8%, which is substantially below the affordable levels of 15% to 18.5% set by the Housing Authority. For tenants who may experience temporary financial hardship, the Housing Authority operates a Rent Assistance Scheme: the rent payable is reduced by one half for up to two years.

Households facing longer term financial difficulties, whether living in private or public accommodation, may apply for assistance under the Comprehensive Social Security Assistance Scheme administered by the Social Welfare Department. This scheme is designed to bring the income of such households up to the level where essential needs can be met.

As regards Part (c) of the question, the Government does not have a policy of reducing the number of public rental flats. We announce the targets for public rental flats and subsidised home ownership flats to be built in a given planning period, and take steps to enable these targets to be met. I would stress that we are firmly committed to providing public rental housing for people who are in genuine need.

**MR FRED LI** (in Cantonese): *Mr President, I have originally prepared a supplementary question, but now I would like to seek your ruling first. I do not think the Secretary has answered part (a) of my question. My question is: Will the Government inform this Council of the main causes giving rise to the present poverty problem. But after hearing his reply, I think he has not answered my question. Mr President, I hope you would ask the Secretary to give me a proper answer.*

**PRESIDENT** (in Cantonese): Mr Fred LI, I do not think this is a point of order. If you are not satisfied with the answer to part (a) of your question, you can, of course, raise a supplementary question. Secretary, would you please answer Mr LI's supplementary question?

**SECRETARY FOR HOUSING** (in Cantonese): Mr President, the Government does not have any special definition for the term "poverty". So we cannot decide what circumstances would lead to poverty. The answer given by me just now is a description of the income patterns of our society so as to reflect the income and financial situations of the people for Members' information. It also shows that people should be able to afford their expenditures. If they have any special short-term needs, the Government will offer them other forms of assistance. I am, therefore, of the opinion that we have already provided sufficient information in this aspect.

**MR FRED LI** (in Cantonese): *Mr President, I am surprised to find that this question has been answered by the Secretary for Housing. May I ask whether it should have been answered by the Secretary for Health and Welfare?*

**PRESIDENT** (in Cantonese): It is up to the Government to designate which officer to answer a particular question. Perhaps you are of the opinion that the Secretary for Housing is not the suitable person to answer this question and that there may be other officers who are more suitable to answer. But I can see from the Secretary's reply that the Secretary does not agree with what you said in part (a) of your question. In other words, he does not think that there is a poverty problem. You may have different opinions.

**MR HENRY TANG:** *Mr President, in the fifth paragraph of the Secretary's main reply, it is said that the average median rent-to-income ratio for public housing tenants is 8%, but what is the median rent-to-income ratio for private sector tenants?*

**SECRETARY FOR HOUSING** (in Cantonese): Mr President, our general understanding in this regard is that the average rent-to-income ratio for private sector tenants is 27%.

**MR FREDERICK FUNG** (in Cantonese): *Mr President, in the fifth paragraph of the Secretary's reply, we are told that the affordable median rent-to-income ratio set by the Housing Authority is 15% to 18.5%, which is considered to be the highest limit of the ratio. But we are also told that the rent-to-income ratio for private sector tenants is 27%. Does the Secretary consider this figure too high that it might be a factor leading to poverty as noted by the Hong Kong Council of Social Service and by Mr Fred LI in his question?*

**SECRETARY FOR HOUSING** (in Cantonese): Mr President, our rent policy for public sector housing has to take into consideration the situation of the low-income group. We are of the opinion that public housing should be provided only to the most needy. In compliance with this policy, the Housing Authority has set the affordable levels at 15% to 18.5%. In regard to domestic flats in the private sector, there is of course no government intervention. But generally speaking, the rent-to-income ratio for private sector tenants is 27%. We have not heard any special voices from the Hong Kong people in this regard.

**PRESIDENT** (in Cantonese): Mr Frederick FUNG, are you claiming that your question has not been fully answered?

**MR FREDERICK FUNG** (in Cantonese): *Yes, Mr President. The Secretary said that no voices have been heard. But I am asking whether that could be a factor leading to poverty.*

**SECRETARY FOR HOUSING** (in Cantonese): Mr President, I cannot comment on whether the fact that tenants in the private sector have to pay 27% of their income for rent is a factor leading to poverty. But as I have said earlier, we have not noticed any grave problem has been caused due to expenditure on rental. For those who are facing short-term financial hardship, the Government

has other assistance schemes to help them.

**MR LAW CHI-KWONG** (in Cantonese): *Mr President, in the first paragraph of his main reply, the Secretary mentioned a median figure. And then in the fourth and fifth paragraphs, the average figures were given. But Mr Fred LI's question is concerned with poverty problem. Can the Government provide the respective figures for the lowest 10% and the lowest 20% of those figures mentioned in the first, the fourth and the fifth paragraphs?*

**SECRETARY FOR HOUSING** (in Cantonese): Mr President, in regard to these figures, I think I will provide a written reply. (Annex I)

**DR ANTHONY CHEUNG** (in Cantonese): *Mr President, according to the Secretary's reply, does he mean to say, on behalf of the Government, that the Government does not agree that there is poverty problem in Hong Kong and that there is no mechanism through which the Government can assess whether the problem of poverty in our society is worsening or improving?*

**SECRETARY FOR FINANCIAL SERVICES** (in Cantonese): Mr President, my colleague, the Secretary for Housing, has in fact given a clear explanation in the first paragraph of his main reply. Basically, in any society, especially a capitalistic free market economy, unequal income distribution amongst people is the norm, let alone a society which is experiencing rapid economic structural transformation. In regard to the question of what constitutes poverty, absolute poverty or relative poverty, I am sorry to say that the Government does not have any official definition for these terms.

In regard to the question of whether the Government is concerned with the problem of poverty, I can tell the Honourable Members that poverty has been a great concern to the Government. As far as I can recall, there was detailed discussion on this topic in a motion debate in the Legislative Council two months ago. The Secretary for Housing has just pointed out that for those low-income people and those who are in need of assistance, we provide social security to them, in addition to a safety net and a whole series of assistance. In the past, the Government has also made its position clear that we would continue to improve these assistance and subsidy as well as to improve the safety net should our fiscal position allow. This is our long-established policy. In our opinion,

it is not quite meaningful and useful to discuss what is and what is not poverty, and what is relative poverty. The most important thing is what we can do. What the Government has done and pursued in its policies have all along been very clear.

**MR YUM SIN-LING** (in Cantonese): *Mr President, in the second paragraph of his main reply, the Secretary has admitted that some people are poorer than the others, as he has said that income disparity has widened as a natural consequence. These words indicate that he has admitted the existence of poverty problem even though he has limited the scope to the income disparity amongst the salaried people. But in fact we all know that the real mammoth disparity should lie between the incomes of those much better off high-income group and these people. Would the President consider to invite the Secretary for Health and Welfare to answer at our next meeting the question on income disparity between the rich and the low-income group?*

**PRESIDENT** (in Cantonese): You cannot put a question to the President. *(Laughter)* Would the Secretary for Housing or the Secretary for Financial Services like to give a more academic and more pragmatic written reply?

**SECRETARY FOR FINANCIAL SERVICES** (in Cantonese): Mr President, we will try our best. *(Laughter)* (Annex II)

**MR LEE WING-TAT** (in Cantonese): *Mr President, I would like to seek elucidation. Is Mr Rafael HUI today answering questions in this Council in the capacity of Financial Secretary or in the capacity of Secretary for Financial Services? Your addressing him as Secretary for Financial Services may have downgraded him.*

**PRESIDENT** (in Cantonese): Would the Secretary please answer this query yourself as you have originally indicated that you would attend this sitting in the capacity of Secretary for Financial Services. *(Laughter)*

**SECRETARY FOR FINANCIAL SERVICES** (in Cantonese): Mr President, today I am speaking in this Council in the capacity of Secretary for Financial Services.

**MR LEE WING-TAT** (in Cantonese): *Mr President, just now I was seeking elucidation rather than asking a supplementary question. So would you allow me to raise a supplementary question?*

**PRESIDENT** (in Cantonese): Four more Members have indicated that they would like to ask a supplementary questions. I will draw the line there.

**MR LEE WING-TAT** (in Cantonese): *Mr President, at a meeting of the Panel on Housing, a survey conducted by the Rating and Valuation Department shows that expenditure on rent accounted for 40% of the household income of some households. The Secretary for Housing has just said that if they have difficulty in paying the rent, there are other schemes to help them. Let us set aside those Comprehensive Social Security Assistance (CSSA) recipients. For those who are ineligible for CSSA due to a higher income but are paying a rent which accounts for more than 40% of their income, what scheme does the Government have to assist them?*

**SECRETARY FOR HOUSING** (in Cantonese): Mr President, the Government is now considering this issue. Up to the present, we do not have any specific plan. After consideration, we will inform Members of the Panel on Housing.

**PRESIDENT** (in Cantonese): Mr LEE Wing-tat, are you claiming that your supplementary question has not been fully answered?

**MR LEE WING-TAT** (in Cantonese): *Yes, Mr President. The Secretary for Housing said that the issue is under consideration. What does he mean by that as the answer is vague? Does he mean that it is being planned or under*

*discussion, or actually some work has already been done?*

**SECRETARY FOR HOUSING** (in Cantonese): Mr President, by saying that the issue is under consideration, I mean that internally the Government is studying this issue and no decision has yet been reached.

**MISS CHAN YUEN-HAN** (in Cantonese): *Mr President, in the fourth paragraph of his main reply, the Secretary for Housing said that there is no evidence or statistical information to support the argument that rent increases, either in the private sector or in the public sector, would cause financial hardship to those in real need. I would like to remind the Government that a department concerned has provided information to this Council noting that it costs some people 40% of their household income to rent a room in the private sector. May I ask whether this is reliable data as the information was provided by the Planning, Environment and Lands Branch?*

**SECRETARY FOR HOUSING** (in Cantonese): Mr President, the figures I quoted in the fourth paragraph are the average rent increases, not the rent-to-income ratios.

**MISS CHAN YUEN-HAN** (in Cantonese): *I think that the reply given by the Secretary is not accurate. In fact, the survey covered all the increase rates and came to the conclusion that some people had to spend 40% of their household income to rent a room. Why did the Secretary say that there is no statistical information in his reply? Is it because they are of different departments?*

**SECRETARY FOR HOUSING** (in Cantonese): Mr President, I think I have given a very clear explanation in my main reply that we have no statistical information to support the argument that increase in rent in the private sector will cause financial hardship to those who are genuinely in need. That is what I said in my main reply, there is no other special situation. In regard to Miss CHAN's question, it seems to me that she does not fully understand the fourth paragraph of my main reply.



**PRESIDENT** (in Cantonese): Miss CHAN Yuen-han, the Secretary for Housing has fully answered your question.

**MISS CHAN YUEN-HAN** (in Cantonese): *Mr President, I just want to say that even though they are in the same government, some departments have statistical information but some do not. Why .....*

**PRESIDENT** (in Cantonese): Miss CHAN Yuen-han, you are turning your question into a debate. Your point has been noted and we have heard it clearly.

**DR YEUNG SUM** (in Cantonese): *Mr President, both the government officials have said that the Government does not have any definition for poverty. I am shocked on hearing that. I would like to ask whether the criteria for CSSA as a safety net can be regarded as the definition for poverty by the Government?*

**SECRETARY FOR FINANCIAL SERVICES** (in Cantonese): Mr President, a number of Members have just raised different questions with the term "poverty". But in fact there is no official definition by the Government for this term. As to the question of whether the eligibility criteria for various services, including social security assistance and other safety nets, can be regarded as a yardstick for poverty, I think such a generalization is not quite correct because the target recipients for different services are different. For instance, some services are designed for those who are most in need of assistance whilst others are for those who are eligible because of other reasons. So each service is unique and I think the eligibility criteria for CSSA cannot be extended to serve as an absolute definition for poverty by the Government. I do not think this is the position of the Government.

**PRESIDENT** (in Cantonese): Dr YEUNG Sum, are you claiming that your supplementary question has not been fully answered?

**DR YEUNG SUM** (in Cantonese): *Yes, Mr President. I would like to thank the Secretary for Financial Services for his reply. I hope he can elucidate whether the Government is of the opinion that the CSSA eligibility criteria cannot be regarded as a yardstick for poverty by the Government?*

**SECRETARY FOR FINANCIAL SERVICES** (in Cantonese): Mr President, to my understanding, this cannot be regarded as an absolute yardstick. We can only say that where our fiscal position allows, we would use the criteria to determine the level of CSSA for the time being after taking social needs into account. We are not setting any absolute criteria and then use such criteria to provide services and a safety net. It is because the safety net can be reviewed and modified at any time.

**MR FRED LI** (in Cantonese): *Mr President, I would like to follow up what Mr LEE Wing-tat has asked. For those private housing tenants who are paying a rent of more than 40% of their income and who are on the Waiting List for public housing, would the Government consider relieving their burden before they are provided with public housing units by giving them rental allowance or other forms of assistance?*

**SECRETARY FOR HOUSING** (in Cantonese): Mr President, this proposal has been raised by some Members from the Democratic Party to us before. The Government has considered it and discussed it with some members of the Housing Authority. The conclusion of the Government is that the Government should not give these people special allowance as the Government is of the opinion that they should stay on the Waiting List and wait for allocation of public housing units.

### **Counterfeit Banknotes**

2. **DR LAW CHEUNG-KWOK** asked (in Cantonese): *Will the Government*

*inform this Council of:*

- (a) the number of cases involving the use of counterfeit banknotes in each of the past three years; as well as the amount of money involved in each of these cases;*
- (b) the methods used by the offenders in the above cases, and the main nationalities of such offenders; and*
- (c) the measures in place to combat crimes involving the use of counterfeit banknotes, and the effectiveness of such measures?*

**SECRETARY FOR SECURITY** (in Cantonese): Mr President,

- (a) In 1993, there were 1 863 reported cases involving the use of 5 813 counterfeit banknotes, with a face value of approximately \$3.07 million. In 1994, there were 1 984 such cases, and the number of counterfeit notes involved was 7 509 with an approximate face value of \$4.41 million. As for 1995, the number of cases was 2 100, involving 5 657 notes with an approximate face value of \$3.33 million. These figures represent cases reported to the Police by banks and members of the public; most of these cases have no criminal element involved. There was only one criminal case each in 1993 and 1995 involving the use of counterfeit banknotes with a face value of \$7,000 and US\$43,500 respectively. The vast majority of those who use counterfeit banknotes do so without knowing that they are faked notes; and they are in effect the victims.

Apart from seizing the counterfeit notes in use in the reported cases, the police also take proactive seizure operations. The total number of counterfeit notes seized in each of the past three years was 93 167 in 1993, 17 045 in 1994 and 9 348 in 1995. The approximate face value of these notes in Hong Kong dollar terms was \$72 million in 1993, \$13 million in 1994 and \$7.26 million in 1995.

- (b) The majority of the cases involving the use of counterfeit notes were discovered by banks in the normal course of their business. Most

were deposited by businessmen who had received them in the normal course of their businesses. Nationals from many countries were involved in these cases, but none has been particularly dominating.

- (c) The following measures are in place to tackle crimes relating to counterfeit banknotes:
- (i) the police hold regular meetings with the Hong Kong Monetary Authority and the Hong Kong Note Printing Company to discuss the situation in respect of counterfeit banknotes and the security features to be incorporated into Hong Kong dollar notes;
  - (ii) the police maintain close liaison with overseas law enforcement agencies to share intelligence on counterfeit banknote cases; and
  - (iii) the Commercial Crime Bureau of the Police Force provides regular briefings to banks, financial institutions and relevant government departments on how to identify and handle counterfeit banknotes.

These measures have enhanced awareness of counterfeit currency, and increased the number of detected cases on related offences from 4 in 1993 to 18 in 1995, including the two criminal cases mentioned in part (a) of the reply. The number of persons arrested for such offences has also increased from 4 in 1993 to 19 in 1995.

**DR LAW CHEUNG-KWOK** (in Cantonese): *Mr President, I would like to ask a follow-up question in regard to paragraph (c) (iii) of the main reply. The Secretary said that the Commercial Crime Bureau of the Police Force would brief the relevant government departments and institutions on how to identify counterfeit banknotes. I visited China recently and found that not a few hotels in Chinese cities were not willing to accept \$1,000 notes issued by the Standard Chartered Bank, as this kind of banknotes was involved in a counterfeit banknote case that happened in Hong Kong not long ago. Has the Government liaised with the relevant institutions of China or other countries and briefed them on how to correctly identify the genuine \$1,000 notes issued by the Standard*

*Chartered Bank from the counterfeit ones? If not, why not?*

**SECRETARY FOR SECURITY** (in Cantonese): Mr President, according to our experience, part of the counterfeit banknotes being used in Hong Kong have been transported into Hong Kong from or through the Mainland. Thus, in combating the counterfeit banknote syndicates and the related crimes, the Hong Kong police has already made use of various channels, including the Interpol, to exchange information with the Public Security Bureau of China with a view to studying how stronger measures can be taken to combat counterfeit banknote activities. In regard to whether the Commercial Crime Bureau of the Hong Kong Police Force has the ability to brief each and every hotel in China on how to identify counterfeit banknotes, I think it is impossible to do so. Dr LAW should also understand this point.

In the follow-up question raised by Dr LAW, it is mentioned that according to his experience, some hotels in the Mainland refused to accept banknotes issued by the Standard Chartered Bank as some counterfeit Standard Chartered banknotes had been found. I hope that they will not form the impression that there are only counterfeit Standard Chartered banknotes. Of course, I am not aware of the situation concerning counterfeit banknotes in the Mainland. However, the situation in Hong Kong is that counterfeit Standard Chartered banknotes in fact only account for a small proportion of the counterfeit Hong Kong dollar notes found in the last three years. Rather, the majority of counterfeit banknotes are those of the Hongkong and Shanghai Banking Corporation Limited. This phenomenon is not surprising at all, as the Hongkong Bank issues a large number of banknotes.

Perhaps I should clarify one point. In regard to the figures provided by me just now concerning counterfeit banknotes, for example, the figures of counterfeit banknotes in criminal cases and the banknotes confiscated, not all of them are in Hong Kong dollars. As a matter of fact, the counterfeit banknote cases in Hong Kong involve banknotes of different countries. And the biggest case involved not Hong Kong dollars but United States dollars.

**MR ALBERT HO** (in Cantonese): *Mr President, in fact, we are most concerned about the emergence of counterfeit banknotes in Hong Kong dollars, as Hong*

*Kong dollars are the currency circulating in Hong Kong. As to counterfeit foreign currency notes, they may be identified by experienced experts after going through several money changers. Therefore, I am quite concerned about part (c) of the question. If counterfeit Hong Kong dollar notes are found, does the Government have any effective measures to brief the public on how to identify counterfeit banknotes, for instance, does the Security Branch or the police have any means to notify the public and to advise them on the identification? This may include informing the public by setting up hot-lines or through television or other media so that the public will be more alert or more aware of counterfeit banknotes in certain kinds of banknotes. I hope the Secretary for Security will give a clear reply in this respect.*

**SECRETARY FOR SECURITY** (in Cantonese): Mr President, the Security Branch does not have this kind of expertise, as the Branch does not have experts in identifying counterfeit banknotes. The Commercial Crime Bureau of the Police Force, of course, has experts in identifying counterfeit banknotes. In the event of major counterfeit banknote cases, I believe that the police will take appropriate measures and make use of various mass media to provide the public with the information that they require, including giving information, to a certain extent, on how to identify the counterfeit banknotes.

Nevertheless, we have to take heed of one point. It is basically impossible to brief the more than 6 million people in Hong Kong on how to identify counterfeit banknotes. In case members of the public are in doubt whether the banknotes in hand are counterfeit, they can ask for assistance from the Commercial Crime Bureau of the Police Force to identify the banknotes. Moreover, only well-experienced and well-trained experts can identify counterfeit banknotes. Various equipment, for example, ultra-violet lights, will even be needed to specifically identify those exquisitely made counterfeit banknotes. It is impossible for the general public to have such equipment.

**MR ALBERT HO** (in Cantonese): *May I ask the Secretary for Security: If even the police finds this complicated, will the public be more at a loss, that is, in the face of some banknotes which may be counterfeit, do we really have no other means to find out whether they are genuine or not? Is the Secretary for Security unable to provide any advice to the public on how to identify counterfeit banknotes and will not set up any hot-line services? Does he mean that the*

*public have to rely wholly on their luck?*

**SECRETARY FOR SECURITY** (in Cantonese): I believe Mr HO did not hear clearly of my reply a moment ago. I have just made it clear that if any member of the public has a banknote in hand which he suspects is a counterfeit but has no way to identify whether it is genuine or not, he can request the Commercial Crime Bureau of the Police Force to assist in identifying that banknote.

**MR CHAN KAM-LAM** (in Cantonese): *Mr President, with the change in the form of currency nowadays, that is, the currency may come out in the form of cards instead of paper notes, what measures will the Government adopt in preventing and combating counterfeit electronic currency activities?*

**PRESIDENT** (in Cantonese): This supplementary question is out of the scope of the original question and the original answer. However, if the Secretary for Security is willing to answer this supplementary question, he may do so.

**SECRETARY FOR SECURITY** (in Cantonese): Mr President, I am not very sure what those electronic banknotes or electronic currency that Mr CHAN just mentioned are. However, in regard to paper notes, the Commercial Crime Bureau of the Police Force and the Hong Kong Note Printing Company have already briefed the note-issuing banks of Hong Kong on the various security measures to be taken in printing paper notes, for example, high quality watermarks, security lines, transparent marks, intaglio printed geometric patterns and so on. These security printing methods can increase the difficulty of producing counterfeit banknotes and can minimize the occurrence of counterfeit banknote cases.

**PRESIDENT** (in Cantonese): I think that Mr CHAN Kam-lam has to find another opportunity to raise this question. What you are asking is about electronic currency.

**MR TSANG KIN-SHING** (in Cantonese): *Mr President, may I ask the Secretary for Security: If a person has a banknote which he suspects is a counterfeit one, what should he do? If he wants to take that banknote to the Commercial Crime Bureau for identification but on his way to the Bureau, he is stopped and searched by a police officer and the note is found, he may be charged with possession of a counterfeit banknote. What channel should he use in order to avoid becoming a suspect? Will the Secretary for Security advise the public in general?*

**SECRETARY FOR SECURITY** (in Cantonese): Mr President, if a person is just holding a counterfeit banknote without any intention to use it for purchasing goods or doing any transaction, the police will not lay any charges against him. In part (a) of the main reply, I mentioned that in the last three years, the number of cases involving the use of counterfeit banknotes was almost 2 000 each year. But they were mainly about counterfeit banknotes being reported or being used. As a matter of fact, I have also mentioned that the majority of these cases did not have criminal element involved. Only two of them involved criminal element. Thus, the public can set their hearts at ease. If members of the public suspect that certain banknotes are counterfeit and take them to seek identification, the police will not lay any charges against them.

**MR TSANG KIN-SHING** (in Cantonese): *Mr President, can the Secretary for Security give us a brief answer on this point. Members of the public can, for instance, make an appointment by telephone and say clearly the number of the banknote before going to the bank or the Commercial Crime Bureau for identification. In this way, that person can be protected. Otherwise, there is a possibility that the police or the departments concerned may .....*

**PRESIDENT** (in Cantonese): Mr TSANG, the point is already very clear.

**SECRETARY FOR SECURITY** (in Cantonese): I cannot say anything on



behalf of the banks. However, I believe that if a member of the public has a banknote which he suspects to be counterfeit and he calls the Commercial Crime Bureau for an appointment, hoping that it will identify the note for him, I think that the Bureau will put it on record. I reiterate that it is indeed impossible for an ordinary person will know whether the banknote is counterfeit or not. It to be utterly incredible if he is thus prosecuted by the police for using counterfeit banknote.

### **Commemorative Stamps and Souvenir Cover on Hong Kong Paralympic Team**

3. **DR HUANG CHEN-YA** asked (in Cantonese): *Mr President, as the Government has promptly organized celebrations and issued commemorative stamps for the Hong Kong Olympic Team but has not yet made similar arrangements for the Paralympic Team, will the Government inform this Council whether consideration has been given to issuing commemorative stamps and souvenir covers to commemorate the outstanding achievements of the Hong Kong Paralympic Team which has won a number of gold medals at the 1996 Atlanta Paralympic Games; if so, when such stamps and covers will be put on sale; if not, why not?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Mr President, in recent years, five to six sets of commemorative stamps were issued by the Post Office on average each year. As the themes selected are limited, competition is very keen. Further, since the lead time required for preparation is rather long, the themes and their designs for each year have to be finalized at least 15 months in advance. For these reasons, it is impossible for the Post Office to issue commemorative stamps to celebrate the outstanding achievements of the Paralympic Team in the near future.

However, the design and production of souvenir covers can be done within a much shorter time scale. Following consultation with the Amateur Sports Federation and Olympic Committee of Hong Kong, the Post Office has already issued a souvenir cover on 29 October 1996 to commemorate the achievements of the Hong Kong Paralympic Team at the 1996 Atlanta Games.

**DR HUANG CHEN-YA** (in Cantonese): *Mr President, the Government stated that the Post Office could not issue commemorative stamps to celebrate the outstanding achievements of the Paralympic Team in the near future. In this connection, can the Government inform this Council: When, in the "not too near" future, will the Post Office issue such commemorative stamps? If the Post Office has no plan to issue such commemorative stamps, does it mean that the Government is discriminating against the disabled?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Mr President, perhaps I should explain the time required for stamps to be issued in Hong Kong. In fact, it requires as long as 30 months from preparation to the completion of other processes. The 15 months that I said just now is the time required for printing after the themes and designs are finalized. Therefore, if we, at the present moment, or rather around the end of August, considered adopting this topic as the theme of stamps, it will take 30 months. For this reason, we have no plan to issue thematic stamps for this event in the near future. This is not discriminatory because we do not issue stamps for each and every event. Take this year's Olympic Games as an example. Though the Hong Kong Team has obtained very good results and won the first gold medal, we do not have plans to issue commemorative stamps on this.

**DR HUANG CHEN-YA** (in Cantonese): *Mr President, the Government has not answered my question. I asked whether stamps would be issued in the "not too near" future. In his reply the Secretary said that stamps would not be issued in the near future. But will they be issued in the distant future?*

**PRESIDENT** (in Cantonese): Dr HUANG, that is already quite clear. Secretary for Home Affairs?

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Mr President, I said just

now that the time required is as long as 30 months. At the moment, we are not prepared to talk about things that will happen 30 months later. At present, we do not have plans to issue such stamps.

