

# **OFFICIAL RECORD OF PROCEEDINGS**

**Wednesday, 4 December 1996**

**The Council met at half-past Two o'clock**

## **MEMBERS PRESENT**

THE PRESIDENT

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

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

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

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

THE HONOURABLE SZETO WAH

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

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHIM PUI-CHUNG

THE HONOURABLE FREDERICK FUNG KIN-KEE

THE HONOURABLE MICHAEL HO MUN-KA

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

THE HONOURABLE EMILY LAU WAI-HING

THE HONOURABLE LEE WING-TAT

THE HONOURABLE FRED LI WAH-MING

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

THE HONOURABLE JAMES TO KUN-SUN

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

DR THE HONOURABLE PHILIP WONG YU-HONG

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE HOWARD YOUNG, J.P.

THE HONOURABLE ZACHARY WONG WAI-YIN

THE HONOURABLE CHRISTINE LOH KUNG-WAI

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

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE CHAN KAM-LAM

THE HONOURABLE CHAN WING-CHAN

THE HONOURABLE CHAN YUEN-HAN

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE PAUL CHENG MING-FUN

THE HONOURABLE CHENG YIU-TONG

DR THE HONOURABLE ANTHONY CHEUNG BING-LEUNG

THE HONOURABLE CHEUNG HON-CHUNG

THE HONOURABLE CHOY KAN-PUI, J.P.

THE HONOURABLE DAVID CHU YU-LIN

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE IP KWOK-HIM

THE HONOURABLE LAU CHIN-SHEK

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

DR THE HONOURABLE LAW CHEUNG-KWOK

THE HONOURABLE LAW CHI-KWONG

THE HONOURABLE LEE KAI-MING

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE BRUCE LIU SING-LEE

THE HONOURABLE LO SUK-CHING

THE HONOURABLE MOK YING-FAN

THE HONOURABLE MARGARET NG

THE HONOURABLE NGAN KAM-CHUEN

THE HONOURABLE SIN CHUNG-KAI

THE HONOURABLE TSANG KIN-SHING

DR THE HONOURABLE JOHN TSE WING-LING

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

THE HONOURABLE LAWRENCE YUM SIN-LING

## **MEMBERS ABSENT**

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

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

THE HONOURABLE ERIC LI KA-CHEUNG, O.B.E., J.P.

## **PUBLIC OFFICERS ATTENDING**

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

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

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

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

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SECRETARY FOR CONSTITUTIONAL AFFAIRS

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

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

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

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

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

MR STEPHEN IP SHU-KWAN, J.P.  
SECRETARY FOR ECONOMIC SERVICES

**CLERKS IN ATTENDANCE**

MR RICKY FUNG CHOI-CHEUNG, SECRETARY GENERAL

MR LAW KAM-SANG, DEPUTY SECRETARY GENERAL

MISS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

**PAPERS**

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

*Subject*

## Subsidiary Legislation

*L.N. No.*

Waste Disposal (Permits and Licences) (Forms and .....Fees) (Amendment) Regulation 1996	492/96
Waste Disposal (Chemical Waste) (General) (Amendment) Regulation 1996.....	493/96
Water Pollution Control (General) (Amendment) Regulation 1996.....	494/96
Noise Control (General) (Amendment) (No. 2) Regulation 1996.....	496/96
Noise Control (Air Compressors) (Amendment) Regulation 1996.....	497/96
Noise Control (Hand Held Percussive Breakers) (Amendment) Regulation 1996.....	498/96
Air Pollution Control (Specified Processes) (Amendment) Regulation 1996.....	499/96
Road Traffic Ordinance (Amendment of Schedule 10) Order 1996 .....	500/96
Ozone Layer Protection (Fees) (Amendment) Regulation 1996.....	501/96

Dumping at Sea (Fees) Regulation.....	502/96
Tax Reserve Certificates (Rate of Interest) (No. 4) Notice 1996 .....	503/96
Hawker (Permitted Place) (No. 4) Declaration 1996.....	504/96
Control of Obscene and Indecent Articles (Amendment) Ordinance 1995 (73 of 1995) (Commencement) Notice 1996 .....	505/96
Post-Release Supervision of Prisoners Ordinance (Cap. 475) (Commencement) Notice 1996.....	506/96
Import and Export (General) Regulations (Amendment of Fourth Schedule) Order 1996 (L.N. 422 of 1996) (Commencement) Notice 1996 ....	507/96
Official Languages (Authentic Chinese Text) (Dangerous Goods Ordinance) Order .....	(C) 123/96
Official Languages (Authentic Chinese Text) (Reserved Commodities Ordinance) Order .....	(C) 124/96

### Sessional Paper 1996-97

No. 38 — Vocational Training Council  
Annual Report 1995/96

**PRESIDENT** (in Cantonese): At the last meeting, after Mr Albert CHAN had spoken on Mr Fred LI's motion, I said I would need to consider the relationship between "tortoise and tortoise egg" to decide whether it was appropriate for the term to be used in a parliamentary context.

Mr Albert CHAN said, "It is such an election system that will give rise to such candidates, just as there should be eggs before we have chickens and tortoise eggs before tortoises. This is because there is a direct relationship between the society's system and the products therefrom." After consideration, I am of the opinion that the term as used in Mr Albert CHAN's speech is not inappropriate.

On the other hand, may I remind Members that the use of the term "tortoise egg" to refer to any person will be insulting.

## ORAL ANSWERS TO QUESTIONS

### Senile Dementia

1. **MR MOK YING-FAN** asked (in Cantonese): *With the ageing of the territory's population, the number of patients suffering from senile dementia is expected to grow. The Consultant Psychiatrist of the Psychogeriatric Team of the Castle Peak Hospital has estimated that about 10% of the elderly in the territory are suffering from the disease. In this connection, will the Government inform this Council:*

- (a) *of the expected increase in the number of day care centres for the elderly in the coming five years;*
- (b) *whether, given that the care of patients suffering from senile dementia takes more time than that for ordinary elderly people, the Government will consider increasing the staffing resources of care and attention homes and day care centres for the elderly so that these organizations will have adequate manpower to look after elderly people suffering from the disease; and whether the Government has any plan to encourage these organisations to take in such patients more willingly;*
- (c) *whether the Government has any plan to set up day care centres specially for patients suffering from senile dementia in various districts, in order to provide training and nursing care;*



- (d) *how the Government will assist family members of patients suffering from senile dementia in learning how to look after such patients; and*
- (e) *whether the Government will consider allocating resources for undertaking studies on senile dementia in the territory; and whether the Government will consider strengthening community education in order to enhance the public's awareness of the disease?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Mr President, first of all, it is planned that 13 more day care centres for the elderly will be established in the coming five years, amounting to a total of 37 centres by the year 2000.

Secondly, at present, according to the relative size of the subvented care-and-attention homes, there are sufficient manpower to take care of the health of the residents. Besides, social and recreational activities are organized by social workers for the elderly. The Social Welfare Department (SWD) provides infirmity care supplement to care-and-attention homes to enable them to hire additional nursing staff to provide better care to the frailer residents. Day care centres for the elderly also take care of elderly with senile dementia. All day care centres have professional nursing staff providing nursing care to the elderly. The Government will regularly review the adequacy of manpower in elderly institutions to ensure the provision of the most effective services.

The recently established psychogeriatric teams and community geriatric assessment teams in the Hospital Authority (HA) provide outreach medical services for the senile demented patients in day care centres and residential care institutions. They also provide education and training for the patients' carers in the institutions and offer support to them during crisis situations. These measures greatly increase the ability of the homes in serving patients with senile dementia and enhance the quality of service.

Thirdly, there is no day care centre which is specifically set up for patients with senile dementia. But, various day care and residential care services for the elderly take care of patients with senile dementia of various degree. The day

hospitals for the elderly run by the HA also look after patients with a mild degree of senile dementia.

Fourthly, when the medical and nursing staff of the geriatric specialty in various hospitals and psychogeriatric teams as well as the medical social workers provide treatment and care to senile demented patients, they also educate and assist their relatives about how to look after the patients.

Fifthly, in promoting community education, the Patients Resource Centres, the geriatric specialty and psychogeriatric teams of HA regularly organize educational activities within the districts to enhance the public understanding of senile dementia. The Community Education Section of multi-service centres for the elderly under the SWD also organize talks and other activities to educate the public about senile dementia.

Lastly, the Government has commissioned a major consultancy study on the needs of the elderly. Patients with senile dementia are included as part of our subjects. The study will help to increase our understanding of the needs of the elderly suffering from this disease. Hence, we can plan for the most appropriate residential and day care services for senile demented patients in a more efficient and accurate manner.