**MR MICHAEL HO** (in Cantonese): *Mr President, in the Government's reply it was said that the themes and designs for each year had to be finalized at least 15 months in advance. Regarding the commemorative stamp on LEE Lai-san issued recently, may I ask whether the Government knew 15 months in advance that she would win a gold medal or whether 15 months have lapsed imperceptibly?*

**PRESIDENT** (in Cantonese): Or is it that it would be issued no matter whether she was going to win or not? *(Laughter)*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Mr President, that is a very good question. We did not have a crystal ball to tell us 30 months ago that LEE Lai-san would win a gold medal. That is a misunderstanding. What I referred to just now are commemorative stamps and the Post Office issues five to six sets each year. These stamps come in sets. This year, for instance, the commemorative stamps issued included commemorative stamps for the Year of the Rat, stamps on the 1996 Olympic Games, commemorative stamps on archaeological finds in Hong Kong, commemorative stamps on Hong Kong mountains and commemorative stamps on urban heritage in Hong Kong. These are the commemorative stamps that I referred to just now. The stamp on LEE Lai-san, which Mr HO has mentioned just now and which the general public call as commemorative stamp it is not a commemorative stamp. It is a definitive souvenir sheet and the stamp is not a new design. If Members have not seen it before, I have a sample with me now. In fact, it is made on the basis of a definitive stamp with a face value of \$10 so the stamp itself is not a new design. Only the background needs to be designed. It will take a far shorter time to issue these souvenir sheets and the process can be completed within three months. Someone may ask the question: Since this type of stamps can be issued for this purpose, why do we not issue the same for the Paralympic Team? *(Laughter)* Fortunately, the Post Office has given me the answer.

As I said just now, generally the time required is three months but we have

to understand that the Olympic Games was held at the end of July whereas the Paralympics was held after the Olympics had ended. Therefore, when Miss LEE Lai-san courageously won the first gold medal which prompted joyous celebrations all over the territory, we decided to issue a souvenir sheet for this event. It was the beginning of August then and the information with me shows that the Post Office made such decision on 3 August, a time when the Paralympics was not yet held. The design took a rather short time as the stamp itself did not have to be designed and design was needed only for the background. On 16 August the design was handed to the printer for printing. As the printing took quite some time, the souvenir sheets were put on sale only on 29 October. After the design was sent for printing on 16 August, we learnt of the distinguished achievements of the Hong Kong Paralympic Team at the end of August. We were unable to make changes to the planned souvenir sheet which was in the course of printing at the time. Such being the case, we considered whether to issue another souvenir sheet but we had a very tight timetable for the issuing of stamps. Members who are philatelists certainly know that from the end of October to November, we have, as scheduled, issued a diversity of souvenir sheets on various other themes. In November, there were six special postmarks. The themes included Christmas greeting cards, joint stamp exhibition and heritage in Hong Kong. Arrangements were already made for the various programmes. In December, given the need to cope with the enormous demand for postal services during Christmas, the Post Office will be unable to make any issue accordingly. Yet, it is not an instance of discrimination. As Members will know, with regard to the achievements made in the Olympics and the Paralympics, the Government has equally given commendations to the athletes concerned. As the Secretary for Broadcasting, Culture and Sport has said, a fund for athletes will be set up for the benefit of normal and disabled athletes. Discrimination simply does not exist in this aspect.

**MR TSANG KIN-SHING** (in Cantonese): *I think the question is that basically, the stamps would have been delayed by just one month. What I mean is, the male disabled athlete won the four gold medals only one month later. Not only the form of reception was discriminatory, he was not taken into consideration even in respect of the issuing of souvenir sheets. Inequality exists between the sexes. Now the disabled are also being discriminated against .....*

**PRESIDENT** (in Cantonese): Mr TSANG Kin-shing, please state your question.

**MR TSANG KIN-SHING** (in Cantonese): *All I hope is that the Secretary for Home Affairs will issue a souvenir sheet for that male athlete.*

**PRESIDENT** (in Cantonese): Please state your question.

**MR TSANG KIN-SHING** (in Cantonese): *Will he do it?*

**PRESIDENT** (in Cantonese): This is the question time now, not a time for expression of opinions.

**MR TSANG KIN-SHING** (in Cantonese): *I would like to ask the Secretary for Home Affairs: Will a souvenir sheet be issued for Mr CHEUNG Wai-leung in order to be fair to all?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Mr President, earlier, I have explained the factors for our consideration and the complications involved. We have, therefore, decided not to do so. Yet, I would like to add that athletes in Hong Kong, be they disabled athletes or other athletes, have made plenty of good performances in many areas. As Members know, Miss LEE Lai-san made a breakthrough by winning the first gold medal in this year's Olympic Games. However, we should not lose sight of the Paralympics in which our athletes have always done very well indeed. In the last Paralympics we had gold medals, silver medals and bronze medals so this is not the first time they have won a gold medal. Nevertheless, we do not mean to make light of or look down on their achievements. However, as I have explained to Members just now, we have practical difficulties and therefore we have made this decision.

**MISS EMILY LAU** (in Cantonese): *Mr President, while the Secretary for Home Affairs has kept saying that it is not an instance of discrimination, many people have the feeling that partiality does exist. In order to prove that discrimination*

*does not exist from the perspective of the Government (let alone the private companies), can the Government give us a comparison of the resources, both in terms of manpower and materials, that the Government has put in for the celebration of the triumphant returns of these two groups of athletes, thereby showing that the Government has indeed treated these two groups of athletes fairly?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Mr President, I thought you would say that this question is out of the scope of the original question and my original reply. *(Laughter)*

**PRESIDENT** (in Cantonese): Secretary, are you making such a request?

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Yes, Mr President. Could you please make a ruling?

**PRESIDENT** (in Cantonese): Please answer the question if you can. It is because Dr HUANG Chen-ya mentioned a point on discrimination in his first supplementary question.

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Mr President, I find it rather difficult to answer because I was not in Hong Kong at that time. Therefore, I do not know the details of the resources used. However, from the documents that I have read, the Governor or the Deputy to the Governor received the returned athletes in the same manner and celebrations were held for them in the same manner. The athletes were presented with the same kind of gifts and citizens of Hong Kong were equally enthusiastic in welcoming their triumphant returns. Therefore, I am not aware of any difference.

**MISS EMILY LAU** (in Cantonese): *Mr President, I would like the Secretary to further provide us with a written reply because his reply is far from comprehensive. Please inform us of all the figures. Thank you.*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Mr President, if there are such figures in our records, I will try me best. (Annex III)

**DR JOHN TSE** (in Cantonese): *Mr President, I am pleased that the Secretary has brought with him the souvenir sheet issued by the Post Office. In fact, if we look at the souvenir sheet, we can clearly see that there are souvenir sheets, souvenir covers and postcards to sing the praises of LEE Lai-san. As for the disabled athletes, there is no trace of them. Not even the corner of a wheelchair is found. The treatment is certainly unfair. My question is: In future, in the event of distinguished achievements made by local athletes, be they normal athletes or disabled athletes, how will the Government ensure that they will not be accorded unequal treatment as they are this time? Will commemorative stamps be issued equally?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Mr President, first of all, I would like to clarify one thing. Perhaps the words are too small so I do not see them clearly. This set of stamps is not meant to commemorate LEE Lai-san despite the fact that we can clearly see her face there. This set of stamps was issued mainly to commemorate the remarkable achievements of the Hong Kong Team in the 100th Olympic Games. No individual person is mentioned here. It is about the achievements of all athletes in Hong Kong.

As to why a souvenir sheet was issued for this purpose but none was issued for the disabled, I have explained the reasons very clearly earlier on. Now let me repeat that it is because we had practical problems over the timing. Besides, in November and December, we have a host of programmes in respect of the issuing of stamps and so we are unable to take this into account. However, I think Members are aware that in 1982, the Hong Kong Government did issue a set of commemorative stamps to mark the Third Far East and South Pacific Games for the Disabled. Therefore, it cannot be said that the Government is discriminatory.

**MR SIN CHUNG-KAI** (in Cantonese): *Mr President, when local athletes made a breakthrough by winning the first gold medal in the Paralympics some unknown years ago, did the Post Office consider issuing commemorative stamps for such breakthrough made by the disabled? If not, why not? If yes, why did the Government not do it?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Mr President, all I can say is that we did not do so. As to whether consideration had been made and regarding the reasons for not issuing any of such stamps, I am sorry that I do not have the answer. I have no idea.

**DR HUANG CHEN-YA** (in Cantonese): *Mr President, the Government said that it did not do so in the past and that it did not know the reasons. Now, a souvenir sheet will not be issued because it cannot be issued in time. In fact, even if the souvenir sheet is to be issued next year, I believe people will equally welcome that and the disabled will also be very happy. However, even up to this very minute the Government still refuses to issue a souvenir sheet. I have said that we will still be happy to see it issued even in the "not too near" future. The Secretary, however, has failed to explain why this cannot be done. Is it not an instance of discrimination? It is hypocrisy. Can the Government tell me why we do not lodge a complaint to the Equal Opportunities Commission over the hypocritical and discriminatory demeanours of the Government?*

**PRESIDENT** (in Cantonese): The Government is not a person and so it is very difficult to say that the Government is hypocritical.

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Mr President, I think this question is unfair. It is because the original question is about the commemorative stamps and souvenir cover, not the souvenir sheet. I have brought this souvenir sheet with me in order to show the public and Members what we are up to, but this is not included in the original question.

**DR HUANG CHEN-YA** (in Cantonese): *I might not have asked about this point*



*originally. However, since it has been brought up, why has the Government not issued any?*

**PRESIDENT** (in Cantonese): The substance of Dr HUANG Chen-ya's question is whether a souvenir sheet will be issued in the not too near future.

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Mr President, since Members have made this suggestion today, I will convey this message to the Post Office for consideration.

### **Subsidiary Legislation on Tunnel Tolls**

4. **MR WONG WAI-YIN** asked (in Cantonese): *Regarding the interpretation that the Tate's Cairn Tunnel Ordinance and the Eastern Harbour Crossing Ordinance do not empower the Legislative Council to amend subsidiary legislation relating to the variation of the tolls of the tunnels concerned, will the Government inform this Council:*

- (a) *whether the above interpretation reflects the original intent of the Transport Branch in drafting the relevant bills; if not, when did the Branch reach such an interpretation; and*
- (b) *whether consideration will be given to amending the above Ordinances so as to specify clearly that this Council is empowered to amend subsidiary legislation relating to the tolls of the tunnels concerned; if not, why not?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Mr President, the provision for variation of tolls in the Tate's Cairn Tunnel Ordinance was modelled on that in the Eastern Harbour Crossing Ordinance. Both provide that tolls may be adjusted in accordance with an agreement reached between the Governor in Council and the company concerned or failing that by arbitration under the Arbitration Ordinance. We have checked through our records and confirmed that this was the intention as from the day of drafting the Drafting Instruction for the Eastern Harbour Crossing Bill 1986. This intention was also set out in the

Brief issued to this Council on 12 June 1986 on the Bill. It was further confirmed to this Council when my predecessor made the speech on 2 July 1986 in moving that the Bill be read a Second time and I quote:

"The initial tolls have been established and are recorded in the Schedule to the Bill. They can only be altered with the agreement of the Governor in Council, or failing an agreement, following arbitration."

The provision for the Commissioner for Transport to amend the tolls by notice in the Gazette in both the Eastern Harbour Crossing Ordinance and the Tate's Cairn Tunnel Ordinance is governed by the agreement between the Governor-in-Council and the company concerned or an award by arbitration under the Arbitration Ordinance. Although the gazetted notice is a subsidiary legislation and must therefore be laid before the Council in accordance with section 34(1) of the Interpretation and General Clauses Ordinance, this Council can only amend it pursuant to section 34(2) "in any manner whatsoever consistent with the power to make such subsidiary legislation". In other words, the limitations which apply to the Commissioner for Transport, who is the authority empowered to make this subsidiary legislation, would equally apply to this Council. The Commissioner has no discretion as to the terms of a tolls variation notice. He is obliged to make it in accordance with either an agreement reached between the company concerned and the Governor in Council or, in default of such agreement, the terms of an arbitral award. The provision of an arbitration mechanism would clearly be nugatory if this Council could disturb its outcome. The Legal Adviser to this Council has, in fact, come to the same conclusion.

To sum up, it has always been the Administration's intention, from the time the Bills for the Eastern Harbour Crossing and the Tate's Cairn Tunnel were drafted, that variation of tolls should be by agreement between the Governor in Council and the company concerned or, failing that, by arbitration under the Arbitration Ordinance which will be final. This intention is reflected in the way the legislation is constructed. Its effect is to displace the operation of section 34(2) which, like all other provisions of the Interpretation and General Clauses Ordinance, only applies "unless a contrary intention appears". Given that the statutory provisions governing toll variations are worded as they are, the Administration's contractual commitments to the tunnel companies are enshrined in the legislation.

**MR WONG WAI-YIN** (in Cantonese): *Mr President, when the increase in tolls for the Tate's Cairn Tunnel was discussed in this Council, the Deputy Secretary for Transport, Mr Paul LEUNG, repeatedly told the Panel on Transport that this Council was empowered to amend the tolls as stated in the Tate's Cairn Tunnel Ordinance. Will the Secretary for Transport inform this Council why the Deputy Secretary was given the understanding that this Council actually had the power?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Mr President, I have asked Mr LEUNG about this. He said as far as he could recall, he did not say the Legislative Council was empowered to amend the agreement reached between the Executive Council and the Company concerned. He did not say that. He only said under the law, the decision had to be published in the Gazette by way of subsidiary legislation.

**MR WONG WAI-YIN** (in Cantonese): *Mr President, I am not sure whether the Secretary has asked Mr LEUNG verbally or has actually read the minutes of the meeting. At the meeting, our colleagues did ask whether this Council was empowered to amend the tolls and Mr LEUNG's answer at the time was "yes".*

**SECRETARY FOR TRANSPORT** (in Cantonese): Mr President, I have verbally asked Mr LEUNG about the matter. Indeed, if on that occasion, he, just like what I have done today, had responded by clearly stating the interpretation of the provision rather than by answering simply "yes" or "no", there would not have been any misunderstanding.

**MRS MIRIAM LAU** (in Cantonese): *Mr President, provisions in the Eastern Harbour Crossing Ordinance governing toll adjustments are clearly different from those for the old Cross-Harbour Tunnel. Can the Secretary inform this Council why there was such a change in 1986, that is, changing the relevant provisions for the old Cross-Harbour Tunnel and adopting those provisions now used for the Eastern Harbour Crossing?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Mr President, the concept and policy regarding ways to amend the tolls for the Eastern Harbour Crossing and the Tate's Cairn Tunnel are the same as those for the old Cross-Harbour Tunnel. The wording was amended after more than 10 years. In fact, major changes occur not between the Eastern Harbour Crossing and the old Cross-Harbour Tunnel but between the Western Harbour Crossing and the Eastern Harbour Crossing. There are obvious changes between the two, but there is no change between the Eastern Harbour Crossing and the old Cross-Harbour Tunnel.

**MRS MIRIAM LAU** (in Cantonese): *Mr President, I do not quite understand the Secretary's explanation. Perhaps he does not understand my question. I am asking why there is a difference between the provisions governing toll adjustments for the Eastern Harbour Crossing Ordinance and those for the old Cross-Harbour Tunnel. To put it simply, for toll amendment proposal for the Eastern Harbour Crossing, once passed by the Executive Council, the Legislative Council is not entitled to intervene. However, the situation with the old Cross-Harbour Tunnel appears to be different. I would like to ask the Secretary why the provisions adopted were different from those for the old Cross-Harbour Tunnel when the Eastern Harbour Crossing Ordinance was formulated in 1986, thereby making it impossible for the Legislative Council to intervene in the toll adjustments?*

**PRESIDENT** (in Cantonese): The question is: The Legislative Council is not empowered to amend the toll adjustments for the old Cross-Harbour Tunnel. Toll adjustments for the new tunnel, though to be published in the Gazette, are still free from any amendment by the Legislative Council. Why is there the new wording?

**SECRETARY FOR TRANSPORT** (in Cantonese): Mr President, I have read the Ordinances for the two cross-harbour tunnels. The wording may be different, but the policy is consistent. As regards why the different wording was adopted to reflect the same policy, I will have to do some research before answering the Honourable Mrs Miriam LAU in writing. (Annex IV)

**MR ALBERT CHAN** (in Cantonese): *Mr President, the Secretary's understanding about the Legislative Council's power to amend in respect of the two Ordinances is very different from ours when we discussed tunnel tolls on numerous occasions in the past, especially from our interpretation put forward when we considered the Western Harbour Crossing Bill. Can the Secretary inform this Council what ordinances, other than the Tate's Cairn Tunnel Ordinance and the Eastern Harbour Crossing Ordinance, impose similar limitations on the power of the Legislative Council to examine tolls?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Mr President, in a nutshell, there are three ways for the variation of tolls among the ordinances governing tunnels. For example, the policy objectives of the Cross-Harbour Tunnel Ordinance, the Eastern Harbour Crossing Ordinance, and the Tate's Cairn Tunnel Ordinance are the same, and that is when tolls are varied, the Executive Council and the company concerned will discuss, and the variation will be determined by means of an agreement. If no agreement can be reached, arbitration will be sought. The second way applies to tunnels owned by the Government, such as the Lion Rock Tunnel. Toll variations need to be passed by the Legislative Council. The third way is contained in the Western Harbour Crossing Ordinance and the ordinance relating to the privately operated section of Route 3 which leads to Yuen Long. This represents a mechanism quite different from that requiring approval by the Legislative Council, or that concerning the Eastern Harbour Crossing and the Tate's Cairn Tunnel. Under the new ordinance, there is a mechanism specifying under what circumstances, in which year and on what grounds can the company vary the tolls. So, there are in fact three different ways.

**MR ALBERT CHAN** (in Cantonese): *Mr President, what I am asking is other than the Tate's Cairn Tunnel Ordinance and the Eastern Harbour Crossing Ordinance, which curtail the power of the Legislative Council to examine toll charges under the principle as mentioned by the Secretary, are there other ordinances that impose similar restrictions?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Mr President, there are three tunnels having this mechanism of restriction, namely the Eastern Harbour Crossing, the Cross-Harbour Tunnel and the Tate's Cairn Tunnel.

**PRESIDENT** (in Cantonese): Mr CHAN, are you asking the other policy areas under the responsibility of the Transport Branch, such as the ferries and buses? If that is the case, you have gone beyond the original question. If your question is confined to tunnels, the Secretary's answer is "no".

**MR ALBERT CHAN** (in Cantonese): *I will raise this question again in future when there is an opportunity. Thank you, Mr President.*

**MR WONG WAI-YIN** (in Cantonese): *Mr President, according to the Secretary's reply, this Council is not empowered to amend the tolls of the Tate's Cairn Tunnel. At present, the Tate's Cairn Tunnel Company suffers huge losses, and has to increase its tolls significantly year after year. Given the faulty management of the Tate's Cairn Tunnel Company that results in huge losses, which are then shifted to the consumers, will the Secretary inform this Council how the interests of the public can be protected?*

**PRESIDENT** (in Cantonese): This supplementary question is completely out of the ambit of the original question and reply.

### **Legal Aid Service**

5. **MR CHEUNG HON-CHUNG** asked (in Cantonese): *It is learnt that the Legal Aid Department (LAD) had delayed processing a case involving a claim for damages in respect of the accidental death of a crew member on board a vessel for three years, and was also mistaken about the particulars of the defendant's fleet, resulting in the plaintiff not being able to file a successful claim for damages. In this connection, will the Government inform this Council of:*

- (a) *the criteria adopted by the LDA in assigning cases to counsel;*
- (b) *the remedial measures taken to prevent the recurrence of similar incidents; and*
- (c) *the channels that are open to people in receipt of legal aid for filing complaints and claiming damages in respect of the losses they suffer due to mistakes on the part of the LAD?*

**ATTORNEY GENERAL:** Mr President, the case referred to in this question relates to the accidental death of a stevedore who was handling cargo on board a ship in Hong Kong waters. Legal aid was granted to his widow, who brought two actions in respect of that accident: one was an action against the deceased's employers; and the other was against the ship and its sister ships. The writs in respect of both actions were issued within the statutory time limits. No problems have arisen in respect of the action against the employers. That claim is pending before the courts. Problems did, however, occur in respect of the action against the ship and because of them, the action can no longer be pursued. I would, however, like to emphasize that it cannot be assumed that the widow's claim for compensation has suffered in any way. As I have just said, her claim against the employers is still being pursued. The answers to the three specific questions are as follows.

- (a) After legal aid is granted, the Department will decide whether the case should be handled in-house or assigned out to a solicitor in private practice, taking into consideration the nature and the complexity of the case involved. Cases handled in-house are assigned to lawyers in the appropriate sections having regard to their level of experience and workload.
- (b) The problems that occurred in the proceedings against the ship were caused by reliance on information about the identity of the shipowners, and of other ships owned by the shipowners, which proved to be inaccurate. The Director of Legal Aid has issued guidelines to members of his Department as to the best procedures to adopt to obtain accurate information on such matters.

- (c) Aided persons who are aggrieved by the performance of the Legal Aid Department may lodge complaints directly with the Director of Legal Aid or with the Commissioner for Administrative Complaints. They may also consider bringing legal proceedings against those who are alleged to have been negligent in handling their claims.

**MR CHEUNG HON-CHUNG** (in Cantonese): *Mr President, there was a report in a newspaper yesterday concerning another case, in which a divorced woman accused the Legal Aid Department (LAD) of negligence which resulted in her having suffered a loss in her claim for maintenance. In fact, reports of this kind are very common. Is there any mechanism or procedure for the LAD to supervise the department's lawyers or lawyers in private practice who are assigned cases, so that they would not make such simple procedural mistakes when dealing with the cases? The complaint that was reported yesterday was about a delay in procedures in issuing a summons to the woman's ex-husband, which resulted in her failure to claim. It was just some very simple procedures of time. So, is there any way the LAD can stop this kind of mistakes?*

**ATTORNEY GENERAL:** Mr President, as indicated in paragraph (b) of my main answer, in respect of the problems that arose in this particular case, the Director of Legal Aid has already issued guidelines to members of his Department as to the best procedures to adopt to obtain accurate information on such matters as that set out in paragraph (b) of the main answer.

As regards the question of supervision, the Department has a number of Directorate Grade officers responsible for supervision of the work of their respective sections. I should add that the Department is bidding for funds to create an additional post of Assistant Director to strengthen the supervision and the training of its staff. In addition, the Legal Aid Services Council is responsible for overseeing the work of the Department as a whole.

**MISS EMILY LAU:** *Mr President, the Attorney General said that proceedings against the ship cannot go forward because of inaccurate information regarding the identity of the shipowners, and so on. Can he inform this Council who in the Department made a mistake and why he went on to say that it cannot be*



*assumed that the widow's claim for compensation has suffered in any way if no action can be taken in this regard?*

**ATTORNEY GENERAL:** Mr President, let me answer the second of those supplementaries first. As I have said in my main answer, there were two actions brought out of the one accident. One was brought against the employers of the dead stevedore. The second was an action against the ship, the shipowners and its sister ships. The first action, which I would regard as the primary action, is an action in negligence to claim compensation arising out of the claim by the widow arising out of the death of her husband. That claim is still alive, is pending for the courts. And I think it would be premature to assume, until that case has been concluded, that the widow would have suffered any loss in recoverable damages as a result of the death of her husband. I think it is simply premature to jump to that conclusion. That action is being proceeded with as a pre-trial review coming up shortly, and I would imagine that it would proceed to trial some time next year.

In relation to the action against the ship, the solicitor handling the case within the Department was acting on the advice of outside counsel, a member of the Bar who had been briefed to act as counsel in this case, who advised that an action against the ship, the shipowners and its sister ships should be brought. Very unfortunately, and I think that when the Department first submitted this, there was reliance placed on inaccurate information. The information was obtained frankly from the wrong source. And that is now the subject matter of guidelines issued by the Director advising members of his Department as to the best procedures to be followed to obtain accurate information about these matters in the future.

**DR HUANG CHEN-YA** (in Cantonese): *Mr President, the Attorney General mentioned that the widow could bring legal proceedings against those who might have been negligent in handling the claim. Will the LAD help this widow to bring legal proceedings against them? If it will, has it told the widow that she is entitled to do so?*

**ATTORNEY GENERAL:** Mr President, as I have said, it would be premature to jump to the conclusion that the widow will have suffered any loss at all

because the main action against the employers is still proceeding. And it would not be possible to reach a conclusion as to whether or not she has suffered any loss until that action has actually been completed. I think it would be premature to speculate about what course would be adopted until the questions of liabilities and demand for damages have been settled by the courts.

**DR HUANG CHEN-YA** (in Cantonese): *Mr President, the Attorney General has not answered my question. The question I ask is a plain one, and that is: If the widow wishes to bring legal proceedings against the person who might have been negligent, will the LAD help her in bringing the proceedings against that person? Also, has the LAD explained to her that if she is dissatisfied, she may take legal action? What I want to ask is this point instead of anything to do with whether or not her rights or interests have been damaged.*

**ATTORNEY GENERAL:** Mr President, I am afraid the misunderstanding is Dr HUANG's. Until the determination of the action against the employers, there can be no assumption made as to whether or not the widow would have suffered loss. That is a future speculative question. If she recovers compensation, and I have to be careful here because I do not want to prejudice pending proceedings before the court on an action for damages, if the widow recovers damages, then she will not have suffered any loss. I repeat what I said in my main answer that persons who are aggrieved can consider bringing legal proceedings against the LAD if they believe that they have suffered loss as a result of the negligent handling of their cases by Legal Aid counsel. But I stress that in this case, that question cannot be addressed until the conclusion of the proceedings against the employers.

**DR HUANG CHEN-YA** (in Cantonese): *Mr President, he is still beating about the bush.*

**PRESIDENT** (in Cantonese): Which part of the question do you think is not answered, Dr HUANG Chen-ya?

**DR HUANG CHEN-YA** (in Cantonese): *Actually, the last part of the original*

*answer has also mentioned the principle, and that is, if that person is still dissatisfied, he may bring legal proceedings against the LAD. My question is that when that person wants to bring legal proceedings against the counsel briefed by the LAD, will the LAD help the aggrieved party to bring legal proceedings against the counsel assigned by the LAD? Also, will the LAD inform the aggrieved party of such a right?*

**ATTORNEY GENERAL:** I can give no better answer than I have already given to Dr HUANG.

**PRESIDENT** (in Cantonese): Paragraph (c) of the original question and paragraph (c) of the original answer are well-known to Members. However, I believe what Dr HUANG wants to ask is: Under these circumstances, supposing that the aggrieved party passes the means test, will the LAD take up the case and represent that person in bringing legal proceedings against the LAD?