**MR MOK YING-FAN** (in Cantonese): *Mr President, in the main reply of the Secretary for Health and Welfare, it was mentioned that there are only 13 day care centres at present. We have received complaints through the Complaints Division earlier from some senile dementia organizations. They claimed that the waiting time for the patients is very long, sometimes even as long as five or six years, which aggravates the burden and the mental pressure on the families concerned. Will the Secretary for Health and Welfare inform us whether the Government or the Hospital Authority has considered concretely how to shorten the waiting time under the present circumstances?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Mr President, as we understand, there are a certain number of elderly people waiting to enter the care-and-attention homes. But we do not have the statistical data of the number of people waiting for admission to the day care centres. If Members have this kind of information, I will be glad to follow it up.

**PRESIDENT** (in Cantonese): Five Members have indicated they would like to raise a supplementary question. I shall draw the line there.

**MR LAW CHI-KWONG** (in Cantonese): *Mr President, in the second paragraph of the Secretary for Health and Welfare's main reply, it was mentioned that there are sufficient manpower in both the care-and-attention homes and the day care centres. But as far as I know, these institutions often cannot employ enough nurses. Is that the case?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Mr President, shortage of nursing staff may often happen in individual institutions, but it varies with each institution depending on its location, working hours and the types of service it provides. As regards the possible shortage of nursing staff, we would think about adopting more measures and training more nurses, such as providing the relevant training courses and encouraging them to join this kind of service.

**MR HOWARD YOUNG** (in Cantonese): *Mr President, last week when I was on duty, a group of people concerned about the senile demented patients and patients' families came to see us. They said that even the medical staff do not have adequate knowledge of this disease, let alone the ordinary people in our society. Just now the Secretary for Health and Welfare stated that, in respect of hardware, more care-and-attention homes will be built, whereas in respect of software, sufficient manpower will be staffed. May I ask the Secretary for Health and Welfare whether, other than sufficient manpower, it has been considered that measures should be taken to ensure the manpower includes nursing staff with adequate knowledge of senile dementia?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Mr President, it is true that many of the nursing staff and social workers rarely get in touch with this disease. At present the Social Welfare Department has arranged a number of training courses for social workers and other interested parties to enhance their knowledge of the disease and to teach them how to take care of such patients.

As for the medical and nursing staff, there are doctors of geriatrics and psychogeriatrics who continue to work in this respect. Meanwhile, an organization named "Hong Kong Senile Dementia Society" in Hong Kong has published a lot of educational materials and has organized many lectures for doctors and nurses. Besides, other members in the family also have to learn how to take care of the elderly suffering from this disease in their home. We shall continue to follow up the training and development in this aspect.

**DR HUANG CHEN-YA** (in Cantonese): *Mr President, in fact senile dementia is preventable. Has the Government considered enforcing preventive measures to reduce the chance of the elderly contracting the disease, thus solving the problem of senile dementia?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Mr President, of course we hope to prevent to the best of our ability the possibility more elderly people from contracting the disease. We have already taken many preventive measures in respect of elderly services. We hope that they can have more activities, social life and spiritual sustenance, thus making their life richer. Even so, a certain proportion of elderly people still get the disease in many countries. Therefore, no matter how good the preventive measures are, a certain number of elderly may still unfortunately suffer from the disease. We should try our best to take care of them, and at the same time do what we can to allow their families to take care of them more easily.

**MISS CHAN YUEN-HAN** (in Cantonese): *Mr President, there are 560 000 elderly people over the age of 65 in Hong Kong at present. We estimate that this number will grow to one million by the year 2001. In the main reply of the Secretary for Health and Welfare, it is stated that there are now 24 day care centres and that 13 more will be established in the coming five years, making it a total of 37 centres. If we agree that at present the waiting time for the day care centres is very long and that the number of day care centres has to be increased, in accordance with the increase in our elderly population, which grows from the present 560 000 to one million in five years, the number of centre ought to be doubled. How did the Government arrive at the conclusion of increasing only 13 day care centres?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Mr President, with regard to the ratio of the day care centres for the elderly, our working group has undertaken a comprehensive review about two and a half years ago. The standard determined was one day care centre for 17 000 elderly people. That is the target of our plan.

**MISS CHAN YUEN-HAN** (in Cantonese): *As the Honourable MOK Ying-fan has said just now, the present situation is that, as noted by the organizations that came recently to lodge their complaints, there is a very long waiting time. Take the case of my mother as an example. She has been waiting for more than two years, and she is still waiting. There are already not enough centres at present, and in five years' time, the elderly population will be doubled. Why does the Government set the standard at a mere increase of 13 centres?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Mr President, the figure in my main reply was given in response to the question posed by Mr MOK about the expected increase in the number of day care centres in the coming five years. It does not mean that it is absolutely sufficient. We will continue to plan and set up more of these centres when there is an opportunity. The standard and target of our plan is one centre for every 17 000 elderly people.

**DR JOHN TSE** (in Cantonese): *Mr President, insufficient service for the elderly is hardly a new problem. As far as I know, some elderly are forced to go back to the countryside in the Mainland to receive elderly service. Does the Government have any data showing the number of elderly being forced to return to the countryside in China to receive such service? What measures will the Government take in the future to cope with this problem?*

**PRESIDENT** (in Cantonese): This supplementary question has exceeded the scope of the original question. The original question is meant to discuss the senile demented patients.

**DR JOHN TSE** (in Cantonese): *Mr President, I wish change the subject of the question to senile demented patients.*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Mr President, we do not have statistical figures of this kind, therefore the number of senile demented patients returning to settle down in China is unknown. We do not have this kind of figure.

**Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**

2. **MR LAU CHIN-SHEK** asked (in Cantonese): *In view of the extension of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) to Hong Kong on 14 October this year, will the Government inform this Council:*

- (a) *whether it will introduce relevant legislation in order to comply with the spirit of Article 11.1(d) of the CEDAW regarding the right to "equal remuneration ..... in respect of work of equal value";*
- (b) *given the fact that each signatory state to the CEDAW is required to submit its first report on the status of women in its country one year after signing the Convention, whether the first such report on Hong Kong will be submitted next year by the British Government, the Hong Kong Special Administrative Region (SAR) Government or the Chinese Government; and*
- (c) *whether the Sino-British Joint Liaison Group has deliberated on the respective roles of the SAR Government and the Chinese Government regarding the submission of reports on the status of women in Hong Kong after the change of sovereignty?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Mr President, pursuant to the agreement reached at the 37th plenary session of the Joint Liaison Group, the United Nations have been notified of the extension to Hong Kong of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which many refer to as the CEDAW. The extension took effect on 14 October 1996.

Article 11.1 of the CEDAW requires States Parties to take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure the quality of men and women. In anticipation of the extension of the Convention to Hong Kong, the Sex Discrimination Ordinance was enacted in July last year. The Ordinance specifically prohibits discrimination against women in the field of employment. Article 11.1(d) of the CEDAW refers to the need to ensure "the right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value". In this regard, under section 69 of the Sex Discrimination Ordinance, the Equal Opportunities Commission has prepared a Code of Practice on Employment which provides practical guidance covering, *inter alia*, the specific requirement for the right to equal pay for work of equal value. The Code has been tabled in this Council and is currently being examined by a Sub-committee.

Under the Convention, States Parties undertake to submit to the Secretary General of the United Nations periodic reports on measures which they have adopted to give effect to the provisions of the Convention and on the progress made. In the case of Hong Kong, the first report will be due in mid-October 1997. In accordance with the agreement reached at the Sino-British Joint Liaison Group, for reports on Hong Kong which are due after 30 June 1997, the Hong Kong Special Administrative Region Government will submit a draft report to the Central People's Government of China and that the report will be incorporated into and form part of the report to be submitted to the United Nations by China, who is a State Party to CEDAW.

**MR LAU CHIN-SHEK** (in Cantonese): *Mr President, in the main reply, the Secretary for Home Affairs has mentioned that the Equal Opportunities Commission has, under section 69 of the Sex Discrimination Ordinance, prepared a Code of Practice on Employment which provides practical guidance covering, inter alia, the specific requirement for the right to equal pay for work of equal value. This Code of Practice is not a law. May the Secretary directly tell us whether the Sex Discrimination Ordinance provides any protection to equal pay for work of equal value? If so, why does paragraph 12.8 of the Code of Practice on Employment mention that progressive implementation will be considered? If not, once the spirit of the Convention in regard to "equal pay for work of equal value" is infringed, how can the rights of the victims be protected?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Mr President, this question involves a few aspects. Firstly, I would talk about the Code of Practice. As a matter of fact, the Code currently tabled in the Legislative Council is a draft which can only be formally finalized upon endorsement by this Council. During the period of examination by Honourable Members, if they have any suggestions in regard to this draft Code, they can raise them for discussion.

Secondly, in regard to the nature of the Code of Practice, Section 69 (14) of the Sex Discrimination Ordinance stipulates that "A failure on the part of any person to observe any provision of a code of practice shall not of itself render him liable to any proceedings; but in any proceedings under this Ordinance before any court any code of practice issued under this section shall be admissible in evidence, and if any provision of such a code appears to the court to be relevant to any question arising in the proceedings it shall be taken into account in determining that question." This means that the Code of Practice will have legal effect later. During any legal proceedings, if the court deems that the subject matter is related to provisions in the Code of Practice, it can take the Code in evidence and make a judgement according to the provision.