**ATTORNEY GENERAL:** Let me answer that, Mr President, in the general and not in relation to this case, for the reasons which I have explained four times. You cannot establish whether or not the widow will be aggrieved until it has been established that she has suffered a loss. You will not be able to establish that until the case has been concluded. I speak now generally. If a person wishes to bring legal proceedings against the LAD, the LAD will assign outside counsel to advise that person whether or not he got a claim against the LAD.

**MR LAU CHIN-SHEK** (in Cantonese): *Can the Attorney General inform us whether or not, of the cases the LAD has handled, there are any legally aided person who have suffered a loss arising from mistakes made by the LAD? Has the LAD taken the initiative to inform them what rights they have and helped them to take the matter to the court?*

**ATTORNEY GENERAL:** Mr President, I will endeavour to find out from the Director whether he can give that information. It would be helpful if we can put that into a timeframe because that is a very broad general question with no time

constraints on it at all. So if Mr LAU wants to reduce it to a sensible timeframe I will see what I can do. (Annex V)

**PRESIDENT** (in Cantonese): Mr LAU Chin-shek, can you give a timeframe?

**MR LAU CHIN-SHEK** (in Cantonese): *Mr President, I suppose it should be the past three years. Is that all right? Also, if the LAD has not done so, will the Attorney General inform the Director of the LAD that he should do so, that is to say, he should inform the aggrieved parties of their rights and provide them with assistance?*

**MR CHEUNG HON-CHUNG** (in Cantonese): *Mr President, can the Attorney General inform this Council whether or not the same criteria are applied to LAD counsel and counsel in private practice who are assigned by the LAD, as far as supervision is concerned? Since we can see from many cases that outside counsel who are in the private practice are not under the supervision of certain procedures, resulting in their making procedural mistakes. Are these two kinds of counsel using the same criteria in handling cases?*

**ATTORNEY GENERAL:** Mr President, as I have said in my main answer, after legal aid has been granted, the Department will first of all decide whether the case should be handled in-house or be assigned out to a solicitor in private practice. In this particular case, the solicitorial work, if I can put it like that, was dealt with in-house. But counsel of the private Bar was briefed to act as counsel to give advice. The criteria for assigning counsel at the private Bar is a matter for the Director. I do not have the precise criteria to hand. I will ask the Director to supply with the information and give a written reply. (Annex VI)

**MISS EMILY LAU:** *Mr President, the Attorney General said that it is premature to say whether the widow would have suffered any loss, but it is true now that the action against the ship cannot go forward because of a mistake made by counsel. Should the widow not assume that she would not be able to get whatever compensation she might have been able to get under that action? And also would the Attorney General tell us what action has the Department taken against the barrister concerned, that is, whether he has been struck off the list, or with a black mark put against his name, or what?*

**ATTORNEY GENERAL:** Perhaps I could just clarify, Mr President, that the two actions do not necessarily mean that the widow would necessarily get two separate amounts of compensation. It is frequently the case, when we got more than one person who is allegedly responsible for an injury, to sue not just one person, but more than one. But you do not get double damages. So that is why I say you cannot assume that the unfortunate widow will have as well lost out because of the mistake in the Department in not securing the action in respect of the ship.

As regards the second part of the question, the Department has reviewed what has happened in this case and in the unfortunate circumstances, the Director has issued guidelines to members of his Department as I have said. But having regard to all the circumstances, the Director has concluded this is not an appropriate case in which to take disciplinary action.

**MISS MARGARET NG:** *Mr President, can I invite the Attorney General to clarify his position in answering this question because usually we understand that the Director of Legal Aid is not responsible to the Attorney General. But on this occasion, the Attorney General is answering questions and it appears that he is answering questions on behalf of the Director of Legal Aid. Could he perhaps clarify that situation?*

**ATTORNEY GENERAL:** Mr President, resisting the desire to admit that I am a masochist, the question raises no issues of policy concerning the LAD. It is filled with what I might call issues of law and legal procedure. Since I believe I am the only designated public officer qualified in law, it was felt that I was perhaps the most appropriate designated public officer to answer this question. But I am grateful to the Honourable Member for making a point that I would wish to underscore that I have no responsibility for the Director of Legal Aid. The Director operates entirely independently and certainly independently of me. It is just on this occasion, I drew the short straw. *(Laughter)*

## WRITTEN ANSWERS TO QUESTIONS

**Visitors from Taiwan**

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

- (a) *of the respective numbers of arrivals from Taiwan visiting the territory or in transit during the 12-month period before and after the commissioning of the Macau Airport in October 1995; and*
- (b) *how the number of arrivals from Taiwan during the 12-month period after the commissioning of the Macau Airport given in the answer to (a) above compares with those from Japan, South Korea and Singapore in the corresponding period?*

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

- (a) The Macau International Airport (MIA) has commenced operation since November 1995 although it was only officially opened on 8 December 1995. During the 12-month period prior to the operation of the MIA, the number of visitor arrivals from Taiwan to Hong Kong was 1 748 000. During the following 12-month period, the number of visitor arrivals from Taiwan was 1 757 000, representing a small increase of 0.48%.

As regards the number of transit passengers arriving from Taiwan, the latest data we have available is up to September 1996. During the 11-month period from November 1995 to September 1996, the number of transfer passengers from Taiwan was 791 200 as compared with 810 900 for the period from November 1994 to September 1995, representing a drop of 2.4%.

- (b) Visitor arrivals from Japan, South Korea and Singapore recorded growth rates of 37%, 18% and 25% respectively over the

corresponding 12-month period.

### **Regulation of Safety Airbags**

7. **MRS MIRIAM LAU** asked (in Chinese): *It is reported that traffic accident statistics in the United States indicate that drivers of short height and children are prone to be killed by the ejection of safety airbags during accidents. In this connection, will the Government inform this Council:*

- (a) *whether it has any statistics on the number of drivers and front-seat passengers who escaped injury, as well as those who sustained injuries, as a result of the ejection of safety airbags during accidents in the past three years; if so, what the respective figures were;*
- (b) *how it will regulate the operation of safety airbags in view of the fact that the installation of safety airbags in cars is becoming increasingly common; and*
- (c) *whether measures will be taken to prevent the occurrence of incidents involving injuries caused by the ejection of safety airbags during accidents?*

**SECRETARY FOR TRANSPORT** (in Chinese): Mr President,

- (a) The Administration does not keep statistics on cases in which airbags have inflated during traffic accidents. However we record causes of traffic accidents and where inflation of an airbag is the cause of a traffic accident, it is recorded. In the past three years, there was one reported accident caused by the sudden inflation of an airbag while the vehicle was moving. One passenger was slightly injured in this accident.
- (b) We are studying how the provision of airbags can be regulated and for this purpose, we are consulting overseas authorities. Particular

attention is paid to the United States where a number of recommendations have come up after the relevant authorities have conducted research into the subject. As an example, we will study the recommendation made to manufacturers that the speed of releasing airbags should be reduced. When our study is completed, consideration will be given to introducing legislative amendments to govern the safe provision of airbags.

- (c) Pending long term regulations, as an initial step, the Administration will publicize a warning against carrying young children or babies in the front seats of vehicles which are provided with airbags. This can be done through press releases and briefings.

### **Police Officers under ICAC Investigation**

8. **MRS SELINA CHOW** asked (in Chinese): *Will the Government inform this Council:*

- (a) *of the number of cases involving serving police officers being investigated by the Independent Commission Against Corruption (the ICAC) in the past five years;*
- (b) *of the number of the above cases in which the investigation time lasted for*
  - (i) *less than one year,*
  - (ii) *one to less than two years,*
  - (iii) *two to less than three years, and*
  - (iv) *three years or more;*
- (c) *whether the authorities concerned have put in place any mechanism for determining if a police officer under investigation should be interdicted with pay; if not, whether, and if so how, such a mechanism will be set up;*



- (d) *of the number of the cases referred to in (a) above in which the ICAC had not been able to complete investigations within a period of two years, resulting in the police officers under investigation being interdicted for a prolonged period; and*
- (e) *whether the authorities have set a time limit for the ICAC to completion of an investigation and instituting prosecution proceedings where evidence is available or review whether investigations into uncompleted cases should continue; if not, why not?*

**SECRETARY FOR SECURITY** (in Chinese): Mr President,

- (a) The number of cases involving serving police officers investigated by the ICAC in the past five years are as follows:

<i>Year</i>	<i>Total number of cases</i>
1991	255
1992	260
1993	389
1994	413
1995	362
1996	335
(as at 13 November 1996)	

- (b) Detailed breakdown of investigation time for the cases in part (a) are as follows:

<i>Year</i>	<i>Investigation time</i>			
	<i>less than one year</i>	<i>one year to two years</i>	<i>two years to three years</i>	<i>three years or more</i>
1991	228	22	3	2
1992	213	39	8	0

---

1993	340	44	5	0
1994	369	41	3	0
1995	344	18	0	0
1996 (as at 13 November 1996)	335	0	0	0

- (c) In accordance with section 17 of the Police Force Ordinance, the Commissioner of Police may in the public interest interdict police officers at the Inspectorate rank or below. Interdiction of police officers at the rank of Superintendent or above is governed by Colonial Regulation 60 with the authority delegated to the Secretary for the Civil Service by the Governor. Irrespective of rank, the primary consideration in deciding to interdict a police officer is whether it is in the public interest to do so. Each case will have to be considered on its individual merits.
- (d) Of the cases in part (a), 21 of them took more than two years to complete. Of these 21 cases, four cases with a total of 11 arrests were made. They were interdicted upon their arrest. No police officer was arrested and hence interdicted for the other 17 cases.

The period of interdiction for the 11 arrested police officers, calculated from the time of arrest up to the time when they were formally charged and brought before the court, are as follows:

<i>Period of interdiction</i>	<i>Number of police officers</i>
one day	1
four months	1
one year	1
one year and eight months	7
two years and 10 months	1
	----
	11
	==

- (e) There is no time limit imposed on ICAC investigations as it is impracticable and inappropriate to do so. The progress of ICAC investigations is however kept under review both internally and

externally. Internally, cases are periodically reviewed by the Chief Investigator and by the Principal Investigator in appropriate circumstances. Major investigations are reviewed by the directorate through case discussions/conferences. Externally, the progress of on-going cases is reported to the Operations Review Committee every six weeks when the cases involve:

- (i) investigation for over 12 months, or
- (ii) persons on bail for more than six months; or
- (iii) investigation of a significant or complex nature.

### **Disposal of Vacant Non-departmental Quarters**

9. **MR IP KWOK-HIM** asked (in Chinese): *The Deputy Secretary for the Civil Service stated in April this year that the Government had undertaken a programme for the leasing out of vacant non-departmental quarters (NDQs) and the sale of individual units with a view to reducing the number of surplus NDQs, and that a Working Group had been set up to review the progress of the programme. In this connection, will the Government inform this Council:*

- (a) *of the number of vacant NDQs as at the end of October this year, together with their locations and the total floor area involved;*
- (b) *of the latest progress of the above programme, and the number of vacant NDQs mentioned in (a) above which are now included in the programme; and*
- (c) *whether there is still a surplus of NDQs after the implementation of the programme; if so, what the reasons are?*

**SECRETARY FOR THE CIVIL SERVICE** (in Chinese): Mr President,

*Number of vacant NDQs and their distribution as at end of October 1996*

All units vacated by civil servants are normally advertised for reallocation to eligible civil servants by the Quarters Allocation Committee. Units that are not allocated and are surplus to requirement are designated for leasing out to the public, or conversion to government/institution/community use or sale as appropriate. To date, a total of 217 units have been transferred to the Government Property Administrator for this purpose. Arrangement are being made to vacate selected NDQ site for redevelopment. We expect to be able to release more flats on an on-going basis. As at end of October 1996, there were 20 vacant NDQs at various locations available for allocation. Details on their locations and their floor areas are shown in the Annex. Four of these units have since been transferred to the leasing programme.

It is expected that the vacant quarters will be taken up by occupants who are being required to vacate their existing quarters at two sites, namely Unicorn Garden in Shouson Hill and Cape View in Chung Hom Kok, already targetted for disposal by sale towards the end of next year. A one year's notice-to-vacate has been issued to existing occupants of these sites to allow them time to make domestic arrangements and to apply for alternative quarters.

#### *Progress of leasing of surplus NDQs*

The leasing of NDQs commenced on 30 October 1996. As at 23 November, 103 of the initial batch of 149 units have been successfully let. More units are being placed on the market. The flats are attracting considerable interest and we are confident that they will be taken up quickly.

#### *Progress on sale of surplus NDQs*

Selection of property agents to sell individual NDQs for the Government is in progress. If the selection results are approved by the Central Tender Board, the list of the selected agents and other related details will be announced by the end of November and the sale of NDQs will start in December.

#### *Surplus situation after implementation of the leasing and sales programme*

The programme has been set up to ensure that if there are surplus units

they are put to good economic use. The programme will continue as an interim measure to ensure NDQ which are no longer needed are properly utilized pending their final disposal.

## Annex

List of vacant non-departmental quarters (NDQ) available for allocation  
as at end October 1996

<i>Location</i>	<i>No. of vacant NDQ</i>	<i>Floor area (m<sup>2</sup>) per unit</i>
122 Pokfulam Road	1	195
Victoria Flats, Barker Road	1	136
<i>Location</i>	<i>No. of vacant NDQ</i>	<i>Floor area (m<sup>2</sup>) per unit</i>
Cape Mansion, Mt Davis Road	1	180
The Crescent, 15A Homantin Hill Road	1	209
Broadcast Drive	1	200
Caldecott Road	2	253
Wylie Court, 23 Wylie Path	1	152
Man Kei Toi, Sai Kung	3	218
Cape View, Chung Hom Kok	1	220
Fairmont Garden, Conduit Road	1	244
Leighton Hill Flats	7	147-194
	--	

Total

20

**Descendants of Gurkha Soldiers Applying for Permanent Stay in Hong Kong**

10. **MR LO SUK-CHING** asked (in Chinese): *It is reported that recently there have been a considerable number of Nepalis, who claim to be descendants of retired Gurkha soldiers previously stationed in Hong Kong, coming to the territory in an attempt to obtain Hong Kong Permanent Identity Cards before 1 July 1997 so that they can remain in the territory to take up employment, and that the number of such people eligible for applying for the Hong Kong Identity Card is estimated to be in tens of thousands. In this connection, will the Government inform this Council:*

- (a) of the numbers of descendants of retired Gurkha soldiers granted permission to reside permanently in the territory in each of the past 12 months, and the reasons for granting such permission;*
- (b) of the number of applications for permanent stay in the territory from the descendants of retired Gurkha soldiers that are still being processed at present; and*
- (c) whether it will consider adopting measures to stop the influx of these people into the territory in large numbers before 1 July 1997, so as to avoid putting the labour market under pressure?*

**SECRETARY FOR SECURITY** (in Chinese): Mr President, the persons the Honourable Member referred to in the question are persons of Nepalese origin who have the Hong Kong British Dependent Territories Citizen (BDTC) status.

Before the commencement of the current British Nationality Act on 1 January 1983, children born in Hong Kong to members of the Gurkha Garrison acquired the status of "British subject, citizen of the United Kingdom and Colonies" by birth under the British Nationality Act then in force. On 1 January

1983, when the current British Nationality Act came into force, all "Citizens of the United Kingdom and Colonies" who had that citizenship by birth immediately before, including these children born in Hong Kong to members of the Gurkha Garrison, became Hong Kong BDTCs. Since all Hong Kong BDTCs have the right of abode in Hong Kong, all such children of members of the Gurkha Garrison have the right of abode in Hong Kong. They are therefore entitled to Hong Kong Permanent Identity Cards.

Against this background, the answers to the Honourable Member's questions, in the order they are raised, are as follows:

- (a) The number of persons born to members of the Gurkha Garrison who obtained Hong Kong Permanent Identity Cards in each of the past 12 months is:

November 1995	211	May 1996	402
December	293	June	262
January 1996	178	July	347
February	130	August	347
March	260	September	332
April	272	October	398
Total			3 432

*Note:*

The figure includes 680 persons issued with Hong Kong Permanent Identity Cards in connection with applications for British National (Overseas) passports submitted to the British Embassy in Nepal.

They are granted Hong Kong Permanent Identity Cards because they were confirmed to have the BDTC status and, hence, have the Hong Kong permanent resident status.

- (b) The number of cases being processed at present is 1 692.
- (c) Persons who have the right of abode in Hong Kong cannot be

refused entry but we take careful steps in verifying the status of all claimants to the BDTC status. It should also be noted that, on and after 1 January 1983, children born to members of the Gurkha Garrison in Hong Kong could no longer acquire the BDTC status. This is because the British Nationality Act, which came in force on 1 January 1983, stated that a person born in a British Dependent Territory will only have the BDTC status if, at the time of his birth, one of his parents was settled in Hong Kong. Members of the Gurkha Garrison were not considered to be settled in Hong Kong; hence children born to them in Hong Kong on or after 1 January 1983 would not have the Hong Kong BDTC status.

### **Hong Kong Institute of Education Degree Places**

11. **DR DAVID LI** asked: *It is learnt that a certain number of the existing 14 500 full-time first-degree places at the seven tertiary institutions funded by the University Grants Committee (UGC) will be allocated to the Hong Kong Institute of Education (HKIEd) in an effort to boost teacher training. In this connection, will the Government inform this Council what effects the allocation of first-degree places to the HKIEd will have on the first-degree places offered by the UGC-funded institutions?*

**SECRETARY FOR EDUCATION AND MANPOWER:** Mr President, our present policy is to provide a total of 14 500 first-year first-degree (FYFD) places to cater for at least 18% of the 17 to 20 age group population.

The planning process for the 1998-2001 triennium has only recently started and student number targets for individual UGC-funded institutions and the HKIEd have yet to be finalized.

Any FYFD places provided by the HKIEd (conditional upon external validation of the programmes by the Hong Kong Council for Academic Accreditation), as well as any additional places to be offered by the UGC-funded institutions on new or existing courses in the 1998-2001 triennium, would be counted towards the overall target number. Some internal and inter-institutional redistribution of student numbers might be required and the effects would be examined by the UGC, in consultation with the institutions.



**Municipal Councils' Overseas Study Tours**

12. **MR ALBERT CHAN** asked (in Chinese): *Regarding overseas study tours undertaken every year by members of the municipal councils, is the Government aware of:*

- (a) *the number of overseas study tours undertaken by members of the municipal councils since 1986 and the total amount of public funds incurred;*
- (b) *the number of the tours mentioned in (a) above which involved the inspection of lavatories and environmental hygiene matters; and the total amount of public funds incurred on such tours; and*
- (c) *whether the Director of Audit has conducted value-for-money audits on the use of public funds by the municipal councils on overseas study tours; if not, how the Government monitors the expenses incurred by the municipal councils on overseas study tours?*

**SECRETARY FOR BROADCASTING, CULTURE AND SPORT** (in Chinese): Mr President,

- (a) According to information provided by the Regional Services Department and the Urban Services Department, the Regional Council and Urban Council have, since 1986, conducted 23 and 58 overseas study tours respectively. The expenses incurred in respect of these visits by the Regional Council and the Urban Council were \$9.4 million and \$5.64 million respectively, making a total of \$15.04 million.
- (b) According to information provided by the two Departments, of the 23 overseas study tours conducted by the Regional Council, eight visits were made exclusively to environmental hygiene services and facilities, including one which involved the management of public toilets as one of the subjects of study. The total expenses incurred amounted to about \$3.3 million. There were three further visits

which involved inspections of environmental hygiene services in addition to other municipal services, but it is not possible to isolate the expenses for the inspections of environmental hygiene services.

Of the 58 overseas study tours conducted by the Urban Council, seven were conducted with special emphasis on public health and environmental hygiene matters. The expenditure involved was around \$0.63 million. The Urban Council has not conducted any overseas visit specifically to inspect public toilets but a Councilor attended the 1st and 3rd International Toilet Symposiums held in 1993 and 1996 respectively as an invited guest speaker. Expenses such as hotel, registration fees, and so on were paid by the host country whilst other expenses including airfare and miscellaneous expenses such as insurance, local travelling, telephone charges and so on amounting to \$20,000 were met by the Urban Council. For the 3rd International Toilet Symposium, the airfare was paid by the participant personally out of his own pocket. Annual overseas visits conducted by the Urban Council would normally cover a number of areas and some would include a study of public toilets and public health matters as part of the overall programme. It is therefore not possible to ascertain the expenditure breakdown for individual study areas.

- (c) The Director of Audit has not conducted any value-for-money study on the overseas study tours by the two municipal councils. As the two Councils have full policy and financial autonomy, it would not be appropriate for the Government to monitor the expenditure of the Councils which, under the Regional Council Ordinance (Cap. 385) and the Urban Council Ordinance (Cap. 101), is entirely a matter for the two Councils to decide. There are, however, provisions in these two Ordinances for the accounts of the two Councils to be audited by the Director of Audit, and for reports on these accounts to be presented to the Governor, and for these reports to be laid before the Legislative Council. Moreover, the overall expenditure of the two municipal councils is subject to the amount of revenue they receive, which consist mainly of rates. The rates percentage charges which determine the amount of rates revenue made available to the two municipal councils are approved by resolution of the Legislative Council.

**Financial Provisions Earmarked for Three New Hospitals**

13. **MISS CHRISTINE LOH** asked: *Does the Government know of the respective total financial provisions earmarked for the setting up of the three new hospitals in the New Territories, namely Tai Po Nethersole Hospital, North District Hospital and Tseung Kwan O Hospital?*

**SECRETARY FOR HEALTH AND WELFARE:** Mr President, details regarding the total financial provisions earmarked for the construction, including furniture and equipment, of the three hospitals as provided to the Finance Committee are as follows:

*Projects**Capital and Recurrent Costs**Tai Po Nethersole Hospital*

Total capital expenditure of \$680 million was approved by the Finance Committee on 10 February 1998 with the recurrent cost estimated to be \$158 million at 1987-88 price level. The approved project estimate was later revised to \$1,038.7 million on 16 April 1993.

*North District Hospital*

Total capital expenditure of \$1,690.35 million in money-of-the-day prices\* was approved by the Finance Committee on 19 November 1993 with the recurrent cost estimated to be \$560 million at 1993-94 price level.

Tseung Kwan O Hospital

Total capital expenditure of \$2,047.29 million in money-of-the-day prices\* was approved by the Finance Committee on 21 July 1995 with the recurrent cost estimated to be \$540 million at 1995-96 price level.

\* Money-of-the-day prices show the estimated cost of a project after allowing for forecast inflationary increases during the construction period.

### **Individual Stock Storage Accounts**

14. **MR CHIM PUI-CHUNG** asked (in Chinese): *Does the Government know:*

- (a) *why individual investors are not allowed to open stock storage accounts with the central clearing house under the direct control of the investors concerned; and whether the authorities concerned have given consideration to allowing individual investors to open such accounts in the near future; and*
- (b) *whether the authorities concerned have assessed if the above situation has resulted in individual investors choosing stock brokers with a banking background for transaction of stocks, thus affecting the business of stock brokers without such a background?*

**SECRETARY FOR FINANCIAL SERVICES** (in Chinese): Mr President,

- (a) The Central Clearing and Settlement System (CCASS) was designed as a "wholesale" clearing house and cannot cater for direct investor participation without significant system modification and

development. However, under the Segregated Account with Statement Service, CCASS participants can nominate investors and other persons to receive statements directly from Hongkong Clearing with respect to stock movements relating to their securities held in CCASS through the relevant CCASS participants.

The inclusion of investors as direct participants in the CCASS has been a key development issue in the strategic plan of Hongkong Clearing. Following a review of the issues involved, Hongkong Clearing has recently drawn up a working model for direct investor participation in CCASS and will soon conduct a public consultation exercise. Hongkong Clearing estimates that an 18-month lead time will be required, including a four-month market consultation on the working model, for the necessary system development, equipment installation and amendments to CCASS Rules and operational procedures before the present system can cater for individual investor accounts.

- (b) Neither the Administration nor Hongkong Clearing has any information or statistics available to assess whether the above situation has resulted in individual investors choosing stock brokers with a banking background for transaction of stocks. In any case, it is difficult to determine whether direct investor participation in CCASS, or the absence of it, would lead to a shift of business between brokers with banking background and those without. This is so because when choosing a broking agent, an investor will normally consider a number of factors, including the agent's charges, the qualify and scope of services provided, price quotation and order execution, familiarity with the agent and the reputation of the agent.

### **Shooting Protected Wild Birds at Mai Po**

15. **MR LEUNG YIU-CHUNG** asked (in Chinese): *Recently there have been reports about the shooting of protected wild birds in the Mai Po Marshes. In this connection, will the Government inform this Council:*

- (a) *when such incidents first came to the attention of the authorities concerned, and of the estimated number of protected wild birds which have been shot and killed so far; and;*

- (b) *what measures have been put in place by the authorities concerned to prevent the recurrence of such incidents in the future?*

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

- (a) The reported incidents refer to the shooting of birds at the northern bank of the Shenzhen River, not in the Mai Po Marshes. We first received such a report on 14 October. A further report was received on 31 October. However, we do not know the number of birds that have been killed.
- (b) We are very concerned about the reported shootings. We took up the case with the Chinese authorities through the Border Liaison Channel after receiving the first report. We also provided further information and some photographs to the Chinese side, and urged them to take effective measures to prevent the recurrence of such incidents. We understand that a few arrests have been subsequently made by the Shenzhen authorities. Since then, there have been no further reports of these incidents but we will continue to monitor the situation closely.

### **Remunerations Payable to KCRC Retiring Chairman**

16. **MR SIN CHUNG-KAI** asked (in Chinese): *Regarding the impending departure of the Chairman of the Kowloon-Canton Railway Corporation (KCRC), is the Government aware of:*

- (a) *the total amount of remunerations payable to the Chairman of the KCRC upon his departure; and*

- (b) *the respective total amounts of remunerations received by each of the past Chief Executive Officers/Chairmen of the Managing Board of the KCRC upon departure?*

**SECRETARY FOR TRANSPORT** (in Chinese): Mr President, the Chairman and Chief Executive of the Kowloon-Canton Railway Corporation is employed on contract terms which provide that he will receive a gratuity in lieu of a retirement pension but no other special payments at the end of his contract. Also, since the outgoing Chairman and Chief Executive will have completed his full contract, the question of compensation for pre-mature departure does not arise.