**PRESIDENT** (in Cantonese): There are five Members who would like to raise supplementary questions. I will draw the line there.



**MR LEUNG YIU-CHUNG** (in Cantonese): *Mr President, when answering the question of the Honourable LAU Chin-shek a moment ago, the Secretary for Home Affairs said that this Code of Practice has objective legal effect. Unfortunately, the Code only emphasizes considering progressive implementation of equal pay for work of equal value. If the provision in the Code is really put into practice, that is, only progressive implementation will be considered, according to legal advice, it merely means asking the employers to take into consideration and it does not necessarily mean compulsory implementation. May I ask the Secretary for Home Affairs whether provisions in the Sex Discrimination Ordinance have clearly stipulated or specifically ensured that employees can enjoy the right to equal pay for work of equal value?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Mr President, as I said earlier, it is under section 69 of the Sex Discrimination Ordinance that the Equal Opportunities Commission has prepared the Code of Practice on Employment. Since that Ordinance has not included all the details, they have to be substantiated by the Code of Practice. I believe that Honourable Members will obviously agree that we should abide by the principle of equal pay for work of equal value. This is, in fact, a rather new concept and it is bound to have various kinds of problems during execution. As far as I understand, before formulating the Code of Practice, the Equal Opportunities Commission has consulted the public and worked out these recommendations according to public opinions. The recommendations are currently under deliberation by a Subcommittee of the Legislative Council. If Members think that the Code of Practice should be considered to be implemented, or that the Code is not practical enough, or that the form of the Code should be changed, Members can make a decision in due course.

Besides, I have a further point to add. Equal pay for work of equal value is actually a rather new concept. The Code of Practice mentions that according to the experience of foreign countries, although the duties performed by male and female employees are different, various factors like the efforts, skills, sense of responsibility and working conditions expected of the employees in accordance with the duties assigned can still be compared. The employers can, according to market forces as well as the performance of individual employees, work out the

remuneration of staff of different ranks. However, they should not, purely on the grounds of gender, pay less remuneration to those employees who are taking up work of equal value. Since this involves a lot of rather subjective views towards value, it is necessary to formulate a more objective and practical way of assessment. As Hong Kong is currently devoid of such a way of assessment, the Equal Opportunities Commission proposes to conduct a study early next year. The purpose is to formulate a set of more explicit and practical guidelines so that various organizations can conduct objective and professional assessment of different work positions. This can also help to implement a measure which is free of any discrimination element but is able to attain a well-balanced remuneration. As I said earlier, this study will be conducted early next year by the Equal Opportunities Commission and is expected to complete in the middle of the year. Thus, it is necessary that the Code be implemented step by step in a steady pace. In regard to the wording and way of expression in the Code of Practice, I think that the decision is in the hands of Honourable Members.

**PRESIDENT** (in Cantonese): Mr LEUNG Yiu-chung, are you claiming that your question has not been fully answered? Which part of it?

**MR LEUNG YIU-CHUNG** (in Cantonese): *Yes, Mr President. The explanation by the Secretary for Home Affairs was solely on the substance of the Code of Practice. However, my question is whether the Sex Discrimination Ordinance has clearly ensured that employees can obtain equal pay for work of equal value. He has not spelled out clearly this point.*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Mr President, as a matter of fact, I have already stated very clearly when answering the question of Mr LAU Chin-shek a moment ago that once the Code of Practice is finalized, according to section 69 (14) of the Sex Discrimination Ordinance, it will have legal effect and will be legally binding in court proceedings.

**MR ALBERT HO** (in Cantonese): *Mr President, may I ask the Secretary for Home Affairs: After the United Nations Convention on the Elimination of All Forms of Discrimination Against Women has been formally extended to Hong Kong, does the Hong Kong Government have any plan to amend the Sex Discrimination Ordinance so as to extend the scope of eliminating sex discrimination from employment to other areas, including social, political, cultural and sports areas, with a view to achieving the goal of eliminating all forms, I emphasize that it is all forms, of discrimination against women? If not, can the Government explain why there is no legislation to eliminate all forms of discrimination against women?*

**PRESIDENT** (in Cantonese): The original question is about equal pay for work of equal value and about the reports concerned as well as the present situation. I am afraid this supplementary question is out of the scope of the original question and reply.

**MR LEE CHEUK-YAN** (in Cantonese): *Mr President, in the main reply, it is mentioned that in the future, the Hong Kong Special Administrative Region Government will submit the report to the Chinese Government, which will then submit the report to the United Nations. May I ask the Secretary for Home Affairs whether he will undertake that non-government organizations in Hong Kong will be consulted before drafting the report in order that non-government organizations can also participate in the process?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Mr President, the answer is in the affirmative. We will submit the report according to the normal practice. That means we will draft the outline according to the normal procedure and then consult the public and Honourable Members. After obtaining their views, we will draft the report. The draft report will then, as I said in the main reply, be submitted to the Central People's Government of China to be incorporated into and form part of the report of China. In addition, when this report is submitted to the United Nations, we will make an announcement according to the normal procedure.

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

**MR LEE CHEUK-YAN** (in Cantonese): *Mr President, the Secretary has already answered my question. However, I would like to clarify one point. He said that consultation would be conducted on the outline. But my question was whether consultation would be conducted on the contents. I would like to clarify whether he means only the outline or to all the contents under the outline?*

**PRESIDENT** (in Cantonese): It is not for you but for the Secretary for Home Affairs to clarify. It should be a question raised by you.

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Mr President, what I mean is the outline. As a matter of fact, for all the reports that we currently have to submit, we will consult the public and Honourable Members on their outlines. In regard to the other details, we will, after listening to the various points raised during discussions in the House Committee and the opinions of the public addressed to us, incorporate as much as possible the views that we think are appropriate into the report. We will not consult anybody in regard to drafting the contents of the report.

**PRESIDENT** (in Cantonese): Miss CHAN Yuen-han, I hope you will not think that I am discriminating against female Members. It is just because you have raised the greatest number of supplementary questions.

**MISS CHAN YUEN-HAN** (in Cantonese): *Thank you, Mr President. In regard to the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, I understand that the United Kingdom maintained some reserved clauses when signing the Convention, which include the clause on equal pay for equal work. However, there is a provision on equal*

*pay for equal work in our Sex Discrimination Ordinance. When we submit the report, will we include this part or not? Besides, I also know that when signing that Convention, China maintained less reserved clauses than the United Kingdom. So what will be our standard in the future? Since the reserved clauses of the United Kingdom when signing the Convention are different from our current situation, how are we going to submit the report? After the change of sovereignty, as our new sovereign state is more open than the United Kingdom, what should we do?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Mr President, that question does not only involve this Convention. In fact in all the conventions, the reserved clauses maintained by the United Kingdom as a signatory state are not entirely the same as those of our future sovereign state, China. There is always some difference. Therefore, we cannot make any specific explanation in regard to this Convention alone. Generally speaking, the Sino-British Joint Liaison Group (JLG) has already been discussing the question of reserved clauses in all the conventions after 1997. Therefore, it will only be after the discussions in the JLG that we can confirm the reserved clauses to be maintained in Hong Kong when implementing these conventions after 1997.

**MISS CHAN YUEN-HAN** (in Cantonese): *Mr President, I mentioned a moment ago that the United Kingdom has maintained a reserved clause on the issue of equal pay for equal work. However, there is a provision in our Sex Discrimination Ordinance on protection of the right to equal pay for equal work. Technically speaking, how are we going to deal with that?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Mr President, I cannot answer this question on how we are going to deal with the issue, as it involves a lot of technical problems. However, as far as I understand, it mainly depends on the situation of Hong Kong itself. In regard to the issue of equal pay for equal work, we will report to the United Nations commission concerned on the basis of the objective facts of Hong Kong instead of subjective opinions.

**PRESIDENT** (in Cantonese): Miss CHAN Yuen-han, are you claiming that your

question has not been fully answered?

**MISS CHAN YUEN-HAN** (in Cantonese): *Yes, because he has only answered part of my question. I hope that before submitting the report, the Secretary for Home Affairs can inform us of the situations on both sides. It is because I am afraid that the absence of a provision on equal pay for equal work on the British side will affect the provision on equal pay for equal work in our existing legislation. I hope that he can inform the Legislative Council in this respect beforehand.*

**PRESIDENT** (in Cantonese): This is not a question. Are you asking whether he is willing to do so?

**MISS CHAN YUEN-HAN** (in Cantonese): *Yes.*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Mr President, we will definitely consider doing so.