The past Chairman was a non-executive Chairman, and did not receive any remuneration apart from the nominal Board Member's fees. Under him, the two previous Managing Directors of the Corporation were remunerated in accordance with their employment contract. At the end of their service with the Corporation, they received a gratuity, in accordance with the terms of their contract, without any retirement benefit or special payment.

### **Contaminated Waste from Germany**

17. **MISS EMILY LAU** asked (in Chinese): *It is reported that since April this year, a German plastics plant has shipped 50 containers containing 700 tonnes of contaminated waste into the territory for dumping. In this connection, will the Government inform this Council:*

- (a) *whether the departments concerned have received any application for the importation of the above waste;*
- (b) *whether the 700 tonnes of waste have been dumped within the boundaries of the territory; if not, how the departments concerned will dispose of it; and*

- (c) *whether the Government has reviewed the Waste Disposal Ordinance to ascertain if the Ordinance can effectively stop the importation of waste from foreign countries into the territory; and whether consideration will be given to amending the Ordinance so as to enhance the powers of the departments concerned in enforcing the provisions of the Ordinance in this regard?*

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

- (a) No. The waste was imported into Hong Kong in April 1996 before the requirement for an import permit under the Waste Disposal Ordinance came into effect on 1 September 1996.
- (b) The waste has not been dumped in Hong Kong. They are stored in the original 50 containers and kept in a container yard. The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal obliges a country of origin to take back wastes if a shipment cannot be completed. The Environmental Protection Department (EPD) is liaising with the authorities concerned to enable the return of the waste as soon as possible.
- (c) After a review the Waste Disposal Ordinance was amended in 1995 to require a permit for the import and export of hazardous and contaminated waste, as well as for the import and export of non-hazardous and uncontaminated waste for disposal. The new provisions came into force on 1 September 1996. We will monitor the effectiveness of these new controls in the coming months and, if necessary, consider additional measures.

### **Public Hospital Staff Establishment and Expenditure**

18. **DR HUANG CHEN-YA** asked (in Chinese): *Regarding the staff*



*establishment and expenditure of hospitals under the management of the Hospital Authority, is the Government aware of:*

- (a) the respective numbers of administrative staff, medical personnel and non-medical personnel; and their respective staff costs in each of the past five years; and*
- (b) the expenditure (excluding staff costs) — broken down into administration costs, medical costs and non-medical costs — in each of the past five years?*

**SECRETARY FOR HEALTH AND WELFARE** (in Chinese): Mr President, since the Hospital Authority took over the management of all public hospitals from the former Hospital Services Department in December 1991, data covering a full year is only available from 1992 onwards. The number of administrative, medical and non-medical staff employed by the Hospital Authority in each of the past four years and the costs involved are as follows:

	<i>Year ending 31.3.1993</i>		<i>Year ending 31.3.1994</i>		<i>Year ending 31.3.1995</i>		<i>Year ending 31.3.1996</i>	
	<i>No. of</i>	<i>Cost</i>	<i>No. of</i>	<i>Cost</i>	<i>No. of</i>	<i>Cost</i>	<i>No. of</i>	<i>Cost</i>
	<i>Staff</i>	<i>(\$m)</i>	<i>Staff</i>	<i>(\$m)</i>	<i>Staff</i>	<i>(\$m)</i>	<i>Staff</i>	<i>(\$m)</i>
Administrative/ Management#	416	228	530	320	617	410	668	489
Medical (doctors, nurses and allied health staff)	22 288	7,373	23 122	8,670	24 384	10,220	26 076	12,097
Non-medical	15 815	1,937	16 992	2,244	18 308	2,626	19 924	3,124
Total	38 519	9,538	40 644	11,233	43 309	13,256	46 668	15,711

# These posts are arising from the new management structures introduced in public hospitals on a progressive basis between 1992 and 1995.

A breakdown of non-staff related expenditure is set out below:

<i>Year ending</i>	<i>Year ending</i>	<i>Year ending</i>	<i>Year ending</i>
<i>31.3.1993</i>	<i>31.3.1994</i>	<i>31.3.1995</i>	<i>31.3.1996</i>
<i>(\$m)</i>	<i>(\$m)</i>	<i>(\$m)</i>	<i>(\$m)</i>

Specialist supplies and drugs	1,051	1,216	1,373	1,560
Other supplies including utilities, linens and hospital maintenance	1,016	1,177	1,368	1,636
Total	2,066	2,393	2,740	3,196

### Application for Modifications to Identity Cards

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

- (a) *the number of applications for the inclusion of the "\*\*\*\*" symbol to, and the number of applications for the deletion of the "\*\*\*\*" symbol from, the Hong Kong Permanent Identity Card in each of the past three years; and*
- (b) *the eligibility criteria, application procedure and processing time in respect of each of the two categories of applications mentioned above?*

**SECRETARY FOR SECURITY:** Mr President,

- (a) The number of applications for the inclusion of the "\*\*\*\*" symbol to and that for the deletion of the "\*\*\*\*" symbol from Hong Kong Permanent Identity Cards are as follows:

<i>Year</i>	<i>Addition</i>	<i>Deletion</i>
1994	1 745	7
1995	1 475	4
1996 (January-October)	1 346	2

- (b) Hong Kong Permanent Identity Cards are issued to persons who have the right of abode in Hong Kong. The categories of persons who are Hong Kong permanent residents are defined in Schedule 1 to the Immigration Ordinance (Cap. 115). Any of these persons who has attained the age of 18 years or over and who is eligible for Hong Kong Re-entry Permit facilities is also eligible to have the "\*\*\*\*" symbol endorsed on his or her Hong Kong Permanent Identity Card. Holders of Hong Kong Permanent Identity Cards with the "\*\*\*\*" symbol may apply for deletion of the symbol if they so wish. They will not be required to give any reason for their applications.

It should, however, be noted that the "\*\*\*\*" symbol has no bearing on the holder's right of abode in Hong Kong or his or her national status. Persons who are not Hong Kong permanent residents can also possess identity cards with the "\*\*\*\*" symbol.

The "\*\*\*\*" symbol was created in the 1983 Identity Card Re-issue Exercise. It simply denotes that the holder is of the age of 18 years or over and is eligible for a Hong Kong Re-entry Permit. The Hong Kong Re-entry Permit is a document issued to facilitate travel to and from China and/or Macau. The following persons are eligible for a Hong Kong Re-entry Permit:

- (i) persons wholly or partly of Chinese race who have either acquired the right of abode in Hong Kong or been granted unconditional stay in Hong Kong; and
- (ii) persons not of Chinese race who have been granted unconditional stay in Hong Kong but cannot obtain national passports and do not hold travel documents of any countries or other regions.

With the implementation of the Easy Travel Scheme in 1987, holders of Hong Kong Identity Cards with the "\*\*\*\*" symbol are exempted from producing Hong Kong Re-entry Permits or other travel documents at Hong Kong immigration control points for journeys to and from all places including China and Macau.

The procedure for both types of applications is the same. The applicant will be required to apply in person with a duly completed application form, and to have his thumbprint and photograph taken for the production of a new identity card. The processing time for an application for addition or deletion of the "\*\*\*\*" symbol is 15 working days.

### **Closure of Securities Companies**

20. **DR LAW CHEUNG-KWOK** asked (in Chinese): *Regarding the closure of securities companies recently, is the Government aware of:*

- (a) which securities companies have closed down on account of financial difficulties or other reasons since the beginning of this year, and the amount of capital which could not be recovered by the clients of each of the securities companies concerned;*
- (b) the operation of the above companies in terms of capital size, management practice and types of clients; and*
- (c) whether the authorities concerned will adopt measures to step up the control of the securities industry so as to safeguard the interests of investors as well as promote the development of the industry?*

**SECRETARY FOR FINANCIAL SERVICES** (in Chinese): Mr President,

- (a) Since the beginning of this year, three companies involved in securities trading have ceased business on account of financial difficulties or similar reasons. As it is possible that legal proceedings may be instituted against these companies, it would not be appropriate to name names. The estimates of the amounts that could not be recovered by the clients of each of the companies involved are \$47 million, \$29 million and \$12 million respectively.
- (b) One company was operated by shareholders' funds with a capital of \$20 million and managed by five dealing directors. The other two operated as sole proprietors with capitals of \$10 million and \$7.4

million respectively. All three companies deal with cash and margin clients.

- (c) Protecting the interests of investors, promoting the highest standards of business ethics and integrity and promoting the development of the industry are integral parts of the objective of the Administration. We seek to achieve these through an appropriate legal, regulatory and administrative framework. In this connection, we maintain close liaison with the Securities and Futures Commission (SFC), the Stock Exchange of Hong Kong and Hongkong Clearing. Specifically on the safeguard of clients assets, the Administration and the SFC believe that improved internal control systems by the management of a registered securities dealers will help. In this regard, the SFC has prepared a set of guidelines on management, supervision and internal controls which will be released for public consultation very shortly.

## GOVERNMENT MOTION

## INTERPRETATION AND GENERAL CLAUSES ORDINANCE

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

"That the Post-Release Supervision of Prisoners Regulation, published as Legal Notice No. 446 of 1996 and laid on the table of the Legislative Council on 30 October 1996, be amended in Schedule 1 -

- (a) in item 4 -

- (i) by adding -

"section 61	threats to destroy or damage property
section 62	possessing anything with intent to destroy or damage property
section 118E	buggery with a defective
section 118F	homosexual buggery committed otherwise than in private";

(ii) by repealing -

"section 148        indecent exposure in public";

(b)    in item 6, by adding -

"section 26        exposing a child whereby its life is  
                         endangered".

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

The Post-Release Supervision of Prisoners Ordinance establishes a Post-Release Supervision Scheme to help discharged prisoners reintegrate into society as law-abiding citizens, by providing them with guidance and supervision after release. The Post-Release Supervision of Prisoners Regulation sets out in its Schedule 1 the sentences in respect of which the Ordinance applies. Schedule 1 covers selected types of serious offences, such as triad-related offences, sexual offences and crimes of violence. Prisoners who have committed these offences tend to have a greater need for guidance and supervision in their efforts to reintegrate into society. The Fight Crime Committee has been consulted on the Scheme and the offences endorsed by the Committee have been included in Schedule 1 to the Regulation.

However, the House Committee has expressed concern that five offences which are related to some of the offences in Schedule 1 should also be included, and one offence, which attracts a maximum sentence below the condition set out in the Regulation, should be deleted from Schedule 1. To address this concern, we propose to amend Schedule 1 as the House Committee suggested. Let me, however, assure Honourable Members that the coverage of the offences in Schedule 1 will be reviewed at a later stage, in the light of experience in the operation of the Scheme.

Mr President, I beg to move.

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

## GOVERNMENT BILLS

## First Reading of Bills

### TELEVISION (AMENDMENT) BILL 1996

### POST-RELEASE SUPERVISION OF PRISONERS (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

### TELEVISION (AMENDMENT) BILL 1996

***THE SECRETARY FOR BROADCASTING, CULTURE AND SPORT to move the Second Reading of: "A Bill to amend the Television Ordinance."***

**SECRETARY FOR BROADCASTING, CULTURE AND SPORT** (in Cantonese): Mr President, I move that the Television (Amendment) Bill 1996 be read a Second time.

The purpose of the proposed amendments to the Television Ordinance is to put in place a legislative scheme to regulate the provision of video-on-demand programme services in Hong Kong.

The Bill seeks to create a new category of "programme service licence", which will be subject to all appropriate provisions of the Television Ordinance.

To this end, clause 3(1)(a) of the Bill extends the definition of "broadcasting" to cover the provision of a programme service, that is, the provision for transmission of television programmes on a point-to-point basis. For the avoidance of doubt, Schedule 1A makes it clear that some services, for example video telephony and transactional services, are not to be considered as programme services. Similarly, Schedule 1C specifies materials which are not considered to be television programmes, such as materials which are predominantly text or data, computer graphics and video games.

Clause 3(1)(c) extends the definition of "licence" to cover "programme service licence". This will empower the Broadcasting Authority to issue Codes of Practice for programme services and ensures that the present restrictions on voting control held by unqualified voting controllers will apply to programme service licensees.

Clause 10 enables the broadcast of advertising by a programme service licensee. The opportunity has been taken to extend the regulation of advertising to any subscription television broadcasting licensee, in order to carry through the decision made by the Government earlier this year that subscription television will be allowed to carry advertising.

While a programme service licensee will be allowed to collect subscriptions, clauses 15 and 16 provide that subscription royalties are payable by a programme service licensee on subscription revenue.

In respect of cross-ownership, clause 18 makes it clear that a television broadcasting licensee requires the Broadcasting Authority's permission before it may acquire interests in a company which is the holder of a programme service licensee. It also removes the existing restrictions on investments by licensees in satellite television uplink and downlink licensees. This will allow a satellite television uplink and downlink licence to be issued to TVB in respect of its Galaxy venture.

To implement a recommendation arising from the pay TV review conducted earlier this year, clause 3(1)(b) extends the definition of "disqualified person" to include a company which publishes a local newspaper or exercises control of such a company. We propose to exempt newspaper publishers who were already exercising control of a television broadcasting licensee before we announced our policy on 21 March 1996 and this is also provided for in this clause.

To complete the legislative scheme, two important consequential amendments to the Broadcasting Authority Ordinance and the Telecommunication Ordinance are made in clause 19. These empower the Broadcasting Authority to administer a programme service licence, and the Telecommunications Authority to direct an interconnection between a



telecommunication system and a programme service licensee, and determine its terms and conditions where necessary.

Depending on how soon this Bill can be enacted and programme services licences granted thereafter, Hong Kong is likely to be the first place in the world where video-on-demand television services are provided on a commercial scale. This is an exciting prospect which will help to develop Hong Kong's technological base, as well as providing consumers with a wide range of choice.

I therefore urge Honourable Members to accord priority to the scrutiny of this Bill.

Mr President, with these words, I commend the Bill to this Council.

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

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

**POST-RELEASE SUPERVISION OF PRISONERS (AMENDMENT) BILL  
1996**

***THE SECRETARY FOR SECURITY to move the Second Reading of: "A Bill to amend the Post-Release Supervision of Prisoners Ordinance."***

He said: Mr President, I move that the Post-Release Supervision of Prisoners (Amendment) Bill 1996 be read a Second time.

This Bill principally seeks to empower police officers and certain officers of the Correctional Services Department to arrest and take into custody any person who has failed to comply with the terms of a supervision order under the Post-Release Supervision Scheme and is unlawfully at large.

The Post-Release Supervision of Prisoners Ordinance establishes a scheme to help discharged prisoners reintegrate into society as law-abiding citizens, by providing them with guidance and supervision after release. The Ordinance is expected to come into effect on 30 November 1996. Under this Ordinance, the Post-Release Supervision Board may suspend the supervision order of a person who has failed to comply with the terms of the supervision order, and if such a suspension order is made, the Commissioner of Correctional Services may order

the recall of the person involved into custody. However, the Ordinance does not specifically empower officers to arrest this person and take him into custody. Such powers are provided in other legislation involving supervision of prisoners, such as the Detention Centres Ordinance and the Drug Addiction Treatment Centres Ordinance.

It is highly desirable, indeed necessary, to specify powers of arrest in the Post-Release Supervision of Prisoners Ordinance. Failure to do so will seriously hamper the effective operation of the Scheme. Unfortunately, this has not been done, hence, the need to rectify the omission through this amendment Bill.

Thank you, Mr President.

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

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

### **Resumption of Second Reading Debate on Bill**

### **SECURITIES AND FUTURES COMMISSION (AMENDMENT) (NO. 2) BILL 1996**

### **Resumption of debate on Second Reading which was moved on 6 November 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).*

### **EMPLOYEES' COMPENSATION (AMENDMENT) (NO. 2) BILL 1996**

### **Resumption of debate on Second Reading which was moved on 10 July 1996**

**MISS CHAN YUEN-HAN** (in Cantonese): Mr President, in regard to this amendment Bill, the three Members from the Hong Kong Confederation of Trade Unions (CTU) will only reluctantly accept it.

The Bill deals with sick leave granted to workers injured at work. Under the existing legislation, the injured employees will be entitled to a payment of two-thirds of their wages only if the period of temporary incapacity exceeds three days. In the past, this provision has been severely criticized by the labour sector and the Government has been urged to make legislative amendments. It is unreasonable that the employee is entitled to sick leave only if the period of temporary incapacity exceeds three days since the injury is sustained out of employment. It is also unreasonable that the injured employees are only entitled to two-thirds of their wages. Owing to these drawbacks, this piece of legislation has been criticized by us in the past.

When we were elected to the Legislative Council, we planned to amend this piece of unreasonable legislation by presenting a Members' Bill in this Council. However, we were not allowed to do so by the Government on the ground that it would have a charging effect on public expenditure. Faced with such a situation, the Government has presented an amendment Bill on this ordinance in a hurry so as to pacify of this Council and the labour sector to an end. The amendments proposed in the Bill include the reduction of the incapacity period which entitles employees to two-thirds of their wages from three days to one day. However, the proposed compensation level is only revised to four-fifths of their wages. Despite all these improvements, there is still a discrepancy between the Government's amendments and the amendments we intended to propose in our Members' Bill. We propose that the period of temporary incapacity qualifying the employee to claim compensation should be just one day and the compensation should be full pay rather than four-fifths of the wages as is now proposed.

However, in view of the fact that members representing different sectors in the Labour Advisory Board found the Bill acceptable when discussion was held, the three Members from the CTU have no choice but to accept it reluctantly. However, we still hope that the Government would consider to revise the

compensation level full pay instead of four-fifth of the wages. I hope the Government will conduct a review as soon as possible.

Thank you, Mr President.

**MR LAU CHIN-SHEK** (in Cantonese): Mr President, the inferno that broke out in Garley Building can be described as the most unforgettable disaster of the century. I was particularly shocked by scenes of the building engulfed in deadly flames, the sobbing faces of the family members of the dead, and their running around to make funeral arrangements and fighting for compensation. Their agonizing experience is a lesson for all of us. In addition to looking squarely into the importance of fire prevention, the Government should also see to it that the families of the fire victims are provided with reasonable compensation. The provisions in the Employees' Compensation Ordinance are aimed at providing compensation to the injured and the dead in an industrial accident. The more reasonable the statutory compensation, the less effort will be needed by the employees and their families to fight for compensation from their employers after the accident.

However, the protection stipulated in the Employees' Compensation Ordinance has all along been far from sufficient. For instance, it is proposed in this amendment Bill to improve the wage rate for an employee during sick leave due to injury at work. Under the existing legislation, an employee is entitled to only two-thirds of the normal wages during sick leave. In this amendment Bill, it is proposed to increase to four-fifths of the employee's normal wages only. I urge Members to consider one point: no employee will want to suffer any injury at work which will lead to incapacity. As the employee has already suffered a great deal both physically and mentally due to the injury at work, it will undoubtedly be another blow if part of the normal wages is deducted. We therefore insist that the employees should be entitled to full pay during sick leave.

Of course, what concerns us more is compensation for death in the course of work. What is the price of human life? I believe families of the dead will feel that nothing can compensate for the death of their family members. But no matter what, the existing statutory compensation is far from sufficient. For instance, the maximum compensation for death is only a lump sum equal to seven years' wages of a worker while the maximum compensation for permanent total

incapacity is a lump sum equal to eight years' wages. This is an area which the Government must review and improve. Besides, compensation in fatal cases will usually be paid only after about a year. During this period, there is no protection for the livelihood of the victim's family. So the problem has to be solved through legislative amendment.

Mr President, I hope the Government will take the initiative to conduct a comprehensive review on the Employees' Compensation Ordinance in order to improve the compensation for the injured and the death caused by accidents at work.

With these remarks, I support the Second Reading of the Bill.

**MR MICHAEL HO** (in Cantonese): Mr President, the Democratic Party supports the Bill. It is our view that progress has after all been made in that the Bill has improved on the allowance and the number of days for injuries at work. Of course, we believe that for employees who have sustained injuries at work, they should be given an allowance equal to full pay. It is my hope that after this amendment today, we shall see further improvements in the near future.

In the course of considering the Bill, it is fortunate that whether at the discussion in the Labour Advisory Board (LAB) or at today's discussion in the Legislative Council, there are basically not many differences regarding this amendment. In spite of the fact that during the discussion, certain Members from the business sector and Members from the labour sector still have different views in respect of the percentage of allowance, Members have generally agreed, though some of them with reluctance, that the four-fifth level is acceptable.

Regarding this result, I think the Government is really very lucky because I remember that before the end of the 1994-95 legislative session, the Honourable LEE Cheuk-yan put forth a Members' Bill which demanded that allowance for maternity leave be raised to full pay. As the amendment was carried, the allowance which is under discussion now is thus linked to the four-fifth level set down at that time.

I still remember that after Mr LEE moved that amendment, Mr IP

Shu-kwan, the then Commissioner for Labour went straight ahead to discuss with the various parties and the four-fifth level of allowance was set down as a result. Afterwards, the Government promised that after the 1995 Legislative Council election, it would hold further discussions with Members from various sectors on the labour legislation. However, a year and a half have passed since the 1995 election, and the Government has not fulfilled its promise as it has never had any discussion with Members on the issue.

Since this Bill is relatively straightforward and there is no major difference of views, the process of discussion is relatively smooth. However, in future when more Members' bills are introduced and amendments by different parties are put forth, a lot of differences will arise as a result. If we do not discuss them now, these problems will crop up very soon.

Mr President, the Bill before us is quite a simple one, as the amount in question to be adjusted by the Bill is not large, and the impact on the business sector and expenditure on labour insurance is not really great. Therefore, it can be said that it is easier to reach a consensus, and it would be very easy for this Bill to be passed. However, I can foresee that the amounts to be affected by recommendations in many Members' bills in future will differ from what we have today. If we do not put our heads together earlier, I can foresee that the Education and Manpower Branch will face big problems sooner or later.

It can be said that the discussion on this Bill is quite swift, and as there are not many arguments within the LAB, it is easier to reach a consensus. However, in future there can be many things on which no consensus will be reached. If we do not discuss them now, problems will crop up, and by that time such issues will have to be argued in this Council. And if no agreement can be reached in the LAB resulting in bills failing to be submitted to this Council, then Members will have to submit their own Members' bills.

In respect of this Bill, whether Members are from the labour sector or the business sector, they have all agreed that there is not much controversy, and they

have agreed that a consensus will be reached regarding the four-fifth level of allowance. If the Secretary for Education and Manpower fails to co-ordinate well and instead tells us, every time that we should not propose our Members' bills because the Government has prepared many bills and proposed many improvements this year, then let me make it clear to the Secretary, on behalf of the Democratic Party, that we will not accept such an answer.

I think the Government is very lucky that the Bill today is passed and everything is so smooth. Under such smooth circumstances, I hope that the Government can make good use of the time and do the co-ordination work well in the way it should.

Mr President, I so submit.

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Mr President, first of all, let me thank the Honourable Members for supporting the Employees' Compensation (Amendment) (No. 2) Bill 1996.

I have listened carefully to the speeches made by the Honourable Miss CHAN Yuen-han, the Honourable LAU Chin-shek and the Honourable Michael HO, and I can tell Members that we have an existing mechanism, including the Labour Advisory Board, which regularly reviews employees' benefits. Furthermore, I can assure Members that the Government is willing to discuss all sorts of questions concerning labour with Members of the Legislative Council.

Thank you, Mr President.

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

Bill read the Second time.

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

**PROTECTION OF WAGES ON INSOLVENCY (AMENDMENT) BILL**

**1996****Resumption of debate on Second Reading which was moved on 6 November 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.

**SECURITIES AND FUTURES COMMISSION (AMENDMENT) (NO. 2) BILL 1996**

Clauses 1 and 2 were agreed to.

**EMPLOYEES' COMPENSATION (AMENDMENT) (NO. 2) BILL 1996**

Clauses 1 to 4, 6, 7 and 8 were agreed to.

Clauses 5 and 9

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Mr Chairman, I move that clauses 5, in both the English and Chinese versions, and 9(c)(i), in the English version, of the Bill be amended as set out in the paper circularized to Members.

The first amendment is that clause 5 be amended by deleting "not less than



3 days and" and substituting "exceeding 3 days but". According to the existing stipulation of the Employees' Compensation Ordinance, if an employee suffers from injuries in an accident so that he loses his working capacity temporarily for more than three days but not exceeding seven days, the employer can enter into agreement directly with the injured employee in regard to the compensation that the latter can obtain during the period of his temporary incapacity. However, this stipulation does not cover those employees who temporarily lose their working capacity for three days or less. Therefore, this Ordinance has to be amended.

The second amendment is related to clause 9(c)(i) of the Bill. This amendment is simply a technical one, aiming at standardizing the style of writing of the Chinese and English versions of the Bill.

Mr Chairman, I beg to move.

#### *Proposed amendments*

### **Clause 5**

That clause 5 be amended, by deleting "'not less than 3 days and'" and substituting "'exceeding 3 days but'".

### **Clause 9**

That clause 9(c)(i) be amended —

- (a) by deleting "'subsection'" and substituting "'subsection (1C)'".
- (b) by deleting "'section 15'" and substituting "'section 15(1C)'".

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

*Question on clauses 5 and 9, as amended, proposed, put and agreed to.*

**PROTECTION OF WAGES ON INSOLVENCY (AMENDMENT) BILL 1996**

Clauses 1 to 5 were agreed to.

Council then resumed.

**Third Reading of Bills**

THE SECRETARY FOR FINANCIAL SERVICES reported that the

**SECURITIES AND FUTURES COMMISSION (AMENDMENT) (NO. 2) 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 EDUCATION AND MANPOWER reported that the

**EMPLOYEES' COMPENSATION (AMENDMENT) (NO. 2) BILL 1996**

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

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

Bill read the Third time and passed.

THE SECRETARY FOR EDUCATION AND MANPOWER reported that the

**PROTECTION OF WAGES ON INSOLVENCY (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.

**MEMBERS' MOTION**

**PRESIDENT** (in Cantonese): Members' motions. A motion with no legal effect. I have accepted the recommendations of the House Committee as to the time limits on speeches for the motion debate and Members were informed by circular on 25 November. The mover of the motion will have 15 minutes for his speech including his reply. Other Members 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 speech.

**POLICY ON PEOPLE'S LIVELIHOOD FOR NEW HONG KONG AFTER 1997**

**MR FRED LI** to move the following motion:

"That, as the Chief Executive is not elected through universal franchise, the Chief Executive candidates need not respond to the general public's aspirations concerning their livelihood and fail to formulate a comprehensive policy on people's livelihood for a new Hong Kong after 1997, this Council expresses its deepest regrets."