**DR JOHN TSE** (in Cantonese): *Mr President, I hope that you will allow me to raise a question in relation to the publicity of this Convention. I know that the Government has published 4 000 booklets on the International Convention on the Rights of the Child for publicity purpose. We can regard this as inadequate publicity. This Convention is related to women. If they do not know their own rights, it will be of no use at all. How is the Hong Kong Government going to publicize this Convention and how many publicity booklets will be published?*

**PRESIDENT** (in Cantonese): Is it possible to rephrase the question as: When making the report, will the measures of publicity be covered?

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Mr President, this is of

course possible. Perhaps this question has already exceeded the scope of the main question. But I can also respond to this question. In regard to publicity, this Convention was only formally extended to Hong Kong in mid-October. Like dealing with other conventions, we will publish some booklets on this theme which will also be incorporated into human rights education. We will widely distribute these booklets, place them in the libraries or other places. We will, of course, mount a copy on the Internet. As a matter of fact, the details of this Convention have already been incorporated into our consultation paper on sex discrimination presented for public consultation. Nevertheless, we will organize the above publicity activities in regard to the extension of this Convention to Hong Kong.

**DR JOHN TSE** (in Cantonese): *Mr President, in view of the extension of this Convention to Hong Kong on 14 October, how many copies will the Government publish .....*

**PRESIDENT** (in Cantonese): Dr John TSE, I have just said that this question cannot be raised. If the public officer tactfully says that a report will be made on the current situation in general and you keep on saying that he has not answered your supplementary question, this will be contrary to the fact.

### **Publicity on British National Overseas (BNO) Passport**

3. **MRS ELIZABETH WONG** asked: *Mr President, will the Government inform this Council whether it is aware of the measures taken by the British Government to publicize the British National Overseas (BN(O)) passport and to persuade the governments of other countries to accept the BN(O) passport as a legitimate travel document having the same status as other travel documents issued by the British Government?*

**SECRETARY FOR SECURITY:** Mr President, the British Government have widely publicized the BN(O) passport amongst foreign governments since its introduction in 1987. As a result, the BN(O) passport is now recognized by all countries and territories to be a valid travel document, and enjoys visa-free

access to 80 countries and territories.

**MRS ELIZABETH WONG:** *Mr President, I would like to follow up on the last sentence of the Secretary's reply where he says that it enjoys visa-free access to 80 countries and territories. Is the Secretary aware of the fact that in some European countries, such as Germany and Spain, British travel documents have visa-free access, but the BN(O) passports do not have visa-free access? If you are aware of this, can you explain to this Council the reasons for that?*

**SECRETARY FOR SECURITY:** Mr President, I am of course aware of the fact that some other kinds of British travel documents enjoy visa-free access to Germany or Spain, for example, British citizen passports, because it is part of the European Union. However, it is not for me to explain why other countries refuse to grant visa-free access to the BN(O) passport.

In general terms, as I understand it from my experience, particularly in Europe recently, decisions on the grant of visa-free access to any particular kind of passport involves a number of questions. I can give a few examples: first of all, the security of the travel document as a secure travel document; secondly, the integrity of the process of the issue of the passport; thirdly, the general impression of that particular countries or country on the current situation in Hong Kong; whether they believe that giving visa-free access to a particular country or territory will lead to immigration problems with that country.

A number of factors are taken into account by other countries in deciding their visa-free policies. I cannot explain their decisions for them.

**PRESIDENT** (in Cantonese): Mrs Elizabeth WONG, are you claiming that your question has not been fully answered?

**MRS ELIZABETH WONG:** *Mr President, I am not satisfied with the supplementary answer given by the Secretary because I would like to follow up on what the Secretary can tell this Council on those countries which do not give*



*visa-free access to BN(O) passports. Now, I think the Secretary owes those Hong Kong people who have got the BN(O) passports an explanation as to which countries in Europe or elsewhere do not provide visa-free access to BN(O) passports. So, my question is simply this: Which are the countries which would normally provide visa-free access to British passport holders but which deny BN(O) passport holders visa-free access?*

**PRESIDENT:** A very long preamble, but a short question!

**SECRETARY FOR SECURITY:** I am not even sure I understand that question, but I will try to answer it.

**PRESIDENT:** Which European countries?

**SECRETARY FOR SECURITY:** What I do have now is a list of the 80 countries or so which allows visa-free access to BNO passport holders. So any other country which is not on this list, and this is an open list — I mean, it is no secret about it — then of course grants no visa-free access to BN(O) passport holders. If you wish, I can read out the whole list but it is going to take a long time to read it, but I can very happily pass a copy to the Honourable Member.

**PRESIDENT:** Do you accept that, Mrs WONG?

**MRS ELIZABETH WONG:** *Mr President, yes. I think we should have the list.*

**MR JAMES TO** (in Cantonese): *In his reply, the Secretary has said that they have widely publicized the passport amongst foreign governments and so we have such accomplishment. I would like to ask the Secretary whether he is satisfied with the present result and would therefore stop making more effort in lobbying other countries. Meanwhile, does the Administration have further*

*plans to enable BN(O) passport holders to have more convenience in travelling?*

**SECRETARY FOR SECURITY** (in Cantonese): Mr President, we will of course not be complacent. Whenever suitable opportunities come up, the British and Hong Kong Governments will lobby foreign countries to grant Hong Kong people visa-free access, whether the passports they are holding are the BN(O) passports or the future Hong Kong Special Administrative Region (SAR) passports. For instance, the BN(O) passport which was introduced in 1987 but our lobbying work continues long after its introduction. For example, in 1992, the British Government signed a reciprocal visa-free agreement with the Argentine Government in which one of the terms was to allow the BN(O) passport holders visa-free access to Argentina; and in 1993, the British Government also obtained the approval of the Mauritian Government to grant visa-free access to the BN(O) passport holders to Mauritius. We will continue to do so should future opportunities arise.

But I want to point out one thing and that is, at present because we know that the SAR passport will be introduced on 1 July 1997 and since the SAR passport is a new passport and new travel document, according to the order of priority, we feel that more time and effort should be spent on lobbying foreign countries to grant visa-free access to the future SAR passport. For the meantime, 80 countries have already granted visa-free access to the BN(O) passport. Although we cannot say that we are satisfied, in regard to the new SAR passport, we have to make more effort in this respect.

**MISS EMILY LAU** (in Cantonese): *Mr President, I would like to ask the Secretary that, regarding the strategy of helping the BN(O) passport holders to gain visa-free access to other countries, whether the Hong Kong Government has made it known to the British Government about its hope to have the BN(O) passport receive the same treatment as the British passport. As far as I know, there are at present 140-odd countries and territories which have granted visa-free access to the British passport. Do you also request the British Government to strive for the same goal? Also, has the Government received any message from the above 80 countries or territories that they will in the near future consider again whether to grant the same visa-free access to the BN(O)*

*passport holders after 1997?*

**SECRETARY FOR SECURITY** (in Cantonese): Mr President, on the question of promoting the BN(O) passport, our goal is to gain visa-free access to as many countries as possible. Of course, it would be nice if we can gain as many as the British citizen passport can and would be better if we can gain even more. As for the future, as far as I know, no countries have said anything about having to consider the future visa-free access arrangement for the BN(O) passport.

**MR HOWARD YOUNG:** *I refer to the remarks "having the same status as other travel documents" in the question, and the answer where the Secretary points out that the BN(O) passport enjoys visa-free access to 80 countries and territories. Will the Secretary inform us whether he has received, through any channel, any indication from any of these 80 countries that they are already thinking of eroding the visa-free access by BN(O) passport holders, such as curtailing the number of days of stay or abolishing it altogether?*

**SECRETARY FOR SECURITY:** Mr President, I thought that was a question which was similar to the last supplementary question from the Honourable Miss Emily LAU, but to answer it again, no, I have not heard any such signals that visa-free access arrangements for BN(O) passports will shortly be diminished or reconsidered.

**MR HOWARD YOUNG:** *Mr President, I asked whether he has received any indication. Perhaps I should have said "aware of any indication". Although the Secretary says he has not received any, can he check whether a recent press report was correct in saying that the number of days offered by Thailand for BN(O) passport holders would be eroded?*

**SECRETARY FOR SECURITY:** I have not received nor am I aware of any such report.

**MR ALBERT HO** (in Cantonese): *Mr President, I would like to ask the Secretary whether the British Government will, after the return of sovereignty on 1 July 1997, continue to work hard to promote and publicize the BN(O) passport like it is doing now?*

**SECRETARY FOR SECURITY** (in Cantonese): *Mr President, the BN(O) passport holders are British nationals and therefore the British Government are obliged to continue to maintain and enhance their convenience when travelling abroad with the BN(O) passport.*

### **Exchange Fund**

4. **MISS EMILY LAU** asked (in Cantonese): *Mr President, in his speech delivered at a seminar organized by the Bank of England and held in London on 10 September this year, the Chief Executive of the Hong Kong Monetary Authority (HKMA) stated that the Exchange Fund does not currently hold assets in currencies which are not convertible and not traded in major foreign exchange markets. He also allayed fears that China would exert influence on the HKMA to use the Exchange Fund to buy Chinese Government bonds or bonds in Renminbi in order to finance China's budget deficit. As some of the Chinese bonds are denominated in currencies of the G-7 countries, will the Government inform this Council if it has any information regarding the following:*

- (a) *whether the HKMA is currently holding Chinese Government bonds; and*
- (b) *if the answer to (a) is in the negative, in order to address the concern of the people in Hong Kong and of the international financial community whether the HKMA will state categorically that the HKMA will not hold Chinese Government bonds or bonds in Renminbi?*

**SECRETARY FOR FINANCIAL SERVICES:** Mr President, regarding investments of the Exchange Fund, the following three criteria are currently adopted for inclusion in the list of approved assets:

- (i) only sovereign (that is, government) issuers with credit ratings of investment grade or above are included<sup>1</sup>;
- (ii) there must be a liquid secondary market for the financial instrument; and
- (iii) the underlying currencies of the bond or debt issues must be fully convertible.

The answer to (a) is that China is currently not a sovereign issuer on the list of approved assets in the investment policy of the Exchange Fund, hence the Exchange Fund does not hold any Chinese bonds.

As regards (b), whether China, or any other sovereign issuer, should in future be included into the list of approved assets of the Exchange Fund will have to be considered against the three criteria set out in the first paragraph of my reply. We will also need to take into account prevailing international best practice relating to treatment of foreign currency reserve assets and other new developments that may arise in future.

**MISS EMILY LAU** (in Cantonese): *Mr President, would the Secretary tell us whether there is any information to indicate why there is the deep concern of so many Hong Kong residents and the international financial sector alike, so much so that the Chief Executive of the Hong Kong Monetary Authority had to give a lengthy speech in London to calm everyone down? What has been taking place that scares us so much? Also, Mr President, can the Secretary inform us, in future .....*

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(1) Market defines investment grade as, only issuers, such as corporates, coming from countries with a credit rating BBB or above on the Standard and Poor's scale (or equivalent) are included. Exchange Fund requirements for investment grade credit are higher than market practice.

**PRESIDENT** (in Cantonese): Can you put your supplementary questions one at a time?

**SECRETARY FOR FINANCIAL SERVICES:** I do not think I can attribute any particular reason as to why there are suspicions and certain degree of uncertainty regarding the independence of our monetary system after 1997. After all, in the past three years, the Hong Kong Monetary Authority (HKMA) has fully established itself as an internationally credible, independent monetary authority well-equipped to perform its functions as a quasi central bank after 1997 on the basis of a separate, independent monetary system, and a separate monetary authority operating under the system of a separate currency.

Now, no one can prevent individuals from speculating on a certain pessimistic basis as to the future independence of the HKMA, and it is true that from time to time questions were raised. I think it is right that these questions should be properly addressed, and it was this need to address these concerns that the Chief Executive of the HKMA made the speech in London, which incidentally was hosted by the Bank of England.

**DR HUANG CHEN-YA** (in Cantonese): *Mr President, the Secretary's reply has indeed left a way out. He indicated that, should new developments in future arise, the Government might buy Chinese Government bonds. In fact, the three criteria of the Exchange Fund serve to minimize the risks of these bonds. One other risk involves purchasing bonds only from a single government. Should anything happen to this government, the risk would escalate greatly. Is there any provision in the Exchange Fund restricting the percentage of bonds purchased from any one government? If there is, the purchase of bonds from any government would not be a problem as far as the three major criteria are met.*

**SECRETARY FOR FINANCIAL SERVICES:** I confirm that there are indeed very stringent and detailed guidelines on investments to be undertaken by the HKMA. This includes not only the degree of exposure with regard to individual currencies, with regard to individual instruments, with regard to individual markets, but also the limits for exposure and the duration of this

exposure. All these are set out in very detailed guidelines internally which are, in fact, regularly reviewed in the light of changing markets and international conditions.

**DR HUANG CHEN-YA** (in Cantonese): *Mr President, the Secretary has not answered my question, which is: Is there any restriction on the percentage of bonds purchased from any one single government?*

**PRESIDENT** (in Cantonese): Dr HUANG, just now the supplementary question was beyond the original question and reply. However, since it was raised, matters might be further confused if the Secretary did not respond to it. So, I let him make the reply. He did not say there was any specific restriction. I know you will not be satisfied with the reply. Secretary, do you have anything to add?

**SECRETARY FOR FINANCIAL SERVICES:** I would like to add, in order to assure Dr HUANG, that exposures to individual markets and exposures with regard to individual instruments, with regard to individual sovereign issuers are, of course, carefully evaluated because, as Dr HUANG rightly pointed out, the whole purpose of the exercise is the minimization of risks.

**MISS EMILY LAU** (in Cantonese): *Mr President, I wish to follow up on my supplementary question. The Secretary seemed to say he failed to understand why Hong Kong residents and the international financial sector alike were worried. The question is: given these worries and uncertainty, what does the Government need to do? He said the Government was doing something on the matter, but should it do more? Or even is there anything the Chinese Government should do to convince the international financial sector and the six million-odd Hong Kong people that the Hong Kong people's hard-earned money would not be transferred to China?*

**SECRETARY FOR FINANCIAL SERVICES:** It just so happened that yesterday, the Chairman and the Chief Executive Officer of the New York Federal Reserve Bank in a seminar in Hong Kong reaffirmed his confidence and his endorsement of the HKMA's work, not only in the past few years but also

beyond 1997. It has been made abundantly clear in international financial markets that after 1997, on the basis of the Basic Law as well as other very clear and important statements made by senior Chinese officials, including those in the People's Bank of China, that there will be two separate currencies, two separate monetary systems and two separate monetary authorities.

On the basis of what I have explained in my principal reply, Mr President, I would have thought that it would be abundantly clear that there is no question of the HKMA breaching its very stringent guidelines, which incidentally are based on international practices commonly adopted by other central banks, to engage in holding assets or in investments that are not sound and not credit-worthy.

**MR SIN CHUNG-KAI** (in Cantonese): *Mr President, will the Secretary inform this Council the number of bond-issuing countries which meet the three criteria approved by the Hong Kong Monetary Authority (HKMA); and the grade of the bonds of the lowest credit rating in which the HKMA is investing?*

**PRESIDENT** (in Cantonese): I am afraid this is beyond scope of the original question and reply.

**DR HUANG CHEN-YA** (in Cantonese): *Mr President, the Honourable Miss Emily LAU has mentioned most of the residents' concerns. I would like to give the Secretary one more chance to address these concerns. I understand the Exchange Fund will not use all its money for the purchase of bonds issued by a single government, although the bonds may be issued in currencies of various countries such as Eurobond, United States dollars and so on. Will Hong Kong money be thus prevented from being transferred to mainland China?*

**PRESIDENT** (in Cantonese): Such question, once raised, would make matters even more unclear if the Secretary does not answer. I hope Members know the



scope of the original question. Although the matter is important, I hope Members would not go beyond the question on purpose.

**SECRETARY FOR FINANCIAL SERVICES:** Yes, no central bank in its right mind would put all eggs in one basket, and therefore I can safely, I think, give Dr HUANG this particular assurance.

**MISS EMILY LAU** (in Cantonese): *Mr President, in its reply, the Government has not ruled out the possibility of changing its policy so that it may purchase Chinese bonds issued in Renminbi. Can the Government tell us whether there is any mechanism for monitoring this? In other words, who would be consulted, how extensive would the consultation be, and who would be able to participate if any future decision is to be made to employ Hong Kong money to buy bonds in Renminbi or Chinese bonds?*

**SECRETARY FOR FINANCIAL SERVICES:** I think it is far too speculative at this stage to go into specific details as to what exactly will happen and what will happen when that eventuality occurs because the three criteria I have listed in my principal reply related to currency convertibility, credit rating and liquidity in the secondary market are conditions that cannot be fulfilled overnight. And if one were to ask me, or indeed the Chief Executive of the HKMA, as to when these conditions will happen, I think we will probably say they will not happen for some time.

Now, as to changes in the lists of acceptable sovereign issues, the normal operation even now is for the HKMA, under advice from the Exchange Fund Advisory Committee, to review from time to time in the light of international market conditions and international practices, as to whether any changes to the list are necessary. I would imagine that basically in the future, if and when Chinese debt is considered to be acceptable, then due review and due consideration will be undertaken in the same way. But I am speculating

because this will be some time away.