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

As we have already discussed, during the motion debates of the last few sittings, how undemocratic the selection of the Chief Executive is, I do not intend to repeat the argument on this issue. What I want to talk about today is what kind of policy on people's livelihood will derive from such an election by a small

number of people.

According to modern political theory, "election" is the greatest form of "political involvement". To gain the support of the people, a candidate has to study what the people need carefully. Then he can come up with a platform which addresses the malady of the time in order to win the support of the voters while the needs of the general public will be acknowledged through the electoral mechanism and become the solid direction of the government's administration. That is where the essence of our modern-day democratic system lies.

Without this democratic electoral mechanism, government policies will be formulated solely at the will of the officials. Such being the case, policies will, without exception, depart from the social reality and fail to address the needs of the people. Apart from wasting manpower and material resources, there is the possibility of a deepening of conflicts in the community, resulting in more social problems.

This selection of the "SAR hief Executive", which is regarded by some as the "rigged horse race of the century", is actually controlled by a small group of people. Again this small group is dominated by the industrial and commercial sector. Out of the 400 members of the Selection Committee, 200 are from the "industrial and commercial, financial" and the "professional" sectors and most certainly, they all represent big businesses and big financial groups. On the other hand, among the 100 members from the so-called "labour, grassroots and religious" sectors, 35 of them are businessmen, 11 are members of the Hong Kong Chinese General Chamber of Commerce and only 23 are "trade union workers" who really come from the Leftist trade unions.

Let us take a look at the Chief Executive candidates. They are all truly men of means. Mr YANG Ti-liang was formerly the Chief Justice, who was in a high position and had great power. And it was just found out that he had never travelled on the Mass Transit Railway. Mr Peter WOO is the director of a giant business group and he has good reasons not to know the price of rice. Mr TUNG Chee-hwa is a tycoon who owns a giant shipping group and very naturally he has never had the chance to walk through the small alleys of the slums.

Of course, wealthy people can also be the Chief Executive and though they

may not have the knowledge about the problems of the grassroots, they can learn gradually. But the biggest problem lies with the so-called "election" at present under which these people have no need to respond to the demands of the general public. The so-called "electoral system" refers to the system involving the wealthy, a small group of people and pressure from China. Whoever the candidate is, as long as he can gain the trust of the Chinese Government and win the favour of the Selection Committee, he will easily mount the throne of the Chief Executive. What problems the Hong Kong society is confronted with, what needs the people have are simply not the concerns on the candidates' list for consideration. Even if a candidate's proposal is against the will of the people, he will not lose the election just because of that.

Before the Selection Committee held its meeting for the nomination of the Chief Executive candidates, many groups in the community had conducted opinion polls to find out the people's support to the candidates. Very unfortunately, what the candidates have to strive for is not the support of those interviewees but the "real voters" in the small group of peoplecircle. Looking back at the numbers of votes the three candidates got in the nomination and comparing them with the results of the various opinion polls, Members will see that it is only wishful thinking and we are deceiving ourselves and others to expect the candidates to follow public opinion.

Can the Selection Committee, consisting of a small handful of 400 members, fully reflect the quest for people's livelihood by the whole community? The answer is a definite "no". Besides, as there are few representatives from the grassroots among the 400 members, it is no wonder that the policies on people's livelihood of the three candidates are so ill-conceived!

The platforms of the three candidates have fully reflected their limitations in this respect. Of course, their platforms do touch on issues concerning the people's livelihood but they are all for show only and are a failure. Observant people can tell at just a glance that they are only for decorative purposes to show that they do care about the livelihood issues.

They have all declared their will to take care of the lower strata in their platforms but how are they going to do it? In a series of visits, TUNG Chee-hwa has pledged to improve the welfare of the elderly and he also said that "something had to be done" during one of the visits. When visiting the cage homes, YANG Ti-liang told reporters that he "had never thought of such hardship". Peter WOO said, "It is very hard for the poor and homeless and

therefore I will start from the Home Ownership Scheme." All these are from newspaper cuttings that we have collected during the past month or so about the platforms of the candidates and their visits. The Democratic Party is collecting them for an overall analysis. But what specific promises have they made? Has any of them said, "If I am elected, I will raise the Comprehensive Social Security Assistance (CSSA) allowance for the elderly to such and such a level"?

Let us take a more in-depth look at their platforms. Out of the 6 000 characters of TUNG Chee-hwa's lengthy platform, only 110 deal with social welfare and they are all empty principles such as "to review the present welfare policy", "to strengthen the care for the poor and the single elderly", "to improve the quality and quantity of public hospital services" and so on. The platform of Peter WOO is not much better. It is also about improvements, reviews and provisions of a safety net so that "the young will be cared for and the old will be provided for". As for the concrete substance in these promises, neither you nor I have any idea!

YANG Ti-liang's platform has more details when compared with those of the other two, but the problem is that he has thrown everything in. The following is an excerpt from the paragraph "To perfect social services":

"To provide diversified facilities for the care of the elderly; to assist the needy families to care for their elderly members; to provide education and training, employment security, community rehabilitation schemes for the disabled, and at the same time include the mentally disabled in the scope of welfare and care programmes for the disabled; to provide better nursery service and domestic support."

Having read that, I was really not sure whether to cry or to laugh. It seemed that Mr YANG thought he could cook up a platform by listing the various social services and adding "improvements to" in front of them all! I would like to rename this platform a "fancy casserole" as it is like putting the various ingredients into the pot and cooking them all together. I find it really funny!

What have not been mentioned by the three candidates are: How to take

care of the elderly? How to provide "quality medical services"? How to improve the living standard of the low-income people? The Democratic Party specifically proposes to raise the CSSA allowance for the elderly to \$2,700 to improve their living standard, objects to the itemized medical charges to assist the chronically ill patients, objects to the importation of labour to give the local workers more job opportunities, proposes to implement the Central Provident Fund Scheme and Old Age Allowance to improve the living standard of the retired.

The reason why the Democratic Party puts forward these proposals is that we have studied the livelihood problems for years and we have kept in touch and worked closely with the people and community groups. We have firmly grasped what the community is discussing and what the general public's aspirations are concerning their livelihood. But most importantly, as we are returned by election — elections where the general public instead of only 400 people have participated in the process — we have to be responsible to our voters and make their heart-felt aspirations known; otherwise, no one will vote for us next time.

Even in the Democratic Party's "nominations for the Chief Executive by the people" which is by no means a formal election, we have to tell the public very clearly, all our proposals and our stance.

I would like to challenge the candidates on the following: Mr Peter WOO talks about the need to improve the elderly's living standards, so I ask him to promise to raise the CSSA allowance for the elderly to \$2,700 when he is elected; Mr TUNG Chee-hwa talks about the need to improve housing, so I ask him to set a schedule for the cage home dwellers to move into public housing; and Mr YANG Ti-liang talks about increasing job opportunities, so I ask him to promise to stop importing foreign labour when he is elected.

The questions that I have raised do not concern with whether "businessmen ruling Hong Kong", nor are they due to the candidates having little understanding of the people's livelihood. The fundamental problem is that the candidates do not have to face the general public and hence have no need to declare their stands on sensitive issues. Therefore, they only put forward some

irrelevant policy principles and talk about issues such as the family and education which will hardly cause any controversy.

In the face of a new era for Hong Kong in 1997, we could have taken advantage of this opportunity to free ourselves from the colonial government's short-sighted and piecemeal way of policy making and start thinking anew the future direction the Hong Kong society should be heading for. There is indeed a need for someone with daring and resolution to stand up for Hong Kong and formulate new social policies. But the standards of the three candidates in front of us even lag far behind those of the past British Hong Kong Government, how can we expect them to create a new Hong Kong?

Of course, with such an electoral system, it is unrealistic to demand and expect too much from them. The three of them aspire to become the Chief Executive and yet they all lack the boldness that a Chief Executive should have; they stand out every day to market themselves but are evasive when confronted with real problems. It really gives us a feeling that they have gone too far. In light of that, I express my deep disappointment in them.

Other Members from the Democratic Party, who are the spokesmen on various social and livelihood issues, will later speak on the policies on welfare, labour, housing and so on. They will give a more in-depth analysis of the flaws in the three candidates' livelihood policies.

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

*Question on the motion proposed.*

**MRS SELINA CHOW** (in Cantonese): Mr President, the Honourable Fred LI's motion today not only contains a serious logical fallacy, but also does not tally with the facts, it is simply not worthy of our support.

The first part of the motion says that "as the Chief Executive is not elected through universal franchise, the Chief Executive candidates need not respond to the general public's aspirations concerning their livelihood". I wonder what this assumption is based on. Hong Kong has always been governed by a Governor,



and he is never elected through universal franchise. But to be fair, all the Governors have to respond to the general public's aspirations concerning their livelihood. Although their achievements in this respect might not be all satisfactory, in retrospect, in view of the unique development of Hong Kong and the demand of society, the Government led by past Governors has strived to respond to people's aspirations and certain results have been achieved. In fact, the head of any administration cannot afford to neglect the people's aspirations in different respects. If the living conditions continuously decline or fail to improve, how can a government rule in the face of mounting public discontent?

Looking at this matter from another point of view, in some western democracies, the chief executive is not necessarily elected through universal franchise. The United Kingdom is one example. Prime Minister John MAJOR is the leader of the Conservative Party. He became Prime Minister by virtue of the Conservative Party having won the majority seats in the Parliament, and not as a result of election through universal franchise. Does this mean that he need not respond to the general public's aspirations concerning their livelihood? That is why I say there is a logical problem in the original motion.

Mr President, one thing which needs to be mentioned is, during the process of election of the Chief Executive, there were those who thought about standing for election but subsequently withdrew due to lack of support in public opinion, and there were those who did not make the candidacy because they were considered unacceptable by the public. Hence I think it is wrong to say that the general public has no influence on the election of the SAR Chief Executive.

With regard to the second point in the motion, that is, the Chief Executive candidates "fail to formulate a comprehensive policy on people's livelihood for a new Hong Kong after 1997", it shows that Mr Fred LI is not aware of the platforms of these three candidates, or he has not paid any attention to their recent public activities and the opinions they have expressed, nor has he watched them lay their blueprint plans for governing Hong Kong this morning before the Selection Committee. (As far as I know, this morning's meeting was broadcast live on television and could be seen by the public.) If he had paid attention, he would not have made such criticisms in his motion. In fact, not only have the three candidates formulated a policy on people's livelihood after 1997, they have even spelt out clearly the ways to strengthen Hong Kong's economy, in order to

improve the situation of housing, education and welfare of the elderly, which we are most concerned about. If the candidates had no wish to listen to people's views, they would not need to visit so many organizations, including the Democratic Party. I hope that when expressing their opinions, they can reflect the problems which they have learned during these visits. I appeal to Mr Fred LI to adopt an objective attitude and comment on the platforms of the three candidates in a positive spirit, in order to help them understand the problems better and find better solutions.

Mr President, those are my views on the motion and the reasons for my objection. Although Mr Fred LI said he did not wish to refer to the arguments in previous debates in this Council, in fact, today's motion has more significant implications similar to the other debates, and that is to express regrets for the fact that the Chief Executive is not elected through universal franchise, meaning to negate the method of election of the Chief Executive as stated in the Basic Law. Strange enough, when the core members of the Democratic Party participated in the drafting of the Basic Law before the Democratic Party was formed, they never demanded that the Chief Executive should be elected by universal suffrage. Why have they come up with all sorts of "tricks" in recent months, organizing a mock Chief Executive election, introducing Members' Bills all of a sudden and now today's motion? The answer is simple. They hope to place the Chief Executive election in an unfavourable light. Is this the way to lead Hong Kong people to face the future in a positive manner, or is it fanning opposition to the Chief Executive election through all kinds of fallacies, assumptions and means, painting a gloomy, hopeless future by expressing mistrust of the Chief Executive to be elected?

Mr President, the Liberal Party opposes the motion.

**MR FREDERICK FUNG** (in Cantonese): Mr President, if we look at the platforms of the three candidates for the Chief Executive of the Special Administrative Region, we can see that their emphases are on political and economic issues. Only a small part of their platforms deals with an analysis of the problems of people's livelihood and their solutions. The part that deals with people's livelihood consists largely of vague and general principles that everyone can talk about and everyone supports. In terms of a policy on people's livelihood, only Mr YANG Ti-liang has come up with a concrete policy, but it is

far from comprehensive and its contents are not spelt out. Their platforms are inadequate for us to have an understanding of their concrete strategies regarding people's livelihood, and I find it regrettable. I appeal to the Chief Executive candidates to formulate a comprehensive, concrete and feasible policy on people's livelihood with the following 10 objectives: (1) to increase support for the poor; (2) to alleviate the problem between the rich and the poor; (3) to improve retirement schemes; (4) to increase the Comprehensive Social Security Assistance (CSSA) payments; (5) to build more public housing; (6) to alleviate the unemployment problem and improve labour welfare; (7) to formulate an effective policy on combating high inflation; (8) to improve the quality of medical services and enhance the protection of patients' rights; (9) to increase the funding for education; and (10) to improve the transport system.

My amendment to the Honourable Fred LI's motion based on the above suggestions was rejected by the President on the ground that it overlaps the Honourable LEE Cheuk-yan's amendment to my motion on the disparity between the rich and the poor on 9 October. Instead, I was only permitted to raise three out of my 10 points. I am very unhappy about this ruling, because although both amendments involve similar policies for people's livelihood, the main focuses are different.

**PRESIDENT** (in Cantonese): Mr Frederick FUNG, would you please sit down for the moment. Do you wish me to make a ruling? Do you have a point of order?

**MR FREDERICK FUNG** (in Cantonese): Mr President, I am not satisfied with your ruling. I think you have already made a ruling, but I am dissatisfied with it.

**PRESIDENT** (in Cantonese): The sitting will be suspended for 10 minutes.

4.55 pm

Sitting suspended.

5.20 pm

Sitting resumed.

**PRESIDENT** (in Cantonese): On 20 November, Mr Frederick FUNG gave notice and stated his intention to amend Mr Fred LI's motion today. After consideration, I ruled that the amendment proposed by Mr FUNG partially overlapped the motion moved by Mr FUNG himself on the disparity of wealth in Hong Kong and the amendment by Mr LEE Cheuk-yan to his motion. As such, it is in breach of the provision in Standing Order 23A which says, "Where the Council has taken a decision on a specific question no further motion shall be moved in relation to that question." I also directed Mr FUNG to make appropriate modifications so as to comply with the Standing Orders. Without asking me to reconsider my ruling, Mr FUNG decided to cancel the notice of his own accord. And now Mr FUNG claims that he is dissatisfied with my ruling in this Council, saying that I turned down his notice, which is not true. According to *Erskine May* (21st Edition, pp.180-181), "Reflections upon the character or actions of the Speaker may be punished as breaches of privilege. His action cannot be criticized incidentally in debate or upon any form of proceedings except a substantive motion." For clarity, let me repeat in English: (Repeated in English). Now I call upon Mr Frederick FUNG to speak on the motion.

**MR FREDERICK FUNG** (in Cantonese): Mr President, may I state the facts from my side?

**PRESIDENT** (in Cantonese): What facts?

**MR FREDERICK FUNG** (in Cantonese): On that day I received your ruling, Mr President, which indicated that only three out of the 10 suggestions on people's livelihood could be retained, while the other seven would be disallowed because their contents were the same as the motion on the disparity of wealth which I had moved earlier, I felt that with seven out of 10 suggestions cancelled, there would be no point in making an amendment, so I did not propose it.

**PRESIDENT** (in Cantonese): Mr Frederick FUNG, you can cite those items which I have ruled out of this motion debate. That would suffice. You need

not say you are dissatisfied with my ruling.

**MR FREDERICK FUNG** (in Cantonese): Mr President, if you dislikes people saying they are dissatisfied, I will withdraw my words.

**PRESIDENT** (in Cantonese): According to Standing Order 23A, those suggestions may not be mentioned in the motion or amendment; and according to Standing Order 31, "it shall be out of order to attempt to reconsider a specific question on which the Council has taken a decision". Usually I make more allowances for speeches in a debate. So when Mr Fred LI mentioned some of them in his speech, I tolerated it.

**MR FREDERICK FUNG** (in Cantonese): Mr President, I would like to continue to speak on the platforms of the candidates.

I will now comment on the parts dealing with solutions to the disparity of wealth, support for the poor and housing policy in the platforms of the Chief Executive candidates.

Recently, several organizations and scholars have published survey reports pointing out that the disparity of wealth in Hong Kong has aggravated. On 9 October, a motion moved by me was passed by this Council, urging the Government to deal with this matter. The Hong Kong Association for Democracy and People's Livelihood (ADPL) also made use of the opportunity in its meetings with the contenders in the Chief Executive election to raise the question of the disparity of wealth which has aroused widespread concern in our society, and submit our suggestions for a policy to eradicate poverty. While all the contenders, now the candidates, promised to look into it, to our Association's disappointment, their platforms have shown little concern about the disparity of wealth. Only Peter WOO mentioned it in his response to questions of general public concern, while the other candidates have avoided naming a solution to this social phenomenon. Other than expressing their concern, no new and constructive suggestions have been made. Once again, the ADPL calls upon the candidates to take the disparity of wealth seriously and to come up with feasible, effective policies to alleviate the problem.

When it comes to the problem of poverty in Hong Kong, their ignorance is

all the more obvious. Having visited and got in touch with people of the lower strata, such as those living in caged homes, all the three Chief Executive candidates were of one opinion that the lives of the lower strata in Hong Kong were worse than they had ever expected.

I think the reason why they are not paying enough attention to the poverty problem is that since the three of them were engaged in business activities or their professional work, they had no need to inquire into the livelihood of the grassroots people. I hope that through meeting various organizations in society, the three Chief Executive candidates will acquire a better understanding of the present state of poverty in the territory, and formulate a concrete policy for the eradication of poverty, such as strengthening social welfare services, formulating a policy on community planning and providing suitable community services to residents. All of the above deal with the livelihood of the grassroots people and suggestions for concrete solutions.

As far as housing is concerned, if we use the International Covenant on Economic, Social and Cultural Rights of the United Nations as a criterion, the living environment of at least around 270 000 people in Hong Kong would fall into the category of the unacceptable. They include occupants of Temporary Housing Areas, the homeless, and people in caged homes and squatter huts. To effectively and completely solve their housing problem, there seems no other way than public housing. Recently, the Government has repeatedly told the media that in the allocation of public housing units, those in need are given first priority. But if the Government's premise is not to increase the supply of public rental flats, only those in abject poverty can move into public housing, while the relatively poor families will be forced to look for a home in the private real estate market. Thus the future Hong Kong Special Administrative Region (SAR) Government should focus on public rental housing to find the right remedy to the problem.

With regard to the parts dealing with housing in the platforms of the three Chief Executive candidates, I would like to comment first on Mr YANG Ti-liang's and Mr TUNG Chee-hwa's platforms. Their platforms deal with the problem in just a few sentences. In comparison, Mr Peter WOO has a more detailed account in his platform. Even so, there is no in-depth analysis of the housing policy. Neither has he made it clear whether he thinks emphasis should be placed on public or private housing. Thus I feel none of them have a clear position on how to handle the housing problem.

As for Mr Fred LI's motion, although the ADPL agrees to the criticism, as

expressed in the motion, that the Chief Executive candidates have failed to formulate a comprehensive policy on people's livelihood for a new Hong Kong after 1997, the candidates are still in the campaigning and consultation stage. Our Association is of the opinion that instead of just expressing dissatisfaction and regret, we should give the candidates positive and progressive suggestions. The four Members from the ADPL intend to abstain from voting on this motion. In a while, Dr the Honourable LAW Cheung-kwok will speak on the problems of inflation and education and the Honourable MOK Ying-fan will speak on the questions of retirement protection, the CSSA Scheme, medical services and labour. Thank you, Mr President.

**MR LAU CHIN-SHEK** (in Cantonese): Mr President, I can envisage that after 1997, Hong Kong's policy on people's livelihood will gradually recede, and the Government will be even more indifferent to grassroots interests. I am not saying this out of thin air. The situation of "businessmen ruling Hong Kong" has taken shape — I am not predicting who will become the Hong Kong Special Administrative Region (SAR) Chief Executive, but judging from the composition of the Preparatory Committee and the Selection Committee designated by China, the industry and commerce sector is heavily represented. One-third of the Hong Kong members of the Preparatory Committee are from the industry and commerce sector, while half of the 400 members of the Selection Committee are businessmen. Even in the grassroots and labour sector, one of the so-called "four sectors" in the Selection Committee, as much as 40% of its members have a business background. Thus it is clear that no matter who becomes the SAR Chief Executive, no matter who the members of the provisional legislature will be, the SAR Government policy and legislation will only favour business interests at the expense of the interests of the general public!

The problem with "businessmen ruling Hong Kong" is not only that the SAR Government and legislature will be led by the industry and commerce sector. The more significant implications are that the policy of the future government will have an even stronger tendency to protect and give priority to business interests. As a result, not only will the measures to improve people's livelihood be checked, but even the piecemeal improvements in the last few decades will be neutralized and brought back to square one. However, I have to warn that should the livelihood of the general public deteriorate, the occurrence of a social crisis is only a matter of time!

The independent trade unions will not back down from their fight for the employees' rights. After 1997, we will continue to unite forces outside the

establishment in order to fight for the rightful interests of workers and the grassroots people. We will also resist to the end any adverse policy that is detrimental to grassroots interest!

Mr President, I should not have addressed to you the above remarks which reflect the views of the general public, I should have addressed them to the SAR Chief Executive candidates. However, since the SAR Chief Executive is not to be elected on a one-man-one-vote basis, they need only to be accountable to China and the 400 members of the Selection Committee, and can afford to ignore completely this Legislative Council, which has the mandate of one million voters.

We hear people say from time to time that they "prefer the rice tickets to the ballot papers". However, the development of the democratic system of government in Hong Kong in the past decade has shown us clearly that without the "ballot papers", the grassroots people would lose their "rice tickets" as well. By the same token, if we want to ensure that the employees hold on to their "rice tickets" after 1997, we have to fight for our "ballot papers" and the election of the SAR Chief Executive and legislature on a one-man-one-vote basis. Although the democratic system cannot guarantee that the best person will be elected, it can force the one who harms the public interest to step down. Only the "ballot papers" can help us secure our "rice tickets" in the long term.

Mr President, these are my remarks. Thank you.

**MR LEUNG YIU-CHUNG** (in Cantonese): Mr President, recently, we can see that the three candidates for the Hong Kong Special Administrative Region (SAR) Chief Executive have spent a lot of time visiting caged homes, extending kind regards to the elderly people, and even taking a ride on the tram and the Mass Transit Railway (MTR) for the first time. One television station even described Mr TUNG Chee-hwa's district visits as "making an inquiry into local affairs in plain clothes". Indeed, they have made some real efforts in staging the shows, hoping to create an impression that they are really concerned about the people's livelihood.

What about the truth then? The policy on people's livelihood is more than staging a political show by treating people to banquets, enquiring about the price of rice, or asking whether there is flushing water in the public toilets. In fact, what we should ask are: What should we do to solve the problem of unfair



allocation of resources that has existed in Hong Kong for a long time? What should we do in dealing with the deterioration of the living standard of the lonely elderly? What should we do to stop profit-making businessmen moving away their factories and suppressing the wages? What should we do to tackle the problem of gradual "Manhattanization" in Hong Kong and polarization in the labour market? What should we do when most of the people cannot afford the property prices because the major property developers are monopolizing the property market to raise the prices?

Regrettably, the Chief Executive candidates have only provided the general public with some slogans in their so-called platforms. They have not come up with any concrete commitments or strategies to solve the livelihood problems which are deeply concerned by the grassroots.

The Honourable Fred LI points out that since the SAR Chief Executive is not elected by universal suffrage, the candidates therefore do not have to respond to the general public's aspirations. This is of course the core of the problem, but I think the most imminent problem is that under the united front strategy of the Chinese Government, the formation of the future SAR Government will be monopolized by the bourgeoisie.

In the early 1980's, after the emergence of the problem concerning the future of Hong Kong, it was the capitalists who had the least confidence in the return of Hong Kong to China. In order to maintain the apparent prosperity of Hong Kong, the Chinese Government has continued to give out political free lunches to the capitalists to enable them to keep their political and economic privileges. We have seen the whole picture from the way the Basic Law Drafting Committee was formed at that time, as well as from the whole drafting process of and the provisions in the Basic Law.

Since then, the Chinese Government has continued to carry out perverse acts. After the "June 4" massacre, the Beijing officials continued to make threatening remarks, thereby worsening the confidence crisis among the Hong Kong people. In order to maintain the apparent prosperity of Hong Kong, the Chinese Government has further consolidated the political privileges of the bourgeoisie, narrowed the space for democratic development, and insisted that

the welfare policy of Hong Kong should "drive backward". As candidates favoured by China and agents of the capitalists, the Chief Executive candidates cannot but follow closely the steps of the Chinese Government and also the capitalists. This situation is just as expected, and it is not surprising at all. All in all, the SAR Chief Executive candidates do not give proper attention to the people's livelihood, and this is neither a product of democracy, nor a phenomenon which is against the reality that we can understand under the politics of China. Actually, it is a fact that Hong Kong is going to be ruled by the businessmen and monopolized by the bourgeoisie.

If the Chinese Government still considers itself a follower of Marxism and its ideology, it should agree that a very important factor for the survival of capitalism is that the capitalists are not allowed to intervene directly in government affairs, or else there will be no autonomy in the operation of the capitalist countries. The policies thus formulated under such condition will definitely increase the conflicts between the working class and the capitalist class. However, it seems that the formation of the present Selection Committee, and the composition of the future provisional legislature and Executive Council are all to be monopolized by the capitalists. The future SAR Government will definitely come under the direct control of the capitalists and lose its autonomy in formulating its policy on people's livelihood. Under such circumstances, the conflicts among different classes will intensify, and a time bomb of social instability will be planted in our community.

In order to solve the above problem, the best way is for the Chief Executive and members of the SAR legislature to be elected through universal suffrage. However, judging from the various indications, it seems that the Chinese Government intends to transplant the whole set of primitive capitalist exploitation system practised in China to Hong Kong. In order to prevent this from happening, all members of the public must continue to fight not only for their political, social and economic rights but also for democracy, and oppose businessmen ruling Hong Kong and the monopoly of the bourgeoisie, so that Hong Kong can have a promising future and the problem of people's livelihood will be resolved.

Mr President, these are my remarks.