### **Policy on Handling of Demonstrations**

5. **MR ANDREW CHENG** asked (in Cantonese): *The Governor has stated publicly that demonstrators would be served with hot tea and mattresses so as to facilitate them to express their dissident views. However, on 15 November this year, the police deployed more than 200 officers to stand guard outside the Hong Kong Convention and Exhibition Centre. The police contained the demonstrators in a restricted "demonstration area" and used force to remove the belongings of the peaceful demonstrators. Later on, the Secretary for Security also stressed that the same tactics would be adopted to handle future demonstrations. In this connection, will the Government inform this Council:*

- (a) why there is such a serious difference between the Governor's stance on handling demonstrators and that of the Secretary for Security;*
- (b) whether the remarks made by the Secretary for Security represent the Government's policy in handling peaceful demonstrations in future; and*
- (c) whether the Secretary for Security's remarks and the recent actions of the police are in breach of the Bill of Rights and unfair to peaceful demonstrators and petitioners?*

**SECRETARY FOR SECURITY** (in Cantonese): Mr President, there is no divergent view between the Governor and myself on the handling of public processions and gatherings. Let me make it clear what the Government's policy is in handling demonstrations.

Hong Kong is a free and open society. We fully respect individual rights to freedom of expression and peaceful assembly as guaranteed by the Bill of Rights Ordinance. At the same time, the Bill of Rights permits restrictions on

the exercise of such rights which are necessary in the interest of, amongst other things, public safety or public order. The community would expect protesters exercising these rights to abide by the law and not to create public disorder, so that their protest could take place in a peaceful and orderly manner. We are satisfied that the recent actions taken by the police in regulating public processions and assemblies are necessary to preserve public safety and public order, and that such actions are consistent with the Bill of Rights.

**MR ANDREW CHENG** (in Cantonese): *Mr President, in the Secretary for Security's reply, he said that he was satisfied with the recent actions taken by the police. But why were the protestors in the peaceful demonstration on 15 November not given hot tea and mattresses? Was the Governor under Chinese pressure, was he acting under their directions and no longer in control, and will force be used to handle all future protestors who demonstrate against Chinese officials?*

**SECRETARY FOR SECURITY** (in Cantonese): Mr President, the police have statutory powers to handle assemblies and processions. The police will decide how to keep order according to the individual circumstances, such as the physical environment, the mood of protestors, actions taken by participants in protests and assemblies and other considerations regarding public security and public order. We all saw what happened. There were indeed protestors charging at the police (unless one chose to turn a blind eye to that), which might lead to confusion. We think that the police's actions were appropriate. The decisions on how to keep an assembly or demonstration under control, such as how to manage the crowds, how many officers should be deployed and what precautions should be taken are made solely by the police — the Commissioner of Police or the commander at the scene, and not under the direction of any foreign country.

**MR TSANG KIN-SHING** (in Cantonese): *Mr President, the Secretary for Security cited the reason of public safety. On 15 November, we were banned from protesting on the pavement outside the Convention and Exhibition Centre. Instead, we were told to demonstrate in an area barricaded in front of the front doors of the fire station. Can I ask the Secretary for Security whether this was for public safety or whose safety? He said it was consistent with the Bill of Rights. While we were in the demonstration area designated by the police,*

*police officers entered several times to search and took away a coffin made of wood. As I understood it, they did not want the Chinese officials to see it. The police also forbade demonstrators to go to the washroom. Was it against human rights? Was it safer on the pavement outside the Convention and Exhibition Centre or outside the fire station, with barricades blocking the passageways for fire engines? The latter affects the safety of all of Hong Kong. Have there been cases in the past where protestors attacked the people they demonstrated against? None.*

**SECRETARY FOR SECURITY** (in Cantonese): Mr President, I reiterate that when the police deal with a demonstration, they have to decide on how to act based on all the relevant circumstances. Mr TSANG mentioned public safety. But we must bear in mind that the development of a demonstration, procession or assembly should not cause public disorder, or lead to possible infringement upon the human rights of others — bearing in mind that not only the protestors, but also people who did not participate in the protest and people who attended the meeting have human rights. While exercising our human rights, freedoms and freedom of expression, we may not prevent other people from enjoying their freedom or infringe upon their right to enjoy their freedom.

**PRESIDENT** (in Cantonese): Mr TSANG Kin-shing, are you claiming that the reply cannot answer your question?

**MR TSANG KIN-SHING** (in Cantonese): *Yes.*

**PRESIDENT** (in Cantonese): But just now you raised many different questions.

**MR TSANG KIN-SHING** (in Cantonese): *I would like to follow up one question he has not answered.*

**PRESIDENT** (in Cantonese): It is not a follow-up. Please point out which part you think has not been answered.

**MR TSANG KIN-SHING** (in Cantonese): *I would like to ask why in the designated demonstration area we were strictly forbidden from going out to the washroom, and why they entered our demonstration area and took away our coffin. Our coffin was placed in the demonstration area .....*

**PRESIDENT** (in Cantonese): Mr TSANG Kin-shing, this is not a debate. Please ask the question.

**MR TSANG KIN-SHING** (in Cantonese): *Will the Secretary for Security answer?*

**SECRETARY FOR SECURITY** (in Cantonese): Mr President, I was not at the scene. However, I believe that if participants in the protest or assembly had told the police they wanted to go to the washroom, the police would not have stopped them. But I believe another case might be, if some protestors left the so-called demonstration area and the police suspected they might be going to a yet unsafer place or might cause public disorder, the police would stop them.

**MR HOWARD YOUNG**: *The Secretary for Security just now said in his answer, "we fully respect individual rights to freedom of expression and peaceful assembly". Can the Secretary confirm, or perhaps I should say reconfirm because he partially did just now, whether the individuals include members of the Preparatory Committee and Selection Committee, and whether these rights include the right to proceed to a meeting place to exercise freedom of expression and also to proceed in an orderly fashion without undue hindrance to a peaceful assembly?*

**SECRETARY FOR SECURITY**: The Bill of Rights Ordinance in Hong Kong which guarantees all those rights under the International Covenant on Civil and Political Rights as applied to Hong Kong does not make any distinction for the enjoyment of those rights as between people of one committee or another.

**MISS MARGARET NG:** *Mr President, I can understand the police not allowing protestors to get into a particular area but can the Secretary explain how the detention of protestors within a designated area does not amount to false imprisonment?*

**SECRETARY FOR SECURITY:** Before I answer the question, Mr President, may I seek a ruling from you whether that is seeking a legal opinion from me, because I am not able to give a legal opinion?

**PRESIDENT** (in Cantonese): The original question mentioned a "restricted demonstration area". Although parts (a), (b) and (c) of the question did not ask whether there was a demonstration area, the Secretary for Security's reply did not deny its existence. Under these circumstances, Miss Margaret NG has reason to believe that there was a demonstration area. She is asking a legal question, but not an abstract legal question, and that is, whether the police had exceeded their powers?

**SECRETARY FOR SECURITY:** Thank you, Mr President. All that I would say is that I do not believe that the Police Force had exceeded the powers which they have under the Police Force Ordinance.

**MR LEUNG YIU-CHUNG** (in Cantonese): *Mr President, just now the Secretary for Security replied that if the protestors had wanted to go to the washroom, the police would have allowed it. But the police might have suspected that this was an excuse used by the protestors. In such cases, it is up to the police to judge. In some previous demonstrations, some reporters covering the events .....*

**PRESIDENT** (in Cantonese): Mr LEUNG Yiu-chung, please ask your question.

**MR LEUNG YIU-CHUNG** (in Cantonese): *Can the Secretary for Security tell us whether he thinks such way of handling the situation gives the police excessive powers, and that such powers allow them to make on-the-spot decisions which cannot be queried by the public? Under the circumstances, how can the public question this particular power that the police has?*

**SECRETARY FOR SECURITY:** I do not believe that the police have excessive powers. The police have a statutory duty under the Police Force Ordinance to, amongst other things, preserve the public peace and to regulate procession and assemblies in public places.

As to the question if someone is dissatisfied with the police powers or the way in which they discharge it, he has of course many channels of complaint. He can make use of this Council, for example, or he can complain on an actual case to the Independent Police Complaints Council.

**MR LEUNG YIU-CHUNG** (in Cantonese): *Mr President, the Secretary's reply only relates to what happens after the event. What I wanted to know was, in the midst of the situation, what channels do the public have to question the police's powers?*

**SECRETARY FOR SECURITY:** Mr President, I do not think that in the circumstances of a procession which is being controlled by the police and they run out of control, and that there are disputes between the protestors on the one hand and the policemen on the other hand, that would be the occasion for formal questioning.

**PRESIDENT** (in Cantonese): There are two more supplementary questions. I will draw the line there.

**MR ALBERT HO** (in Cantonese): *Mr President, on 15 November, several protestors who entered the areas in the vicinity of the Convention and Exhibition*

*Centre without asking for the police's permission were immediately arrested by the police without forewarning. Will the police in future in similar situations clearly announce which areas are out of bounds to protestors? If protestors enter these areas unknowingly, will they be forewarned first and only be arrested when they refuse to leave as requested by the police?*

**PRESIDENT** (in Cantonese): The original question was not about the events on 15 November.

**MR ALBERT HO** (in Cantonese): *Mr President, all the previous questions were about that incident.*

**PRESIDENT** (in Cantonese): This is in danger of turning into a general discussion. The three specific questions were: why there is such a serious difference between the Governor's stance on handling demonstrators and that of the Secretary for Security; whether the remarks made by the Secretary for Security represent the Government's policy in handling peaceful demonstrations in future; and the third question was whether the Secretary for Security's remarks and the recent actions of the police are in breach of the Bill of Rights. Mr Albert HO, could you put your supplementary question this way: In order to protect the protestors' human rights, if demonstration is not allowed in an area, will they be forewarned before an arrest is made?

**SECRETARY FOR SECURITY:** Where the circumstances permit that to be the case, then I believe the police would be prepared to do so. And if I could just add that the best possible arrangement is for protestors or demonstrators, if they wish to protest or for the demonstration to be held in a peaceful and orderly manner, to discuss with the Police Force on how that protest or demonstration should be undertaken. The police open its doors to any group of protestors who want to discuss their action with them. Indeed I am aware that some Members



of this Council have done so recently. So, I repeat, the best way to ensure that protests and demonstrations are held in a manner which does not give rise to any public disorder or does not give rise to any conflict between protestors and Police Force, is to try and discuss it beforehand with the relevant police authorities.

**MR ALBERT HO** (in Cantonese): *Mr President, I think the Secretary for Security has not given a clear answer to the question that you rephrased for me. In similar situations, will the police clearly indicate the areas where demonstration is forbidden? If someone stumbles by accident into the areas, will he be warned before an arrest is made? I hope the Secretary for Security will explain clearly.*

**PRESIDENT** (in Cantonese): I believe the Secretary for Security's answer was clear enough.

**SECRETARY FOR SECURITY:** I do not want to second guess the decision of a commander at the scene. Nor am I qualified to dictate to him how he should control any public assembly at the time and given the circumstances, sitting in an office several miles away.

**MR LEE WING-TAT** (in Cantonese): *Mr President, during the demonstration on 15 November at the Convention and Exhibition Centre, the police tried to enter the demonstration area to search the protestors, although they failed in the end. The excuse they used was that they suspected the protestors of possessing eggs — Mr President, it is eggs, not bombs — and throwing eggs would jeopardize public safety and public order. Can I ask the Secretary for Security whether wilfully searching protestors on the suspicion that they possess eggs represents any misuse of police power? Also, does the Secretary for Security think that throwing eggs constitutes a real threat to public order and public safety? I recall that the British Prime Minister John MAJOR and many presidents have had eggs thrown at them. It did not seem such a big deal. They just need to wipe their faces and go home to take a shower.*

**SECRETARY FOR SECURITY:** No, Mr President, I do not think that that represents any misuse of police power.

**MR LEE WING-TAT** (in Cantonese): *Mr President, he did not answer my question. My question was whether he thinks that throwing eggs would jeopardize public safety and public order, since under the Bill of Rights Ordinance, police power may be exercised when public order and public safety are at risk. Does the Secretary for Security mean that throwing eggs would result in this?*

**SECRETARY FOR SECURITY:** I do not think that even the Honourable Member can claim that throwing an egg at someone may not hurt someone else.

**MR LEE WING-TAT** (in Cantonese): *I am still not satisfied with his answer. I do not think throwing eggs would hurt somebody. Mr President, the Bill of Rights Ordinance clearly provides that police power is exercised only when public order and public safety are at risk. Does the Secretary for Security mean that throwing eggs would have such consequences?*

**PRESIDENT** (in Cantonese): Mr LEE Wing-tat, this way of asking supplementary questions is tantamount to a debate. Clearly, the Secretary for Security does not want to express his opinion in answering your question. He is saying that the police did not misuse their power on 15 November. He is only prepared to say so much. You may not be satisfied with this answer, but there is no other way to proceed during question time.

## **WRITTEN ANSWERS TO QUESTIONS**

### **Report on Radiation Impact on Residential Blocks**

6. **MR HENRY TANG** asked (in Chinese): *It is learnt that a local university commissioned by the Government has recently completed a report entitled "Study on Health Protection of Workers and Members of Public against Radiofrequency Electromagnetic Radiation at Radio Sites" which has identified a number of residential blocks located in areas of high concentration of radiation in the territory. In this connection, will the Government inform this Council:*

- (a) *of the number of the above residential blocks, as well as the number of residents living in such blocks; and*
- (b) *whether it will consider publicizing the exact locations and names of such blocks; if not, what the reasons are?*

**SECRETARY FOR ECONOMIC SERVICES** (in Chinese): Mr President, the Final Report on the "Study on Health Protection of Workers and Members of the Public against Radio Frequency Electromagnetic Radiation at Radio Sites" contains the findings of a consultancy study commissioned by the Office of the Telecommunications Authority (OFTA) on the safety of radiofrequency electromagnetic radiation from telecommunication transmitters. Twenty radio sites with a high concentration of radio transmitters were covered in the study.

The radiofrequency electromagnetic radiation levels inside the residential units and the normally accessible areas on the roof-tops for all sites surveyed were found to be well within the international safety limits for the general public and workers. For five roof-top sites, the radiofrequency electromagnetic radiation levels were found to have exceeded the international safety limits in the extremely unlikely event of continuous exposure over 24 hours at close proximity (that is within 1 m of the antennas). It should however be stressed that the antennas in question are located in places which are not easily accessible: a person would need to climb a physical structure or a ladder to gain access to the antennas. The possibility of the public being exposed to radiofrequency electromagnetic radiation hazards under such circumstances is thus remote. These five buildings, which have about 2 000 residents, are therefore safe to live in and the roof-tops are safe for normal usage. The Telecommunications Authority has already written to the Incorporated Owners and management offices of these buildings to assure residents that the buildings are safe to live in. As a precaution, transmitter owners will be required to put up warning signs

advising the general public against getting close to the antennas.

The names of the five buildings mentioned above can readily be found in the Report which is already available to members of the public in OFTA's library. The five buildings are:

- (a) Block B, Hilton Plaza, Sha Tin Centre Street, Sha Tin
- (b) Ho Shun Fook Building, Y.L.T.L. 303, Sau Fu Street, Yuen Long
- (c) Block A, Po Sing Centre, 1-25 Ta Chuen Ping Street, Kwai Chung
- (d) Caritas Lodge, 134 Boundary Street, Mong Kok
- (e) Hong Kong Mansion, 1 Yee Wo Street, Causeway Bay

A Working Group, comprising industry representatives and chaired by OFTA, is considering the recommendations of the Report, including implementation details. The Working Group is now working on a Code of Practice. The Code will cover measures to be taken by transmitter owners, workers and other maintenance personnel in installing transmitters and antennas as well as the display of warning signs. The Code will be ready later this month. OFTA will also issue a leaflet explaining the subject of radio frequency electromagnetic radiation and publicizing a channel for enquiries.

### **Job Matching Programme**

7. **MR CHENG YIU-TONG** asked (in Chinese): *In regard to the Job Matching Programme, will the Government inform this Council of:*

- (a) *the total number of persons registered under the Programme during the period from the commencement of the Programme on 1 April 1995 up to the end of September this year, the number of registrants who have successfully obtained employment and the proportion of these persons to the total number of registrants;*

- (b) *the trades in which registrants under the Programme were formerly engaged; the numbers of registrants who have been unemployed for less than three months and for a period of three to six months respectively, and their respective proportions to the total number of registrants;*
- (c) *the types of jobs in which the majority of the successfully placed registrants were employed, and the respective proportions of those employed as office assistants, unskilled workers and watchmen to the total number of successfully placed registrants;*
- (d) *comparative figures on the types of jobs, wages, working hours, working environment, employee benefits and employees' compensation before and after the registrants have obtained employment, as well as the number of these registrants receiving the median wage of their respective trades; and*
- (e) *the respective proportions of registrants who have declined a job offer on account of dissatisfaction with its job nature, wage level and working hours to the total number of registrants?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Chinese): Mr President,

- (a) A total of 11 712 job seekers have registered with the Job Matching Programme (JMP) during the period from 1 April 1995 (the commencement date of the JMP) to the end of September 1996. Of these, 8 982 registrants have been successfully offered employment, representing a success rate of 76.7%.
- (b) The breakdown of registrants by the industry sector of their previous occupation is as follows:

*Industry*

*Percentage (%)  
(based on running total  
as at 30 September 1996)*

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Clothing	20.0
Plastic	1.4
Electronics/Electrical	9.4
Other Manufacturing	11.9
Construction	3.0
Wholesale, Retail and Import / Export Trade	15.8

*Industry* *Percentage (%)*  
(based on running total  
as at 30 September 1996)

Catering	13.1
Hotel	0.8
Transport, Storage and Communication	3.5
Finance, Insurance and Business Services	6.1
Community, Social and Personal Services	7.9
Others	7.1
	-----
Total	100.0

The breakdown of registrants unemployed by period of unemployment is as follows:

<i>Unemployment period</i>	<i>Running total (as at 30 September 1996)</i>	<i>Percentage (%) (based on running total)</i>
Less than three months	6 278	53.6
Three to six months	2 009	17.1
More than six months	3 425	29.3
	-----	-----
Total	11 712	100.0

- (c) The majority of registrants were placed in the following jobs: clerk

(15.3% of the total number of placements), labourer (13.8%) messenger/office assistant (12.9%), and cleaner (7.8%). The percentage for watchmen is 3.7%.