**MR LEE WING-TAT** (in Cantonese): Mr President, after reading the election

platforms of the candidates for the post of Chief Executive, I find it hard to understand clearly what their policies are for the governance of Hong Kong. Their platforms are very brief, and only outlines are given in a fragmentary manner to express their views on individual policies. Of course, it is not necessary for the Chief Executive to have any administrative philosophy or the blueprint for the governance of Hong Kong. But if the election platform is too vague, we cannot check against it to see whether he can fulfil his promises in future when he governs the Hong Kong Special Administrative Region.

Mr President, because of time constraint, I cannot comment on the election platforms of all the three candidates. I will only focus my discussion on that of Mr TUNG Chee-hwa.

Many people have said that it would be a big problem for Hong Kong to be ruled by businessmen. It would be all right, of course, if the businessmen came to take part in government affairs after gaining the trust of Hong Kong people through a fair election by universal suffrage. Unfortunately, as many colleagues have noted a moment ago, the present way the Chief Executive is going to be elected is not through universal suffrage. It is therefore not clear whether he will be accepted by the general public. A number of surveys have shown that many Hong Kong people are still apprehensive about the governance of Hong Kong by businessmen and feel disturbed by the idea of money politics.

When we refer to money politics, we do not just mean paying out money for votes during elections or the presence of large number of people from the business sector in the Executive Council. The term indeed also means the way the Chief Executive reflects those interests as he understands them to be in the social policies of the Government and in the process of decision-making and policy-formulation. If his views or those social interests as he understands them to be are exactly those for the protection of the interests of the business sector, this will mean a manifestation of money politics in social policies in an indirect manner.

In addition, it is not clear what interests are involved in his work if the Chief Executive is not elected by universal suffrage and has not gone through the election process. The biggest problem is that the Chief Executive has great control over the formation and appointment of committees and consultative committees for the execution of government policies. People's doubts stem

from the fact that the Chief Executive is neither elected nor given a vote of trust.

The third worrying problem of money politics is the exchange of political interests. Because there are only a small number of voters, the voting result may be rigged through overt or covert exchanges of political interests. On the other hand, groups which have rendered assistance may seek guarantee for seats in various committees. In this way public interests in the community may be compromised amidst such exchanges of interests.

Today, after listening to Mr TUNG Chee-hwa's talk about his philosophy for the governance of Hong Kong during the question period of the Selection Committee, I can summarize his philosophy with these words: "the economy comes first, people's livelihood second". When he talked about issues on welfare for the elderly, the disparity between the rich and the poor and housing, his first reaction was that he would pay much attention to these issues and would do his best about them, but everything must be based on the continued development of the overall economy and a sound economic viability. He said there must not be any free lunches or unlimited welfare. In fact, all these should not be a problem. If Mr TUNG understands Hong Kong's economic position, given the reserves we have, we are providing for our people a level of welfare and social services lower than those in regions or countries with similar economic development. When we say it is a shame that our elderly are not living with dignity, we do not mean they should go to a tea house every day and enjoy shark's fin soup. What we mean is that they cannot even maintain a living standard for an average person. Hence, when I heard what the candidates say, I felt they were only making empty promises when all of them said they cared about the elderly, they cared about welfare, and they cared about public housing issues.

Mr President, in the entire process, I found the candidates had only few points to make about housing policy, although they did put forward solutions they thought were workable. However, how can the problems about the interests of developers be resolved on questions of principle such as increasing land supply, having more people own affordable flats, and having more people particularly those in the lower strata, live in rental units? Also, as property prices are being stabilized, how can developers be convinced that there is a good return in making investments in the Hong Kong property market? The candidates have in fact not dealt with such issues.

Mr President, finally, I would like to talk about a special issue. During today's question period, Mr TUNG criticized that the Democratic Party "opposes everything from the Chinese side". I have paid attention to reports about Mr TUNG and what he said since he joined as a candidate. I could clearly see Mr TUNG has never held views different from those of the Chinese Government. While Mr TUNG said we "oppose everything from the Chinese side", I would say that Mr TUNG "supports and worships everything from the Chinese side". If we our Chief Executive who does not stand up for the interests of Hong Kong people, for whose interests will our Chief Executive stand up? Standing up for Hong Kong may not please China or the business sector. Is the Chief Executive protecting the interests of China? Is he protecting the interests of the big capitalists in Hong Kong?

Thank you, Mr President.

**MR PAUL CHENG:** Mr President, let there be no misunderstanding here today. Livelihood issues are vitally important, and are of concern to all Members of this Council —whichever constituency we represent.

They are not the exclusive preserve of any one political party. They are of concern to us all, just as they are to everyone in Hong Kong — employees and employers, the employed and the unemployed, the well-off and the needy, the young and the old, the healthy and the sick. People from all walks of life. Everyone.

In the past weeks and months, the Chief Executive candidates have given us a much better understanding of their views and positions on many of the issues of key concern, including livelihood issues. Admittedly, they have tended to give a broad-brush outline— not unlike the election manifestos of many Members of this Council — and have avoided getting into too much nitty-gritty details. But then, what else would anyone reasonably expect at this stage?

Clearly, the Honourable Fred LI expects "chapter and verse" in the form of a "comprehensive policy on people's livelihood". Perhaps he also expects comprehensive policies on economic issues, transportation, telecommunications, law and order, the environment and a host of other important issues. I wonder why he did not mention those too. They may not grab the headlines in quite the

same way, but they are nevertheless of critical importance to Hong Kong.

However, I will not waste time speculating about the motives behind this motion. I will simply oppose it. Not because I believe livelihood issues are unimportant. On the contrary, as I said at the beginning of my remarks, they are vitally important.

I oppose the motion because it is unfair and unrealistic at this point in time to expect the Chief Executive candidates to have formulated a comprehensive policy on livelihood issues — or indeed any other issues.

We want to know what the candidates are like as people, we want to know what they stand for. But do we want them to have already made up their minds on key policies without having even got the job, without having worked with the Administration, and without having completed the comprehensive programme of public consultations on which they have currently embarked? I do not think so.

To me, the motion is a clear case of putting the cart before the horse. We should give the Chief Executive (Designate) — once appointed — time to develop his team, and to work closely with them to formulate a comprehensive policy document for the future Special Administrative Region (SAR) Government, covering all policy issues.

Rather than criticizing people before they are even in the job, would it not be more constructive for those who are concerned about certain issues to make their own detailed submissions now to the Chief Executive candidates, or to the Chief Executive (Designate) when he is appointed in the middle of next month? It would certainly be more productive than debates of this nature.

In this motion, Mr Fred LI states that the Chief Executive is not elected through universal franchise. That is correct. However, the Basic Law provides for a gradual broadening of the electorate for selection of the SAR Chief Executive, with the ultimate aim being election by universal suffrage.

Where I disagree with the Honourable Member is in his simplistic

assumption that, as a result, "the Chief Executive candidates need not respond to the general public's aspirations concerning their livelihood". The same could have been said of all previous Hong Kong Governors. None of them were elected by universal suffrage either. Yet, over the years, many of them have made significant contributions to improving Hong Kong people's standard of living and quality of life.

Why should we expect one of our own Hong Kong people to be any less responsive to the Hong Kong public's aspirations and concerns? To suggest otherwise is insulting to all those who have put themselves forward as Chief Executive candidates, and who have made great personal sacrifices in their bids to serve the community.

I believe whoever of the three candidates is selected will serve Hong Kong and Hong Kong people well. Judging from the recent extensive press coverage, the three contenders have already been listening to the views of people from all sectors of society, and I believe the successful candidate will continue in this same vein in the future.

In just two weeks, we will know for sure the identity of the Chief Executive (Designate). I urge this Council and the Hong Kong community as a whole to rally behind the Chief Executive (Designate) and to give him and his team every support in the months ahead to help sustain Hong Kong's success, prosperity and stability.

I am sure most of the Hong Kong people would agree that this is the more pragmatic and effective way of protecting and enhancing our livelihoods.

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

**MR CHAN KAM-LAM** (in Cantonese): Mr President, in the last two weeks when we debated the election platforms of the candidates for the post of Chief Executive, I already pointed out the fallacy of similar motions. I do not understand why some Members have repeatedly raised such issues for discussion.

Regarding today's motion, I think the crux of the matter lies in the fact that although the Chief Executive is not elected by universal suffrage, it does not mean that the candidates do not need to respond to the general public's aspirations concerning their livelihood. I do not intend to join as a convoy for any of the candidates or repeat their livelihood policies but I do hope that those Members who want to make such accusations will first open their eyes to read carefully the election platforms of the three candidates.

Furthermore, colleagues from the Democratic Party have chosen to sit behind closed doors and they have forfeited voluntarily the opportunity to become Selection Committee members. Naturally, they have now lost the chance to hear directly the three candidates talk about their election platforms. Nevertheless, if they really wanted to play a part in this, they should watch the live broadcast on television.

Since announcing their intention to run for the post of Chief Executive, a number of contenders have publicized one after another their respective draft platforms and their plans for governing Hong Kong. In fact, this morning, when the three candidates separately briefed the Selection Committee about their election platforms, they spent considerable time on livelihood issues. They have made known their views about housing, education, welfare, care for the aged, economic development and so on, stressing on ways and means to further strengthen the Hong Kong economy and to create a better employment situation. Thus, it can be seen that a Chief Executive does not have to be elected by universal suffrage before he can give due regard to livelihood matters. On the contrary, a number of Members elected by universal suffrage only care about their own political future and could not care less about the well-being of the general public.

In his speech, the Honourable Fred LI said a certain candidate used only 110 characters to talk about social welfare, and thought he could use this observation to underline the insufficient concern of the candidate with livelihood matters. I think this is a serious fallacy. I trust Mr Fred LI would agree that social welfare is not the same as livelihood matters.

Judging from what Members from the Democratic Party have said and done recently, I do not think they have placed sufficient emphasis on people's livelihood. If they really believe the policies on livelihood issues are that important after 1997, they should have made good use of the opportunity when they met with two of the Chief Executive candidates to ask questions or make



constructive proposals on the aspirations of the general public.

Regrettably, from newspaper reports, we understand that Members from the Democratic Party asked 12 questions when they had a meeting with Mr TUNG Chee-hwa. Of these, only three involved people's livelihood, whereas the rest were not related to the general public's aspirations concerning their livelihood. Rather, these questions showed they cared only about their own selfish interests, and their political future. They asked the candidates whether the Honourable SZETO Wah, Chairman of the Hong Kong Alliance in Support of Patriotic Democratic Movement of China (the Alliance), would be abducted to the Mainland; how Mr SZETO Wah would be dealt with under Chinese law; whether the Alliance would be dissolved by an administrative order; whether the Alliance has had a positive effect on the development of democracy and human rights in Hong Kong; how Chinese dissidents fleeing to Hong Kong would be dealt with after 1997; and whether assemblies to commemorate the "June 4" incident could be held in Hong Kong after 1997. So, seven to eight questions out of 12 were related directly to the Party's future instead of people's livelihood. How can they proclaim that they care about people's livelihood? They did not attach importance to livelihood matters when they had a chance to meet the candidates for the Chief Executive, and yet they have queried the candidates' livelihood policies in this Council. What kind of political morality is this?

I am very disappointed with the Members I mentioned. I can only hope they will spend more of their time in these couple of days on watching live broadcasts on television to get to know more about the election platforms of the candidates, and make less conjectures behind closed doors or "gibberish" accusations with a narrow view. I hope they would not adopt an "anti-China" stance in treating the return of Hong Kong to China. I hope they would not use antagonistic means to handle matters in the transitional period, create trouble, or make groundless attacks on candidates for the Chief Executive or on the Selection Committee, thinking that they think they can thus scandalize the selection of the Chief Executive.

Mr President, I have repeatedly stated that only after its return to China in July 1997 can there be real democracy in Hong Kong. We had this feeling once again at the second meeting of the Selection Committee held today. In the past 150 years while Hong Kong was under British colonial rule, the Hong Kong Government had never consulted the Hong Kong people whenever a governor was appointed. Nor had the Government made known to us the platforms of the candidates.

The Chinese Government has undertaken not to send officials from Beijing to rule Hong Kong after its return to China, thereby establishing the democratic progress of Hong Kong and facilitating "Hong Kong people ruling Hong Kong with a high degree of autonomy". This, I think, should be eulogized by the Hong Kong people.

In a matter of two weeks, the first Chief Executive of the Hong Kong Special Administrative Region will be selected by voting. I suggest that all those who care about Hong Kong affairs and are willing to stay in Hong Kong after 1997 and contribute to its long-term interests should adjust their petrified and erroneous position so that a rational and co-operative atmosphere can be created. They should in this way work hard for a new Hong Kong in the century.

These are my remarks.

**MR YUM SIN-LING** (in Cantonese): Mr President, since the beginning of the 1980s, the concept that "Hong Kong shall be ruled by businessmen" has all along been adopted by the Chinese side as its guiding ideology to govern Hong Kong after the handover in 1997. The background of this outlook is three-fold:

First, Hong Kong businessmen have since 1978 started taking active steps to invest in mainland China, making Chinese officials feel that Hong Kong businessmen are more patriotic in emotion as well as in practice. With the praises that Hong Kong businessmen have sung on many social occasions to eulogize the accomplishments and virtues of the motherland, the impression that "Hong Kong businessmen love their motherland" strikes a chord in the minds of government officials (but not in the minds of the people). Obviously, it is just a matter of course that Hong Kong shall be governed by a group of people who are regarded as the most patriotic.

Secondly, for the sake of their own interests, members of the business sector in Hong Kong have, as if by prior agreement, have collectively stressed the notion that "Hong Kong relies on its economy while the economy relies on its businessmen". Given that other sectors of the community seldom have the chance to convey their thoughts directly, an open society where "a hundred flowers blossom and a hundred birds chirp" is nowhere to be seen. Under the circumstance, the situation of businessmen taking up the majority has emerged in the consultative committee, the drafting committee and even the Preliminary Working Committee, the Preparatory Committee and the Selection Committee. Members of the Federation of Trade Unions have also felt aggrieved over this.

Thirdly, members of the industrial and commercial sector are smart people who tend to adapt themselves to the prevailing mentality of the time. Knowing perfectly well that the Chinese side does not favour democracy, they shut up their mouths and refrain from talking about democracy to which a great majority of the people aspire. As the powers-that-be dislike the home truth, it is natural that they are only too happy to take on the "best" people. And whether one is qualified as the "best" is judged in terms of one's riches.

Candidates who have emerged against such a background thus lack the people's mandate but possess excessive wealth. As they only have to face a small group of people who are stinking rich, basically, it is unnecessary for the three candidates to respond to the general public's aspirations concerning their livelihood. That said, while it is unnecessary for them to do so, it does not mean that they will not do so. Therefore, we can still see that the candidates have slightly (but never extensively) touched on their ideas on people's lot. The fact that the three candidates have just come up with ineffective solutions to problems concerning people's livelihood has drawn criticisms from other Members. Here, I just want to make one point. This morning, I saw on television a candidate saying that the Hong Kong Government should not take measures to arrest the rising property prices and that this would do more harm than good. It makes people think of his relationship with a property magnate. Judging from such casual remarks, which serve as a straw in the wind, it is very much doubtful as to whether the general public's aspirations concerning their livelihood will be fairly and properly addressed. Such being the case, as the Chief Executive will be elected by a mechanism controlled by businessmen and in view of the perfunctory attitude that the Chief Executive will adopt to address the issue of people's livelihood, this Council should express its regrets.

With these remarks, I support the motion. Thank you, Mr President.

**MR LAW CHI-KWONG** (in Cantonese): Mr President, after reading carefully the platforms on social welfare of the three candidates for the Hong Kong Special Administrative Region (SAR) Chief Executive, one cannot help feeling disappointed. Their scanty knowledge of the social welfare system and the poor in our society is, indeed, surprising. It can be said that their platforms are no better than those of many district board members when they joined their elections. This can also reflect the obvious difference between an election by a small group of people and the universal suffrage system. I would try to analyze the

platforms on social welfare policy of the candidates to express my reasons for supporting the original motion.

*Mr Peter WOO's policy on social welfare*

Among the three candidates' platforms on social welfare policy, it can be said that the one proposed by Mr Peter WOO has the longest agenda on social welfare. 416 characters are used on social welfare policy but the contents are regrettably empty and many points contained therein are baffling. We can only manage to find three concrete proposals.

First, the proposal to review the dependent parent allowance. Generally, this does not come under the scope of social welfare policy and besides, Mr WOO has not put forward any substantial views in this aspect.

Second, it is proposed that consideration should be given to the implementation of certain community programmes to enable the elderly to actively participate in social and community work. It is baffling to understand what community programmes Mr WOO is referring to in his proposal. On the surface, Mr WOO is talking about programmes such as the schemes of elderly voluntary workers, under which the elderly can participate in community and social activities through taking up voluntary work. At present, many social service agencies have been providing such schemes in the community, so I really do not understand what sort of consideration Mr WOO still has to make.

Third, it is proposed that the future SAR Government should consider an appropriate scheme of assistance, and the eligibility of which should be based on the applicant's levels of income and assets in an effort to appropriately address the needs and problems that the elderly are facing genuinely. This so-called proposal is downright astonishing. The existing policy on comprehensive assistance in Hong Kong is using the levels of income and assets as the criteria to assess the eligibility of persons in need (including the elderly) for the comprehensive assistance. What is there in need for the SAR Government to consider in the opinion of Mr WOO?

This part of the platform seems to be 30 years behind time. Mr WOO might have taken the former Governor, Sir Murry MACLEHOSE, as his imaginary rival in the election! If this is an assignment handed in by one of my students, I will certainly suspect that the student has plagiarized a piece done assignment of 30 years ago.

*Mr YANG Ti-liang's policy on social welfare*

In his platform, Mr YANG has discussed the problem of disparity between the rich and the poor, unemployment and insufficient retirement protection. He went on to mention the continuous outbreak of family tragedies. Another 227 characters are used to discuss his social welfare policy, which covered comprehensive social security assistance, services for the elderly, rehabilitation services, child care and family support services. However, other than the demand for the setting up of a central provident fund, Mr YANG's platform is broadly based on the policies that the Hong Kong Government has been implementing at present.

It is strange that Mr YANG has also proposed "the extension of welfare and protection for the handicapped to the mentally ill disabled". The term "mentally disabled" is rarely seen in Hong Kong. Mr YANG may be talking about the mentally ill or the mentally retarded. Yet, while there is an acute shortage of the services for these two groups of people, they have, anyhow, come under the scope of current welfare and protection, so why should consideration be made to have them included?

Furthermore, Mr YANG has made the astonishing proposal that a time limit should be imposed in the provision of assistance in order to encourage the recipients to rejoin the workforce, thereby eradicating abuse. Given the minimal amount of the comprehensive social security assistance and the harsh eligibility criteria, I, indeed, hope that Mr YANG can point out which group of the recipients have abused the system of comprehensive social security assistance and how the setting of a time limit can eradicate abuse.

*Mr TUNG Chee-hwa's policy on social welfare*

As the Honourable Fred LI has said, Mr TUNG has used merely 110 characters to pronounce his policy on social welfare so it is very difficult to

comment on it. All he has suggested is promise for either study or reviews. So far as social welfare proposals are concerned, Mr TUNG resembles those students sitting in an examination who simply copy the questions once with the aim of not handing in a blank paper. Mr TUNG has stressed that one should fulfill one's obligations and that one should not be too particular about one's rights. Judging from the perspective of social welfare policy, Mr TUNG's ideas are questionable. While there are many virtues prevailing in our traditional Chinese culture which deserve to be cherished, a lot of concepts are nevertheless the products of the feudalistic system. The ideas that one should fulfill one's obligations and that one should not be too particular about one's rights are the tools used by feudalistic rulers to enslave the people. I agree that there should be a balance between obligations and rights, but if we stress the need to fulfill our obligations and not to be too particular about our rights at a time when the basic rights of the grassroots have yet to be reasonably attended to, it will be a cause for concern about a possible resurrection of feudalistic thinking in Hong Kong after 1997.

In present-day Hong Kong, in addition to the parity between the rich and the poor, the aging population, the increasing number of new immigrants and the acute shortage of housing, the numerous setbacks that modern-day families face have now created many crises in respect of the people's livelihood in the territory. If the Government fails to step up measures to deal with these crises, social conflicts could become more intense at any time, in which case the stability of the Hong Kong society will be affected. The candidates for the SAR Chief Executive should formulate comprehensive and concrete platforms in respect of people's livelihood, widely consult the public and give clear undertakings with regard to policies in the future. The Democratic Party has, in this regard, formulated a detailed platform consisting of more than 40 pages and I will not repeat the contents here. The three candidates should have received a copy of it for reference.

One of the characteristics of a democratic election is that candidates are made to listen to the views of the general public to formulate a platform which can gain support from voters and which states the candidate's undertakings in respect of future policies. Now, the election of the SAR Chief Executive is in the hands of only 400 members of the Selection Committee and therefore all we can see are just outdated and fragmented proposals on people's livelihood. This will simply bring more regret to the return of Hong Kong to China, over which

every Chinese should, instead, feel proud.

Mr President, in all sadness, I so submit.

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

**DR LAW CHEUNG-KWOK** (in Cantonese): Mr Deputy, high inflation in recent years has not only weakened the competitiveness of Hong Kong's economy, but also dealt a direct blow to the people's livelihood. It is eating into the hard-earned savings of the people. The purchasing power of their wages is fast declining and many workers, particularly those in the manufacturing and service sectors, find that their wage increases cannot keep up with the inflation rate. Their standard of living has, in fact, been on the decline for years.

Inflation has also resulted in a redistribution of wealth. As inflation persists, the wealth of the man in the street is shifted towards the big businesses and more affluent property-owning members of society. The yawning gap between the rich and the poor is further widened.

The linked exchange rate is used in Hong Kong to maintain the stability of the monetary system. Hence the Government cannot use an independent monetary policy to adjust the macroeconomic situation, making it much more difficult to combat inflation. Nevertheless, the need to maintain a linked exchange rate should not be used as an excuse by the Government to turn a blind eye to the problem of inflation and do nothing about it.

There has been an obvious levelling off of inflation recently. But this should not be taken lightly and interpreted as a sign that inflation will go away by itself. All three candidates have touched on inflation in varying degrees, but all they have said is "effective measures must be taken" or something to that effect, without putting forward any clear-cut policy. The Association for Democracy and People's Livelihood is of the opinion that the Government must lay down clear policy objectives and measures to combat inflation, conduct a thorough and careful study on the causes of inflation in Hong Kong and work to

stabilize commodity prices by regulating land supply, the property market, fees charged by public utilities and government services, the taxation system and perhaps even the Government's monetary policies, in a bid to eliminate the threat of inflation towards the people's livelihood and improve the conditions for the conduct of business in Hong Kong.

In the area of transportation, Hong Kong's situation is far from satisfactory. The territory is overcrowded. It is undergoing rapid economic growth and there is a strong demand for transport services. However, capital construction and road and railroad development fall far short of the demands imposed by economic and population growth. The Government's policy continues to be "first we have the people; then come the roads". Projects like the Northwest Railway, the MTR Tseung Kwan O Extension and KCR Ma On Shan Extension have been on the agenda for many years, but work progress is not satisfactory. Mr Peter WOO has not comment directly on the transportation problem in his election platform while the other two candidates have only noted that there is a need to set up and develop a road transportation network. All these remarks touch only on matters of principle and do not suggest specific or positive measures.

In the area of education, Hong Kong's educational resources account for only 2.8% of our gross national income. This percentage is far behind that in other countries such as Singapore, which stands at 3.4% and Malaysia, which is as high as 6.9%. In my opinion, spending on education should be increased and manpower training should be stepped up to meet the demands of social development. The Government has done much in recent years to promote the development of university education, but more funds should be allocated to boosting education at the basic level which includes secondary, primary, kindergarten and special education. The quality of education can also be improved by reforming the curriculum, increasing the number of teachers and stepping up teacher training. The Government should recognize pre-school education as part of formal education and provide direct and comprehensive financial assistance to kindergartens.

Of the platforms delivered by the three candidates, only Mr WOO's platform has made any reference to increasing spending on education, particularly primary, secondary and pre-school education. But unfortunately Mr WOO seems to place too much emphasis on education as a means of manpower training for the business sector, as can be seen from his expectation of the kind of people needed for the Hong Kong Special Administrative Region. The fact is



Hong Kong needs not only good business people, but also people to serve in other fields as well. Education is not merely a means to boost productivity, but should aim at an all-round development of the individual. As for the other two candidates, their proposed education policies do not contain any in-depth analysis or innovative ideas.

These are my remarks. Thank you, Mr Deputy.

**MR SIN CHUNG-KAI** (in Cantonese): Mr Deputy, the three candidates for the Chief Executive, namely Mr TUNG Chee-hwa, Mr YANG Ti-liang and Mr Peter WOO, have all mentioned in their platforms the need to maintain Hong Kong's economic prosperity and to improve people's standard of living. However, in outlining their economic policy in their platforms, the three candidates have overlooked the issue of monitoring Hong Kong's public utilities. Mr Peter WOO only mentioned: "The setting of tariffs of public utilities should take ample account of the cost factors and the affordability of the public. However, the concrete policies should be formulated by the Hong Kong Special Administrative Region (SAR) Government after studying the issue." Mr YANG Ti-liang only mentioned: "The public utilities should be closely monitored and the increase of tariffs kept at a reasonable level". What is particularly worrying is the fact that the most favourite Chief Executive candidate, Mr TUNG Chee-hwa, has made no mention of a policy on public utilities in his platform.

### *Public utilities*

Hong Kong's public utilities are varied and cover a wide range of services, including public transport, water supply, postal services, port, airport, tunnels, telecommunications, telephone, electricity and fuel gas. They are closely related to people's daily lives and their quality of service and tariff levels have a direct bearing on people's livelihood.

However, there are many problems and loopholes in the Government's regulatory systems for public utilities. The regulatory systems are mostly biased towards the operators and fail to protect the public interests. In particular, when tariffs are being adjusted, there is insufficient consultation with and participation by the Legislative Council and the public. Some regulatory systems are actually out-dated and are being gradually abandoned throughout the

world. One example is the Scheme of Control Agreements which still apply to the China Light and Power Company, Hongkong Electric Company and Kowloon Motor Bus Company. If the three Chief Executive candidates really wish to improve Hong Kong people's quality of life, they should formulate concrete policies to improve the present regulatory systems for public utilities.

In my opinion, the SAR Government must devise new regulatory systems for the public utilities based on the principle of protection of public interests. When the public utilities adjust their tariffs, the legislative body and the public should be amply consulted and involved. The franchise should not contain any clause on an automatic price increase mechanism, which deprives the legislature of the right to approve price rises by public utilities. The Scheme of Control Agreement with the Kowloon Motor Bus Company should be cancelled, while the Agreements with the two electric power companies should be reviewed and the relevant clauses modified in order to increase the operating efficiency of the companies, and to prevent the electric power companies from unnecessarily increasing its assets and thereby adding burden to the public. There should be greater transparency among the public utilities. The public should have access to information about their operations and financial affairs so that consumer interests may be safeguarded. A statutory and independent users' committee should be set up for each area of the public utilities, comprising elected legislators, government representatives and representatives from the relevant public utilities. Its functions should be to review and monitor the quality of service, charging criteria, finances and operations of the public utilities in order to protect consumer interests.

### *Fair competition*

Mr Deputy, I will now talk about an issue which is crucial to people's livelihood and the economic prosperity of Hong Kong, and that is the policy of fair competition. All three Chief Executive candidates have mentioned in their platforms the need to maintain the environment of free competition in Hong Kong so as to attract investments but they have said nothing about enacting fair trade legislation and setting up a fair trade committee. As a result, all their pledges about safeguarding Hong Kong's fair trade environment remain empty words and mere slogans. All three candidates are of the opinion that the conditions for fair trade already exist in Hong Kong. That is not true. In some industries, there exist monopolies and practices which restrict competition at the expense of the public. Practices such as lawyers charging scale fees, interest

rate agreement among the banks, and exclusive dealership by supermarkets have forced the consumers to pay unreasonable prices and reduce their choices. In a recent report, the Consumer Council clearly points out that the key to increasing Hong Kong's competitiveness and efficiency is to enact fair competition legislation. But since the three candidates are not elected through universal suffrage, they need not respond to the public's aspirations. As a result, they have turned a blind eye to these naked acts of unfair competition and completely ignored Hong Kong's need for fair trade legislation.

What is particularly worrying is that "TUNG Chee-hwa the dark horse" — or rather "TUNG Chee-hwa the winning horse" — gets his votes from certain leading corporations in Hong Kong rather than from the general public. Mr TUNG Chee-hwa may have to return the favour by vetoing the enacting of fair trade legislation and sacrificing the public interest in order to maintain the corporations' monopolistic position in real estate, supermarket, telecommunications and container operations.

The most effective and positive way to eradicate unfair trade practices in Hong Kong is to enact fair trade legislation and set up a fair trade committee. In fact, even countries which have adopted the free economy system cannot deny that the market mechanism might break down and the market might become distorted. As a result, manufacturers would reach agreement on prices in order to offset the costs. At present, almost all member countries of the Organization for Economic Co-operation and Development have enacted fair trade legislation. In particular, Hong Kong's neighbouring regions such as Taiwan and South Korea have enacted such legislation. Even China passed a law in 1993 to prevent unfair competition.

Mr Deputy, one point I would like to add is that people who are against fair trade legislation might explain that such legislation would be contrary to the policy of non-intervention which the Hong Kong Government has practised all along. I think these criticisms are based on a misunderstanding of fair trade legislation. The legislation will merely establish a set of rules to ensure fair competition among participants, and does not interfere with the game itself. To draw an analogy, fair trade legislation is just the rules and the referee of a soccer match.

With the approach of 1997, what the Hong Kong people and the international investors are most worried about is an aggravation of corruption

and abuse of power to seek personal gains, which will make the environment of free and fair competition even harder to maintain. Thus it is imperative for us to enact fair trade legislation and set up a fair trade committee.

Mr Deputy, I just now I also heard Mr TUNG Chee-hwa saying, "To use one's power to gain money and to use one's money to gain power — if ever such things happen in Hong Kong, it will be the end of Hong Kong." Everyone would agree with this slogan. But what I want to ask is, what concrete action would Mr TUNG Chee-hwa take under this slogan?

Thank you, Mr Deputy. I so submit and support the motion.

**MISS CHAN YUEN-HAN** (in Cantonese): Mr Deputy, the colonial era of Hong Kong that has lasted for over a century and a half will soon come to an end. There is a pressing need for a lot of matters to be dealt with in the transitional period. However, there have been a lot of debates in the community as to which of the matters should be dealt with first and which should be dealt with later.

As a result of economic transformation in recent years, Hong Kong has encountered a very serious problem of structural unemployment, and over 100 000 manufacturing workers have been laid off. Some of them have remained unemployed for such a lengthy period that they are now on the verge of poverty. What is more, the territory-wide human resources retraining policy is making little progress. Its work is fragmentary and has failed to meet the needs of the community. As a result, a large number of workers whose education level and skills are low have found it very difficult to pull through their periods of unemployment.

In respect of housing supply, the Government has insisted on privatization of housing. While the needs of the grassroots have not been properly taken care of. As the number of public rental housing units are decreasing, the target number has not been attained. The Government's present housing policy not only has led to a longer and longer Waiting List, it has, as far as rent and management are concerned, also failed to give considerations to the livelihood of members of the public. Meanwhile, the Government has rigorously taken unreasonable rent-increasing measures and has stopped providing good public housing estate management. The consequence is that the quality of life of members of the public is directly hit, and the impact is even greater in time of

economic recession.

Moreover, over a long period of time, Hong Kong has lacked a sound social retirement protection system, making it impossible for the elderly people to receive adequate care. As a result, they do not have any dignity of life, and they have been unable to benefit from the contributions made by them when they were young. These problems of the elderly as well as their welfare problems have been drawing criticisms from all sectors.

The above-mentioned problems have created immense difficulties. In order that these problems can be solved, we need to have the sincerity and courage to tackle them one by one. We have asked the incumbent Governor, who is an appointed one, to solve the existing problems; we will also ask the future Chief Executive, who will be selected soon, to address these problems.

Mr Deputy, it is well-known that the successive Governors of Hong Kong were all appointed by the British Government and their appointment did not require the agreement or endorsement of the people of Hong Kong. As to whether the performance of each of the Governors is good or bad, there is little room for comment by the people of Hong Kong, and they are not involved in any direct consultation, direct participation or direct veto. However, with the implementation of representative government, the gradual opening up of seats in the three-tier councils and boards and the introduction of democratic elections, what members of the public are striving for can be reflected and fought for by members in the various tiers of councils and boards. No doubt, these changes are gratifying, and it would be superb if the three-tier representative government and the Chief Executive of Hong Kong can be elected through universal franchise.

The election of the first Chief Executive of Hong Kong is an unprecedented event. The inauguration of the Chief Executive will mark the beginning of a new era, as it is required that the Chief Executive has to be a Chinese national, that he is to be elected by the 400 members of the Selection Committee, and that after confirmation by the Central People's Government in Beijing he will proceed to form the Hong Kong Special Administrative Region (SAR) Government. All these are to be carried out according to the provisions laid down in the Basic Law. It is also the first step to break away from the status of being a colony and to move towards "one country, two systems" and "Hong Kong people governing Hong Kong". It has a great significance in history.

Mr Deputy, undeniably "one man, one vote" and election by universal suffrage are the ideals of elections. However, the mode of election which originates from the concept of functional constituencies for the first Chief Executive to be elected by the Selection Committee of 400 persons was designed in the 1980s when the Basic Law was being discussed by the community with the wisdom of many people pooled together. It is a method which is both appropriate and reasonable. Should anyone say that as the election of the Chief Executive of the SAR is not going to be carried out by the ideal method and therefore the Selection Committee is not representative, and then go on to assume that the Chief Executive who is to be elected soon will pay no attention to the needs of people's livelihood, I would say that this kind of reasoning is over-simplified and therefore unsound.

Mr Deputy, as the saying goes, "Boiling water makes excellent tea". So if we want "excellent tea", we have to wait for "the water to boil". We also need the choice tea leaves to make excellent tea. In the past when we fought for the rights and interests of the grassroots and the working class, we did so by every workable means to achieve the ends. It has been my view that there is not just one way to safeguard the livelihood of the people, and it is not that only in a representative assembly can we state our aspirations and demand for accountability. We will strive for them both within and outside the establishment.

Mr Deputy, talking about the concepts of the Chief Executive candidates on the people's livelihood, if honourable colleagues have watched the Selection Committee's consultation meeting this morning in which we also participated, they should know that the candidates have put forth policies for the improvement of people's livelihood after the initial stage. Judging from the contents alone, we of course do not agree with some of their views. But it is apparent that during the period of election campaign they have gone through, they have listened to the views of the grassroots organizations and the working class, and they have since added some fresh ideas regarding these issues. It is not, as the Honourable Fred LI has put it, that candidates do not have to respond to the people's aspirations concerning their livelihood. However, I wish to stress that we still have the opportunity and time to study the election platforms they have published. It should not be too late to have positive discussions on the overall issues of Hong Kong for her future, including the various policies on people's livelihood after the Chief Executive is inaugurated!

Mr Deputy, these are my remarks.

THE PRESIDENT resumed the Chair.

**MR TSANG KIN-SHING** (in Cantonese): Mr President, the motion debate today is on the relations between democracy and people's livelihood. Without democracy, the people's livelihood will not be safeguarded. On the other hand, if a society does not care about the people's livelihood, we can also say it is not a democratic society because these two are interrelated.

The past dictatorship and autocratic rule under the colonial system have given rise to businessmen ruling Hong Kong. The capitalists have monopolized both the political and economic privileges, and the needs of the grassroots have been ignored. That has in fact resulted in potential social conflicts, growing disparity between the rich and the poor, and an unstable political situation.

Therefore, it is absolutely impossible for a government without popular trust, public support and public recognition to gain the people's confidence in its policies, and the Government will encounter a lot of obstacles in implementing such policies.

In fact, the acceptability, representativeness and legitimacy of the Government will be recognized by the public only if the Chief Executive is elected through the "one-person-one-vote" system. Only through universal suffrage can it be ensured that the policies formulated by the elected Chief Executive will take into account the public's interests and their aspirations, and only in this way will the policies be monitored and supported by the public.

If the election is not implemented under the "one-person-one-vote" system, but monopolized by a few dozen or hundred people who claim to be the representatives of different sectors, acting in collusion, trading personal interests and operating behind closed doors, then this "faked election" of the Chief Executive and the legislature will definitely compromise the democracy of Hong Kong people and it is just an occasion for these people to scramble for fame and

gains.

Some people think that starting from today, Hong Kong will have real democracy. It is because over the past ,pre tjam a century, the successive Governors of Hong Kong were not elected by the general public but were appointed by the British Government. However, how is the present Chief Executive to be elected? Is he elected through universal suffrage? Actually, the Selection Committee and the Preparatory Committee are all predetermined by Beijing, the members of which have now become the Selection Committee members, the Chief Executive candidates and also members of the future provisional legislature. These people are playing a democratic role without any mandate from the public and it is just a case of "the pot calling the kettle black".

Mr President, regrettably, all the political groups have used "democracy" and "livelihood" as their slogans to rally public support. However, for those so-called democratic political parties who have joined the Selection Committee and the Preparatory Committee, have they already given up their aspirations on livelihood and democracy? They are in fact deceiving the voters.

Mr President, just now the Honourable CHAN Kam-lam of the Democratic Alliance for Betterment of Hong Kong (DAB) asked Members from the Democratic Party to open up their eyes. He said that the platforms of the three candidates are pleasantly set out. It is useless to have the platforms beautifully written, as we also have to look at their behaviour. Also, when the three leaders of the DAB—Mr TSANG Yok-shing, Mr TAM Yiu-chung and Mr CHENG Kai-nam — participated in the 1995 election, they all declared in their platforms that they would not join the provisional legislature. Some time later, they became ready to serve anyone who would help them to enter the power centre, so they decided to take part in the provisional legislature. Therefore, we have to see whether one has put his platform into actions; we also have to look at his behaviour to judge whether his platform is being implemented. Honourable colleagues from the Hong Kong Association for Democracy and People's Livelihood (ADPL) say that they will abstain from voting on the Honourable Fred LI's motion. If this is the case, I hope the ADPL will change its party name. Its name is the Association for Democracy and People's Livelihood, but what is meant by democracy and people's livelihood? If there is no democracy, how can one talk about people's livelihood? If the party abstains from voting, it is obvious that in their opinion the present Chief Executive election and the provisional legislature election are already very democratic, and the livelihood



issues have already been taken into account. If this is not the case, may I request colleagues from the ADPL to change from abstaining to supporting Mr Fred LI's motion.

The Honourable CHAN Kam-lam just now said that the Democratic Party and the Hong Kong Alliance in Support of Patriotic Democratic Movement of China only talked about political problems when they met the Hong Kong Special Administrative Region (SAR) Chief Executive candidates. As a member of the Standing Committee of the Hong Kong Alliance in support of Patriotic Democratic Movement of China and also the Democratic Party, what I first said to Mr TUNG, "the dark horse", was the Diaoyutai Islands incident, the second thing was on issues concerning labour, housing, transportation, the elderly, medical service, cage homes and other problems. I did not mention a word on the future political development because he will surely win in this rigged horse race. If Mr CHAN Kam-lam does not believe, he can go to ask that "fat horse".

Mr Peter WOO's platform is also pleasantly set out. Let me quote a simple example. We have to listen to his words and observe his deeds, and also try to understand the policy of his corporation. What has he done in the interests of workers? What has he done in the interests of the grassroots? Today, the tram drivers still have to drive their trams while having their meals. What sort of grassroots interests is he caring for?

It is even more laughable in the case of Chief Justice YANG Ti-liang. He had been hesitant in participating in the election, and he even had to take one month's leave, and rest for one week before he made up his mind to join the election. What sort of election campaign is this?

Mr President, in fact, from this rigged horse race, we can all clearly see that if there is no democracy, there will be no people's livelihood. The "fat horse" can win because he is handpicked by the authorities "up there". The "old horse" will lose, and the "young horse" will not have any chance to win. It has at last become a fixed horse racing. It is an internationally-known rigged horse race with over six million people watching, but they cannot say anything about it because the ballots are in the hands of the 400 Selection Committee members. Who has handpicked the 400 members then? Well, they were chosen by the National People's Congress in Beijing, not elected by the voters. They all have vested interests, and as members of the Selection Committee, they of course

think that it is democratic. If we try to turn the table and ask the people of Hong Kong to vote on whether this election is democratic, the answer will definitely be "no". Will they agree to elect the Chief Executive through the one-person-one-vote system or the present Selection Committee? They will certainly be against the election by the Selection Committee.

Mr President, these are my remarks. Thank you.

**MR JAMES TIEN** (in Cantonese): Mr President, it is stated in today's motion that as the Chief Executive is not elected through universal franchise, the candidates need not respond to the general public's aspirations concerning their livelihood, and that as there is nothing impressive in respect of the policies on people's livelihood, this Council expresses its regrets.

It might be still acceptable if one says that the election of the Chief Executive through a means other than universal franchise is undemocratic or is in no way comparable to the type of democracy in the West. How can one say that a Chief Executive not elected by universal franchise will definitely fail to understand the general public's aspirations concerning their livelihood? How can one say that he will definitely refrain from formulating a comprehensive policy on people's livelihood? Have they really formulated any economic policy? The points they put forward are more or less the same. We can surely debate on this issue if we want to. However, after listening to half of the speeches, I have the feeling that instead of debating on the election of the Chief Executive, Members today are finding fault with the industrial and commercial sector or the business sector. The democrats are actually trying to divide the Hong Kong society. Countries elsewhere hold many elections — some for the sake of racial problems between races (the black and the white); others for religious problems. However, there are no such problems in Hong Kong. The great majority of people in Hong Kong are Chinese and it is just natural that there are "rich and poor" people among the Chinese. In any community, the financially "poor" will definitely outnumber the financially "rich".

The words and phrases used by some Members in their speeches earlier are even more horrible than the slogans chanted against the the big landlords and businessmen during the Cultural Revolution in China in the 1960s. Fortunately, they are just empty talks here and do not carry any real effect.

Mr President, how well did the incumbent Governor know about Hong Kong people's livelihood before he came to Hong Kong? However, after he has arrived in the territory, everyone thinks that he is doing a very good job. I believe that after the Chief Executive is elected, he will certainly make accomplishment in each and every specific area of people's livelihood. What makes me say so? The Hong Kong Government's philosophy of financial management is to look at how much there is in the revenue. The annual expenditure is determined by adding 5% to the expenditure with reference to the rate of inflation (which represents growth in real terms, so to speak). This year, for example, our fiscal revenue amounts to over \$190 billion and expenditure also amounts to over \$190 billion. What we should be debating is how in the opinion of the democratic camp should the \$100-odd billion be distributed among the various aspects of people's livelihood, namely social welfare, old age allowance, education, medical care and housing.

On the other hand, if the industrial and commercial sector makes money, the whole community can have a share; but if the industrial and commercial sector of Hong Kong fails to make money, spending will have to be cut according to the principle of spending within our means. Therefore, given the fact that Hong Kong is experiencing a sound economic development and is making money, I believe that all projects pertaining to people's livelihood that we are concerned about can be fulfilled.

Earlier today, I had the opportunity to put a question to Mr TUNG Chee-hwa during the question session of the Selection Committee. My question relates to the point of "opposing everything from the Chinese side" which has been raised by the Honourable LEE Wing-tat just now. I told Mr TUNG Chee-hwa that although the Democratic Party has upheld the principle of "opposing everything from the Chinese side" over many policies, my actual concern is that they "oppose everything from the business sector" in the Legislative Council. I am very concerned about this but I did try to speak in the Democratic Party's favour. I said that regarding the five imperative issues, namely public housing, medical services, social welfare, education and elderly problem, as put forth by Mr TUNG Chee-hwa this morning and which in their opinion need to be addressed squarely, my view is that not only does the Democratic Party represent the public opinion, it is also well versed in those areas. I even said that their participation would be conducive to a stable transition. I further asked how he would communicate with the Democratic Party. Yet, Mr LEE Wing-tat only came up with the accusation of "opposing

everything from the Chinese side".

I earnestly believe that no matter which of the three candidates (two from the business sector and one being an ex-government official) is elected, he should act in the overall interests of Hong Kong. Earlier on, several Members from the democratic camp said that overall interests were tantamount to interests of the business sector. I would like to ask what constitute the business sector in Hong Kong. Leading enterprises are engaged in all sorts of businesses, including real estate, banking, transportation and telecommunications. If the general public is poor, how can they make money even if they want to? Does it mean that Mr LI Ka-shing will move into all the buildings he builds and we, garment manufacturers, will put on all the clothes we make? It is only when the entire society is affluent and everyone gets rich that our economic development will be promising.

I am more concerned about motion debates like the one we are having today. In Hong Kong, such debates will never be made a headline because most of the citizens know that they are just empty talks. My concern is that they may be made headlines and widely covered by the press overseas. It is with regard to concepts such as democracy, human rights and so on that the press overseas cover our motion debates extensively and this may somehow apply to this topic on our Chief Executive. If we oppose this so-called concept of "businessmen ruling Hong Kong", will the confidence of foreign investors in Hong Kong be undermined? If our economic growth comes to a standstill and our per capita gross domestic product, which stands at over US\$23,000, fails to go up further, our revenue will be kept at the present level. If we do not have the 5% growth, it means that we will not have more money to spend in future. Under such circumstances, improvements to people's livelihood that we are concerned about just cannot be realized. Personally, I am not too familiar with matters relating to people's livelihood but I think I do have my views on the creation of wealth. As regards how this sum of money can be spent appropriately, Members from the Democratic Party and other political groups can all give their valuable suggestions.

I believe that since the Chief Executive candidates are unfamiliar with policies concerning people's livelihood, the successful candidate will seek to communicate with the democratic camp or those who are familiar with people's livelihood, such as members of the Democratic Alliance for Betterment of Hong

Kong and the Hong Kong Association for Democracy and People's Livelihood, so that he can govern Hong Kong in a more pragmatic manner. Thank you, Mr President.

**MR CHOY KAN-PUI** (in Cantonese): Mr President, it has been over a century and a half since Hong Kong became a colony of Britain, and the successive Governors of Hong Kong were all appointed by Britain. The views of the people of Hong Kong have never been sought, and the selection of Governors has never been through voting by the people of Hong Kong. After all, the first Chief Executive of the Hong Kong Special Administrative Region (SAR) under Chinese sovereignty is an elected one. He may not be elected by all the people of Hong Kong through the one-man-one-vote system, but he is to be elected by the Selection Committee consisting of 400 people, and these 400 members can sufficiently represent the Hong Kong community. So, is it not the first step in democracy for the Hong Kong people to elect their own SAR Chief Executive? Democracy has to be achieved step by step.

Mr President, the Chief Executive has yet to be elected, and his team of officials is yet to be formed. However, the Honourable Fred LI has presumed that, as the Chief Executive is not elected through universal franchise, the candidates for the Chief Executive need not respond to the people's aspirations concerning their livelihood, and so arbitrarily say that the Chief Executive will fail to formulate a comprehensive policy on people's livelihood. That is a presumptive statement and it is also too subjective, is it not? The motion is contained in such a prejudiced presumptive statement that, if it is to be passed by this Council, I wonder whether there will be any credibility left for this Council.

At present, the three candidates for the Chief Executive are busy making nonstop visits to various strata and sectors of our community. Some candidates have even gone to visit some grassroots, public housing estates and the temporary housing areas. Positively and pragmatically, they have made contacts and communicated with the people of every sector, and they have also introduced to them their ideals of governing Hong Kong as well as their initial political platforms. By doing so, they have endeavoured to win over the people of Hong Kong for their support. Can we not say that they are actually facing the people of Hong Kong?

Mr President, the British have been ruling Hong Kong for over a century,

and the past Governors have never been elected by means of the "one man, one vote" systems. So why is it that my colleagues have never put forth to this Council motions with words similar to that of today's, to express their regrets of the successive Governors of Hong Kong? Clearly, today's subject of debate has been used to exaggerate matters. It is intended to disrupt the election of the Chief Executive by the Selection Committee on the pretext of concern about the policies on people's livelihood. The purpose is to attack the credibility and acceptability of the Chief Executive. If we really care for the general public, we ought to try our best to put forth useful and constructive views for the improvements of the livelihood of the general public of Hong Kong for reference by the Chief Executive when working on policy formulation.

Now that everything has been settled, there is really no need to harp on the demand for "universal franchise" and "representativeness" and to discredit the "small circle". In deed, such a motion will not help matters: it will bring us harm rather than anything good. I have no doubt that members of the Selection Committee, with the interests of the entire Hong Kong at heart, will carefully choose an honest person with the bearing of a good administrator to be the first Chief Executive of the SAR. He will be highly responsible to the Hong Kong people and the country and will be acceptable to all

Mr President, these are my remarks.

**MR MOK YING-FAN** (in Cantonese): Mr President, I happen to recall from a verse the following lines: "Too many complaints will make our health poor; be broad-minded and nature will show us more." I just heard the Honourable TSANG Kin-shing complain profusely. He has just left. It is his habit to leave once he has finish speaking. First of all, I think the Hong Kong Association for Democracy and People's Livelihood (ADPL) does not need his advice on how to vote, and secondly, his advice on how to change the name of our association is not called for. Members should wait and see how we would persist in our stance regarding people's livelihood. Mr President, I now turn to the subject of debate.

At present, the election of Hong Kong's Chief Executive has become white-hot. The three candidates are meeting the various political bodies and social organizations separately. They have also drawn up their political

platforms for the election in order to win the support of various sectors of our community. But having studied the election platforms of all the three candidates, I have found that they clearly have one thing in common: Not enough care has been given to the livelihood of the grassroots. And that is precisely the main area both the ADPL and myself are concerned about.

Take retirement protection as an example. Although the three candidates have proposed to establish the mandatory pension scheme, the central provident fund scheme and the mandatory private provident fund scheme respectively for the protection of the retirement life of the grassroots, they have not provided any detail of these schemes. As it is, we know nothing about the ideas of these protection schemes, nor do we know whether or not these schemes are practicable, and whether or not they can cover the retirement life of the low-income people as well as the elderly people. In this connection, I urge all the three candidates to provide more specific details of their retirement protection proposals. I also hope that whoever is elected will take into consideration the ADPL's recommendations and establish a universal retirement protection scheme to which the Government, the employers and the employees will contribute, so as to protect the retirement life of the Hong Kong people.

As to the Comprehensive Social Security Assistance (CSSA) Scheme, I have time and again said that the CSSA rates should be raised. I have also proposed that the rates should be determined with reference to international standards. Moreover, the old age allowance should be increased to one-third of the CSSA rate. Also, for children who are CSSA recipients, in order that they will not be deprived of normal development because of poverty, we recommend that more items of allowance should be introduced, including children's private tuition fees, reference books expenses, juvenile social expenses, and so on.

Unfortunately, all the three candidates have only casually mentioned these points. Both Mr TUNG and Mr WOO have said that they would review the existing social policies. As for Mr YANG Ti-liang, he has only briefly mentioned improvements to the CSSA Scheme without going into any specific detail. The ADPL is of the views that the three candidates are merely mentioning proposals any man in the street can make. They have not properly looked into the CSSA Scheme and put forth specific measures of improvement. We find the performance of these three candidates deeply regrettable.

Furthermore, medical care is something indispensable in the life of the people of Hong Kong. It is also a very important social welfare policy.

Therefore, the Government should allocate more resources to strengthen the protection of patients' rights, to establish a fund for the activities of the chronically ill, to scrap the policy of itemized charges and cost-linked medical services, to legislate on patients' rights, to subsidize the community rehabilitation centres for the chronically ill, to increase funding for health promotion education and prevention of diseases, and so on. However, the medical care policies put forth by the three candidates are mostly vague, consisting of general principles, and what can be called specific proposals are treatment centres for the major diseases and the universal health insurance system which is based on the "user pays" principle and is what I have all along opposed. What is more, the latter even lacks specific details. I find that also very disappointing!

Problems of the grassroots and workers have always been what the general public are much concerned about. However, having studied the political platforms of all the three candidates for the Chief Executive, I have found that there is a lack of understanding and knowledge of the problems of the grassroots and workers. Labour matters addressed in their political platforms include mainly the following: unemployment problems faced by Hong Kong workers as a result of industrial restructuring, the need for retraining of employees, the demand for high technologies and assistance for industries, and creation of more job opportunities. However, little has been mentioned on the living conditions and protection of the livelihood of Hong Kong grassroots and workers, such as financial aid for their transitional periods of unemployment, a retirement protection scheme to be contributed by the employers, the employees and the Government, the right of collective bargaining, industrial and occupational safety, and so on. In other words, the discussions they have focused on are about the creation of an environment and opportunities favourable to the employment of workers, instead of the protection and improvement of the living conditions and wages of the employees. For these reasons, I hope that when the Chief Executive formulates labour policies, he will seriously consider retirement protection for the workers, and labour problems arising from industrial restructuring. I also hope that he will promise to work out solutions to these problems.

The performance of the three Chief Executive candidates in connection with the people's livelihood has called to my mind the story of Emperor Wei of



the Jin Dynasty. At a time when the country was in an extreme state of famine, and the people had gone as far as to exchange their own children and practise cannibalism on the children, Emperor Wei exclaimed, "Why do they not have congee with meat?" The main reason why he said so was that "he had grown up inside the palace and was brought up by none but ignorant women". So how could he be expected to care about the sufferings of the people! By the same token, for people who lack in experience and understanding of the life of the grassroots, how can their policies on people's livelihood meet the needs of the general public?

Mr President, I so submit.

**MR CHIM PUI-CHUNG** (in Cantonese): Mr President, today's debate is about our situation after 1997 and the selection of the Chief Executive. In fact, this Council has held debates on various political views and inclinations many times before. Today is the first time that the three Chief Executive candidates answered questions from members of the Selection Committee. There will be two more question sessions tomorrow, one in the morning and one in the afternoon, and still another session on the day after tomorrow. From these question sessions of the Selection Committee — if Members are interested, they can watch the live broadcast on television — we can better understand the three candidates from their detailed answers to the questions on the future governance of Hong Kong and people's livelihood. Of course, just as what it is like here in this Council, the answers given by a particular person to certain questions may not be satisfactory. However, as provided for in the Standing Orders, matters will be over once answers have been given and proposed debates have been held. What on earth can we benefit from these? Therefore, Members may put forward their diverse views in debates so as to arrive at the truth, but levelling excessive abuses and criticisms against one another is undesirable.

We always have to bear in mind that Hong Kong is going to be reverted to China and as Chinese, we do have various concerns and worries. However, it is certainly not that whatever the British has done is good. I have repeated this many times during the last legislative session. If people think that the British are good, they can leave with them and there is no more to be said. So, it is not that we are staying to criticize. I have, together with many friends of the democratic camp, including .....

**PRESIDENT** (in Cantonese): Mr CHIM Pui-chung, please speak on the motion.

**MR CHIM PUI-CHUNG** (in Cantonese): Mr President, this is related to the motion. If the yardstick is so tight, I will not speak any more.

**MR ALBERT CHAN** (in Cantonese): Mr President, the Honourable MOK Ying-fan just now criticized the Honourable TSANG Kin-shing, saying that Mr TSANG might not be in a position to criticize the Association for Democracy and People's Livelihood (ADPL). I think I am in a position to do so because I was a founding member of the ADPL. I was also among the first elected members of its executive committee. If the ADPL's decision were made by its first executive committee, I am sure the motion proposed by the Honourable Fred LI would be supported. However, the ADPL has decided to abstain today. When it was founded, the ADPL stressed that democracy and people's livelihood were of equal importance. It would not sacrifice democracy for people's livelihood. The ADPL has now deviated from the aims and objectives set when it was first founded. The decision is made by the present members of the ADPL. In as early as 1990, I could predict the change of party line and was among the first ones to quit the ADPL.

**PRESIDENT** (in Cantonese): Mr Albert CHAN, please sit down. Mr Frederick FUNG, do you have a point of order?

**MR FREDERICK FUNG**: A Point of elucidation.

**PRESIDENT** (in Cantonese): Mr Albert CHAN, are you willing to let Mr Frederick FUNG raise his question for elucidation?

**MR ALBERT CHAN** (in Cantonese): Mr President, I am not interested in

allowing the Honourable Frederick FUNG to raise a question here. If he wants to ask questions, he can well hold a question time debate with me outside.

**PRESIDENT** (in Cantonese): Please continue with your speech.

**MR ALBERT CHAN** (in Cantonese): Mr President, I am grateful that the Honourable James TIEN mentioned the representativeness of the Democratic Party just now. I would like to elucidate one point. It is not the ruling of Hong Kong by businessmen that the Democratic Party objects to. We do not object to a representative of the business sector who is elected through a democratic election procedure representing us in decision making, just as we do not query the Honourable Allen LEE representing the inhabitants of Tai Po. What we object to is a non-democratic system.

Just now the Honourable CHAN Kam-lam attacked the democrats with a high profile. This reminds me how, during the 1967 riot, some people charged to the Government House with the little red book in their hands or made numerous disturbances in Hong Kong. He said that the democrats failed to do practical study on a lot of work, and wantonly attacked .....

**PRESIDENT** (in Cantonese): Mr CHAN Kam-lam, do you have a point of order?

**MR CHAN KAM-LAM** (in Cantonese): Mr President, I did not make the remarks the Honourable Albert CHAN said I had made. I am asking him to take back his words.

**PRESIDENT** (in Cantonese): Mr CHAN Kam-lam, you have no right to ask him to take back his words. You can only explain that you did not make the remarks Mr Albert CHAN said you had made.

**MR CHAN KAM-LAM** (in Cantonese): Mr President, just now he accused me

of saying that the democrats give their opinions without first making any study. I did not make such remarks.

**PRESIDENT** (in Cantonese): Mr Albert CHAN, please continue with your speech.

**MR ALBERT CHAN** (in Cantonese): Mr President, I hope that Members know where their rights lie so as not to put in any requests hastily before they are clear about their rights. It is very important for Members to understand where the limits of their own powers lie. He has spoken on many things about the Chief Executive's performance as well as policies concerning people's livelihood. Moreover, he has also lashed out strong criticisms against the Democratic Party. He gives us the feeling that the "the emperor is at ease while the eunuch is very anxious". When the Chief Executive candidates jhad meetings with representatives of the Democratic Party, they did not show such high spirits as demonstrated by these hatchet men.

As regards the return of Hong Kong to China, the democrats have been giving their steadfast support since the 1980s. We have never talked about trading sovereignty for administration power. Those who proposed to trade sovereignty for administration power in those years are now in the Selection Committee, are they not? Has the Democratic Alliance for Betterment of Hong Kong (DAB) ever criticized these people?

Mr President, Mr CHAN Kam-lam just now said that we will have real democracy after the return of sovereignty in 1997. This has reminded me that when the change of regime took place in 1949, hundreds of millions of Chinese people did believe that they could really become the masters of their own houses. But what happened afterwards? We do not doubt the arguments of China for recovering the sovereignty over Hong Kong. We are firmly in support of this course. Yet along side with the recovery of sovereignty, we are also fighting for democracy. Our friends from the DAB, please do not tell me that you do not support the democratic system. As regards the arbitrary labelling of "opposing everything from the Chinese side", it is not worth my comment. Mr CHAN Kam-lam has also urged us the democrats to remain in Hong Kong to help build Hong Kong. I wish that Members would wait and see how many in this Chamber today will remain in Hong Kong in the days to come.

**PRESIDENT** (in Cantonese): Mr Albert CHAN, please speak on the people's

livelihood.

**MR ALBERT CHAN** (in Cantonese): Mr President, there is a direct relationship between people's livelihood and democracy. If you can convince me that people's livelihood will continue to be good even without democracy, I will stop speaking. Therefore, whether people's livelihood will improve or not .....

**PRESIDENT** (in Cantonese): Mr Albert CHAN, the President is not supposed to establish an argument which the current question intends to establish. This is not to be established by the President. The question is: because A is present, therefore B is absent. This is established by you. But one way or the other, it has to be related to people's livelihood. Please continue.

**MR ALBERT CHAN** (in Cantonese): Thank you, Mr President. I thought some things are well known to everyone and therefore there is no need for me to cite too many reasons. As far as the establishment of a proposal is concerned, I think it would be more appropriate for me to talk about some theories. As regards the political system and people's livelihood, that is, materialist dialectics — Mr President, please correct me if my theory is wrong. When MARX talked about epistemology, he clearly stated that existence precedes essence; under a certain political and economic system, a certain social and cultural system will come into being and a certain ideology will be created. It is such an election system that will give rise to such candidates, just as there should be chicken eggs before we have chickens and tortoise eggs before tortoises. Am I not right? This is because there is a direct relationship between the society's system and the products therefrom. Therefore, it is very obvious that without a democratic system, it is impossible to care for the interests of the people. Mr President, so much have I spoken that I hope Members will, other than eyeing the question of practical political interests, also consider the impact that such a system will have on the people. I also hope Members will consider what they have said over all the years and then let history prove who have actually gone against his own stand and broken his past promises.

Thank you, Mr President.

**PRESIDENT** (in Cantonese): I think it is necessary to consider the relationship

between the tortoise and the tortoise egg, to see whether they are inappropriate wording to be used in this Council. I will give you an explanation next week. But one point I know is that I am not sure whether there is an egg or a chicken first. Does any other Member wish to speak?

**MR MICHAEL HO** (in Cantonese): Mr President, in his speech just now, the Honourable CHAN Kam-lam mentioned that if we wish to discuss the candidates' proposed policies on livelihood issues, we should look at their political platforms. Of course we have looked at their platforms. He also mentioned why we have got ourselves into such a position that we are not able to hear from them directly, but then he remembered that there are such things as electronic media. Mr President, if the Democratic Party had not heard the candidates' platforms, how would the Honourable SZETO Wah and Dr the Honourable YEUNG Sum meet the press at five o'clock just now? Actually, if Members have paid attention, they would learn from the speeches from every colleague of the Democratic Party that they have studied the platforms of the three candidates carefully. Today, our spokesmen on policies in different aspects of people's livelihood are each responsible for commenting the relevant part of the candidates' platforms concerning people's livelihood, and I am no exception.

As regards Mr TUNG Chee-hwa's political platform, I have not counted how many characters there are but the part I examined is certainly shorter than the part on welfare. He has talked about further improving the quality of public hospitals and enhancing the services to the aged patients who need long-term treatment. It is certainly a good thing to improve the quality and we are not against that. But what has he promised by saying that?

As for Mr Peter WOO's platform, Mr Peter WOO should be the one, among the three candidates, who is most familiar with medical care policy. In fact, medical care is a major livelihood issue. He can see the problem in our ageing population. But what he has put forward is improvement to the medical and health care system and also improvement to the current hospital administration — it is of course good to have improvements and I support that. I believe that hospital administration is an administration system. It is in fact a good thing if we can strengthen the administration and improve the current medical and health care system. But we have not been able to see what concrete promises he has made in his platform in respect of medical care to show his determination in dealing with this major livelihood issue.

Now let us look at Mr YANG Ti-liang's platform. There is an extra item which is not found in the platforms of Mr WOO and Mr TUNG and it is the question of policy. Mr President, many a time this Council has debated questions on medical care. Members have repeatedly pointed out that the biggest problem with our medical policy is that it is over 22 years old and desperately in need of review. Mr TUNG and Mr WOO have said nothing whatsoever about the policy and they only talked about the direction for improvement. Mr YANG Ti-liang talked about the need to draw up a comprehensive medical and health care policy. On reading this sentence, Dr the Honourable LEONG Che-hung and I began to chuckle. But then Mr YANG followed by saying that it should be complemented with a universal health insurance scheme. This is just like what the Honourable Paul CHENG has said about decisions having been made before things even get started. When he says we need a comprehensive medical care policy, I totally agree. But the policy is yet to be properly reviewed — I do not know how much information the three candidates have on hand; actually even the Health and Welfare Branch has said that the review will not be completed until 1998 when they can then have sufficient data to come up with a policy, so how can he talk about implementing a universal health insurance scheme today? Is it much too soon? I would like to cite an example and remind Mr YANG that it was not until last year that Hillary CLINTON managed to complete a medical care review report of 1 800 pages. Members can see that medical care is indeed a very complicated issue. Before we have adequate review, discussion and data, I do not think we should speak so simply about introducing a universal health insurance scheme because it would be very dangerous. If our livelihood policy is put forward too hastily, it will have serious ramifications on people's livelihood after 1997.

Perhaps I should respond briefly to the Honourable James TIEN. First of all, I appreciate the many good words he has put in for the Democratic Party. Few people would say anything good about the Democratic Party today. Although the Honourable Miss Emily LAU has said such people have all died out, I think things are not so bad as that. However, I also hope that Members can take a better look at one point and that is, people's tone in today's debate has not gone so far as resembling that during the Cultural Revolution. The Democratic Party is absolutely not "opposing everything from the business sector". I am the spokesman for the Democratic Party on labour policies and I have all along discussed labour issues with friends in the business sector. Of course there are things that we can agree on and others we cannot. All in all, we have certainly not reached the point of "opposing everything from the business sector" and I do look forward to more opportunities where we can properly communicate.

Thank you, Mr President.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Mr President, during the motion debate moved by the Honourable LEE Cheuk-yan on 13 November, I already explained the position of the Hong Kong Government on the election of the first Chief Executive of the Special Administrative Region (SAR). I do not intend to repeat it in detail here. But let me re-state a couple of key points.

First, the Honourable Fred LI mentioned in his motion the question of election of the Chief Executive through universal franchise. The method for selecting the first and subsequent Chief Executives is prescribed in the Basic Law and the National People's Congress Decision of 4 April 1990. Implementation of these provisions will be the responsibility of the Chinese side and the future SAR Government. I would, therefore, only ask Members to note a point of fact here: Article 45 of the Basic Law provides that "The method for selecting the Chief Executive shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures."

Second, as the first Chief Executive will be playing a very important role in the establishment of the SAR and SAR Government, it is perfectly natural that the community is concerned about the platforms of the candidates. We fully share the community's expectation that the Chief Executive should be able to command respect and confidence both locally and internationally, and be acceptable to the people of Hong Kong. We sincerely hope that, in developing the policy directions of the SAR Government, the Chief Executive will fully take into account the views and aspirations of the community.

**PRESIDENT** (in Cantonese): Mr Fred LI, you are now entitled to reply and you have five minutes 23 seconds out of your original 15 minutes.

**MR FRED LI** (in Cantonese): Mr President, Members from the Democratic Party have already responded to some questions on my behalf. I would now like to respond to what some of the Honourable Members have just said.



First of all, I would like to thank the 19 Members who have spoken in this motion debate. Both the Honourable Mrs Selina CHOW and the Honourable CHAN Kam-lam said that the Democratic Party or I had not properly read the political platforms of the three candidates for the post of Chief Executive. I would like to point out that the political platforms of the three candidates have already been input into our computer. Before commenting on their various policies on different aspects of livelihood in our speeches, we already learnt by heart the various recommendations in their policies. I believe that our knowledge of the platforms will definitely not be less than that of Mr CHAN Kam-lam and Mrs Selina CHOW. Rather, I would challenge them and say that their knowledge in this aspect may even be less than mine. Why? It is because in my speech, I mentioned caring for the elderly and medical services. I quoted the relevant parts from the platforms of the three candidates and I put forward my arguments and criticisms. However, Mr CHAN Kam-lam and Mrs Selina CHOW only put forward some counter-arguments against my points. They merely said that I had not seen or read the platform, nor had I watched the live broadcast on television this morning. Of course, I did not watch the television, because I had to attend the Establishment Subcommittee meeting this morning. How could I watch the live broadcast of the consultation? That I did not watch television this morning does not mean that I do not know the political platforms of the three candidates.

Meanwhile, Mrs Selina CHOW alleged that the Honourable SZETO Wah, the whip of our party, probably had not strived for the election of Chief Executive by universal suffrage in the Drafting Committee. I would like to point out the fact that there was a "190 Proposal" at that time. The "190 Proposal" was meant to strive for the election of Chief Executive by universal suffrage. And Mr SZETO Wah did reflect this point to the Drafting Committee. As Mrs Selina CHOW was not a member of the Drafting Committee, I do not know why she made such an accusation. I have to specifically point out this fact.

I feel that I have to respond to what was said by Mr CHAN Kam-lam. It is because after listening to his speech, I find that his whole speech sounds like those commentaries published in *Wen Wei Po* which would only resort to wanton attack. If someone is required to trigger off disputes that would bring about a debate in the style of the Cultural Revolution. I believe Mr CHAN will certainly be among the top choices. He has said that after 1997, Hong Kong

will have true democracy. However, after 1997, this provisional legislature will be set up immediately. This provisional legislature is returned by 400 people, while the 60 Honourable Members in this Council are selected by one million people. Which one is more democratic? Which one will bring us true? Having said that, I think that no one will believe that the provisional legislature will be more democratic than the existing Legislative Council which is returned by the people. Why did he say that true democracy only commences after 1997?

There are also a lot of Members who are against my motion, including Members from the Democratic Alliance for Betterment of Hong Kong and Members from the business sector. They said that it is the first time in Hong Kong that the Chief Executive is elected by the Hong Kong people, and that it is unprecedented in history. In the past, all the governors were appointed by the British Government and we could not object to any one of them. We cannot say that they were chosen by us. There was neither consultation nor participation. All these are facts and I will not dispute that. However, the point is that in order to implement the principles of "Hong Kong people ruling Hong Kong" and "one country, two systems" and "a high degree of autonomy", do we merely want to make one small step or do we want to move a few steps forward? Is Hong Kong unable to make a few more steps? Are we very satisfied with the small step that we can now make? Are the Members who spoke a moment ago very satisfied with the British Government sending people to Hong Kong and we, therefore, should accept and should be very happy with the small step with which we can now move ahead? I do not think so. With the existing education standard of the Hong Kong people and the advanced communication, we basically should not just make a small step forward. What our Democratic Party puts forward is for a better implementation of the principles of "one country, two systems" and "a high degree of autonomy". I think the difference between us is that some Honourable Members, however, are rather contented with the existing arrangement. They will be happy as long as the Chief Executive is returned by a group of Hong Kong people, without regard to how these Hong Kong people are selected. Whether the Chief Executive is hand-picked or chosen by a small group, so long as he is returned by the Hong Kong people and he is a Hong Kong resident, these people will be very happy and be very contented. We are not against business people ruling Hong Kong. We have to emphasize once more because the Honourable James TIEN did not hear my first speech. In my first speech, I have already emphasized that we do not mind a businessman taking up the position of Chief Executive. The point is how he is selected. If he is

returned by universal suffrage, it will be a good thing indeed. We will surely admire him and think that he is very good. But now the case is different. The Chief Executive is to be returned by 400 people and the majority of these 400 people are from the business sector. In other words, he has to be responsible to this Selection Committee of the business sector. In order to gain more votes, he would naturally care for more of their interests and raise more questions on behalf of them. That is most natural. For instance, Mr TIEN is returned by the business sector, the industrial sector and by the chambers of commerce. He naturally has to be responsible to members of the chambers of commerce. Similarly, if the Chief Executive is returned by 400 people, he naturally has to win the support of these 400 people, most of whom are from the business sector. He asked whether we, as Legislative Council Members who are more concerned about democracy and people's livelihood, will feel worried. This is exactly where our worry lies. I hope that Members will vote for my motion with their conscience. Thank you.

*Question on the motion put.*

*Voice vote taken.*

**PRESIDENT** (in Cantonese): Council will proceed to a division.

**PRESIDENT** (in Cantonese): I would like to remind Members that the question I now put to you is: That the motion moved by Mr Fred LI be approved.

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

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

Mr SZETO Wah, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Michael HO, Dr HUANG Chen-ya, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Dr YEUNG Sum, Mr WONG Wai-Yin, Dr Anthony CHEUNG, Mr Albert HO, Mr

LAU Chin-shek, Mr LAW Chi-kwong, Miss Margaret NG, SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE and Mr YUM Sin-ling voted for the motion.

Mr Allen LEE, Mrs Selina CHOW, Mr NGAI Shiu-kit, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr CHIM Pui-chung, Mr Eric LI, Dr Philip WONG, Mr Howard YOUNG, Mr James TIEN, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Paul CHENG, Mr CHENG Yiu-tong, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr David CHU, Mr IP Kwok-him, Mr Ambrose LAU, Mr LO Suk-ching and Mr NGAN Kam-chuen voted against the motion.

Dr LEONG Che-hung, Mr Frederick FUNG, Dr LAW Cheung-kwok and Mr MOK Ying-fan abstained.

The President announced that there were 19 votes in favour of the motion and 23 votes against it. He therefore declared that the motion was negatived.

## **MEMBERS' BILL**

### **First Reading of Bill**

#### **TRAVEL AGENTS (TRAVEL INDUSTRY COMPENSATION FUND (AMOUNT OF EX GRATIA PAYMENTS AND FINANCIAL PENALTY) RULES) (AMENDMENT) BILL 1996**

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

### **Second Reading of Bill**

#### **TRAVEL AGENTS (TRAVEL INDUSTRY COMPENSATION FUND (AMOUNT OF EX GRATIA PAYMENTS AND FINANCIAL PENALTY) RULES) (AMENDMENT) BILL 1996**

***MR FRED LI to move the Second Reading of: "A Bill to amend the Travel Agents (Travel Industry Compensation Fund (Amount of Ex gratia Payments and Financial Penalty) Rules."***

**MR FRED LI** (in Cantonese): Mr President, indeed I am involved in three businesses of the Legislative Council today: oral questions, motion debate and Members' Bill.

I move the Second Reading of the Travel Agents (Travel Industry Compensation Fund (Amount of *Ex gratia* Payments and Financial Penalty) Rules) (Amendment) Bill 1996.

I propose to increase the rate of *ex gratia* payment from 80% to 100% of the tour fares paid for three reasons. First, travel agents operate on the basis of payment in advance of delivery. If consumers who have paid fail to get the service they are entitled to upon closure of the travel agency, they should get a full refund of the money paid.

Second, at present, travel agents are regulated by the Travel Industry Council (TIC) and the Travel Agents Registry (TAR). Setting the rate of compensation at 80% or 90% of the tour fares would mean shifting the responsibility for the travel agents' poor operations or inadequate supervision of travel agents onto the consumers. This is absolutely unfair to the consumers. Therefore they should be entitled to 100% full compensation.

Third, when choosing a package tour, consumers can only judge by a travel agent's reputation, quality of service, size, tour fares and so on. However, these factors have no direct bearing on whether a travel agent would close down or not. While the Mera Travel Service Limited and the Observers Travel both had a long history and enjoyed a good reputation, this did not prevent them from closing down. As a matter of fact, even those who are opposed to full compensation and the regulators admit that there is no reliable set of criteria for choosing a travel agent. Since there is no 100% safeguard and the purpose of the Compensation Fund is to provide adequate protection for consumers, it is only appropriate to offer 100% compensation.

Mr President, I will now proceed to refute some of the arguments against full compensation. First, the argument that by raising the rate of compensation to 100%, travellers will be less prudent in choosing travel agents or will choose them at random. This allegation is totally groundless. According to an

opinion survey we conducted, the main criteria that consumers adopt when choosing a travel agent are the quality of service and reputation. Even if the rate of compensation is increased to 100%, the quality of service and reputation are still the primary considerations. In fact, even if consumers are given full compensation, they will still have sustained losses. Apart from the loss of time, they will be unable to recover the visa fees and airport tax they have paid to the travel agents.

Second, ignoring the purpose of setting up the Compensation Fund, the regulators have come up with the argument that although consumers are entitled to demand 100% compensation from the travel agents, they cannot expect to get full compensation from the Fund. As we all know, it is unrealistic to expect consumers to get a refund from the travel agents which have closed down, and that is why the Compensation Fund has been set up. I would like to remind the Government and the TIC that the Compensation Fund does not come from the Government or the industry, but is financed out of the pockets of consumers. Therefore, consumers should have the say in determining the rate of compensation.

What is especially unfair for consumers is that the levy they pay does not only go into the Compensation Fund, but part of it is allocated to the TIC to cover its administrative expenses. Actually, the TIC should represent consumer interests and supervise the travel agents. However, there are no consumer representatives on the TIC Board. On the issue of the rate of compensation, the TIC openly turns against the consumers and denies them the compensation to which they are entitled, while upholding only the interests of the large travel agencies. On the other hand, the Consumer Council and the Hong Kong Association of Tourists' Rights have both demanded that the rate of compensation should be increased to 100%. Some of the Members who claim to be concerned about consumer interests and represent the grassroots and labour sector should not act contrary to their words, if they want to reflect consumers' wishes. As for those Members who have served or are serving in the Consumer Council, they have an even greater responsibility to fight for the rights of consumers.

Third, those who are opposed to full compensation argue that when commercial banks, real estate agents which deal in the pre-sale of flats and retailers close down or go bankrupt, consumers seldom get compensation. Why then should customers of the travel industry receive 100% compensation? This

view shows their refusal to accept progress. Why should we not learn from those countries with better protection for consumers or set a good example ourselves? Other countries have regulations to control transactions which involve advance payment and they have plenty of regulations to protect the consumers. In comparison, Hong Kong is much weaker in these respects. As far as I know, in Britain, consumers are entitled to full refund when a travel agency closes down.

I am extremely disappointed that the Government has recommended that the rate of *ex gratia* payment be increased from 80% to 90%, forcing the consumers to bear an unnecessary loss. I have refuted the arguments against full compensation presented by the Government one by one. In real terms, according to our survey, nearly 90% of the respondents join package tours with fares under \$15,000. Assuming the fare is \$15,000, the difference between compensation at 90% and 100% is merely \$1,500. If the tour fare is a few thousand dollars, the difference will be only a few hundred dollars. So the real difference between a 90% and 100% compensation rate is not great, especially considering that the Compensation Fund has now over \$222 million. It is only fair to give full compensation to the consumers. I hope that those colleagues who support the Government's recommendation for a compensation rate of 90% will think twice and support my Bill instead.

My last point is, since the arguments for and against the issue have been discussed in great detail in the Legislative Council Panel on Trade and Industry, I hope that honourable colleagues will allow this Bill to move to its Second Reading as soon as possible. Why? Because if the Bill fails to pass the Second Reading, I hope the Government will promptly submit its proposal to this Council to increase the compensation rate to 90%. Otherwise, if it is delayed any further, I am afraid the consumers might never get full compensation or at least the 90% protection that the Government suggests.

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).*

## ADJOURNMENT AND NEXT SITTING

**PRESIDENT** (in Cantonese): In accordance with Standing Orders, I now adjourn the Council until 2.30 pm on Wednesday, 4 December 1996.

*Adjourned accordingly at Twenty-two minutes past Seven o'clock.*

*Note:* The short titles of the Bills/Motions listed in the Handsard, with the exception of the Interpretation and General Clauses Ordinance, Post-Release Supervision of Prisoners (Amendment) Bill 1996, Securities and Futures Commission (Amendment) (No. 2) Bill 1996, Employees' Compensation (Amendment) (No. 2) Bill 1996, Protection of Wages on Insolvency (Amendment) Bill 1996 and Travel Agents (Travel Industry Compensation Fund (Amount of *Ex gratia* Payments and Financial Penalty) Rules) (Amendment) Bill 1996, have been Translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.