- (d) The comparison between the distribution of successfully placed registrants by former occupation, and that by current occupation is as follows:

<i>Occupational Group</i>	<i>Former Occupation (%)</i>	<i>Current Occupation (%)</i>
Professional, technical and related worker	9.8	6.4
Administrative and managerial worker	4.9	0.9
Clerical and related worker	25.9	38.2
Sales worker	5.8	5.3
Service worker	11.2	20.9
Agricultural, animal husbandry and forestry workers and fisherman	0.2	0.2
Production and related worker	32.6	23.3
Others	8.6	4.8
	-----	-----
Total	100.0	100.0

We have no detailed information on the wages, working hours, working environment and other employees' benefits pertaining to both the current and previous jobs of these registrants.

Since the wages of registrants who are placed through JMP are categorized into broad salary groups — \$4,001 - \$5,000; \$5,001 - \$6,000; \$6,001 - \$7,000 and so on, the median wages in respect of

individual placements are not available. Therefore, no direct comparison between the median wages of JMP job placements with those of the respective trades in the labour market can be made.

- (e) The breakdown of registrants who declined job offers by reason is as follows:

<i>Reasons for Declining Offers</i>	<i>%</i>
(i) Dissatisfaction with:	
- Work Place	26.0
- Job Nature	20.7
- Working Hours	16.6
- Wage Level	12.1
(ii) Found Work	15.0
(iii) Other reasons	9.6
	-----
Total	100.0

### **Training Course for Health Workers**

8. **MISS CHAN YUEN-HAN** asked (in Chinese): *The Social Welfare Department has organized a four-month training course for health workers in conjunction with the Hong Kong College of Nursing, Hong Kong Red Cross and St. John Ambulance Association and Brigade. Participants of the course are required to pay a course fee of \$2,200. They are also required to sign an undertaking which stipulates that they have to pay an indemnity of HK\$3,300 or part thereof to the Social Welfare Department should they fail to obtain employment as a health worker within six months after completing the course or if they work in such capacity for less than one year. In this connection, will the Government inform this Council:*



- 
- (a) *of the following, since the holding of the first training course for health workers:*
- (i) *the ratio between the number of participants completing the course and the number of such participants who are successful in obtaining employment as health workers;*
  - (ii) *the reasons why some participants have failed to obtain employment;*
  - (iii) *the number of participants who have failed to comply with the stipulations of the undertaking and have to pay an indemnity;*
  - (iv) *the number of applications for exemption from payment of indemnity as well as the numbers of approvals for exempting full or partial payment of indemnity; and the criteria for granting such exemptions;*
- (b) *of the overall demand and shortfall situations of health workers in government-subsidised residential care homes, financially independent non-profit-making residential care homes and private residential care homes;*
- (c) *whether the Government will consider imposing restrictions on residential care homes employing enrolled nurses to take up the duties of health workers, so as to safeguard the employment prospects of health workers registered under the Residential Care Homes (Elderly Persons) Ordinance, and to ensure that the resources being put into the training of health workers are not wasted; and*
- (d) *whether the Government will review the effectiveness of the course; if so, when the review will be completed; and the reasons why the Government has held the sixth training course before the completion of the review?*

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

- (a) In order to meet the requirements for nursing and health care staff as stipulated by the Residential Care Homes (Elderly Persons) Regulation and to enhance the service standards of elderly homes, the Social Welfare Department (SWD), in conjunction with several professional organizations, has organized a series of training courses for health workers since August 1995. People who graduate from the courses can register under the Regulation as health workers to work in elderly homes.

- (i) Based on the estimation of the demand for health workers in April 1995, the SWD has applied to the Lotteries Fund to organize 37 health worker training courses to offer 1190 places for people who wish to join the profession. As at mid-November 1996, a total of 26 courses are organized and the number of students who have completed the course is 800.

The undertakings signed by the course participants stipulate that they must join the profession within six months after completing the course and should work for no less than one year. As at October 1996, there are 320 participants from the first ten courses who have already graduated for six months. The SWD has issued letters to ask them on their employment situation. Based on the responses received, 160 out of the 320 (50%) are employed as health workers.

- (ii) According to these graduates, the reasons why they have failed to obtain employment are as follows:
- more than half of them consider the employment conditions in elderly homes unsatisfactory, such as long working hours, heavy workload;
  - others have claimed personal reasons such as sickness, lack of interest in the job or working for the elderly.
- (iii) The SWD has received the first tranche of applications for exemption from payment of indemnity in November.

Applications are being processed. At present, no participants have been asked to pay indemnity for failure to comply with the undertaking.

- (iv) The SWD has received 100 applications for exemption from payment of indemnity. To qualify for exemption, the applicant must provide sufficient proof that he has already tried his best but to no avail; or that he has personal reasons (for example health conditions) which results in his failure to get a job as a health worker.
- (b) According to the manpower requirement set out in the Residential Care Homes (Elderly Persons) Regulation, the overall demand for health workers is 1 100, encompassing the demand from subvented, self-financing non-profit-making and private elderly homes. As at October 1996, there are 700 health worker vacancies in 558 elderly homes, as recorded by the SWD.
- (c) The Residential Care Homes (Elderly Persons) Ordinance and the Residential Care Homes (Elderly Persons) Regulation stipulate the ratio of nursing staff (including nurses and health workers) to elderly residents. However, it is not stipulated that the elderly homes must employ a fixed number of nurses or health workers. As reflected by the figures, there are a large number of health worker vacancies which means that health workers have good employment opportunities.
- (d) Since the introduction of the course in August 1995, the SWD has constantly reviewed the course with the organizations in order to make appropriate improvements. The SWD will conduct an overall review in mid-1997 when all the courses are completed so as to determine the necessity to offer more courses.

### **Tsing Ma Bridge Taxi Tolls**

9. **MR CHAN WING-CHAN** asked (in Chinese): *The Transport Advisory Committee's recommendation that taxi passengers using the Western Harbour Crossing need only pay a tunnel toll of \$40, instead of \$60, for the taxi's return*

*journeys has aroused opposition from the taxi unions as well as the public's concern about similar recommendation being made for the Tsing Ma Bridge. In this connection, will the Government inform this Council:*

- (a) how the toll for taxis using the Tsing Ma Bridge will be determined; and whether different toll charging schemes will be adopted for taxis and other types of vehicles using the Tsing Ma Bridge;*
- (b) whether, in the event that it is specified that taxis using the Tsing Ma Bridge are required to pay a toll for the return journeys, the toll should be borne by passengers travelling to the new airport at Chek Lap Kok or by those travelling to the urban area; and*
- (c) whether urban and New Territories taxis can both carry passengers to and from the new airport at Chek Lap Kok; if so, whether they will be charged the same toll for using the Tsing Ma Bridge?*

**SECRETARY FOR TRANSPORT** (in Chinese): Mr President, different types of vehicles will be charged different tolls for using the Lantau Link. In determining the toll levels, various factors such as the operating costs, an appropriate rate of return on the capital employed, and public acceptability will be taken into account.

Since the Lantau Link provides the only vehicular access to Lantau, the Transport Study for the New Airport commissioned by the Transport Department has recommended that taxi passengers using the Lantau Link should pay a double toll irrespective of their direction so as to ensure that taxi drivers are not out of pocket if they do not have any passengers on the return journey.

Both urban and New Territories taxis will be permitted to serve the Ground Transportation Centre of the new airport at Chek Lap Kok. They will be charged the same toll for using the Lantau Link.

### **Special School Student Intake Shortfall**

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

- (a) *whether there are shortfalls in the intake of student in various types of special schools, if so, what the reasons are, and provide a breakdown of the ratios between the number of students admitted and the number of school places in the various types of special schools; and*
- (b) *whether it has estimated the number of students who need to attend special schools but have not enrolled in such schools?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Chinese): Mr President,

- (a) The enrolment situations in various categories of special schools as at September 1996 are detailed as follows:

<i>September 1996</i>				
<i>Category</i>	<i>Capacity</i>	<i>Enrolment</i>	<i>%</i>	<i>Waiting List **</i>
Blind	225	150	66.7	2
Deaf	720	526	73.1	1
Mildly MH *	3 040	2 680	88.2	76
Moderately MH	1 920	1 593	83.0	69
Severely MH	776	674	86.9	14
Physically Handicapped	720	642	89.2	35
Hospital School	481	353	73.4	---

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Maladjusted	945	479	50.7	35
Total	8 827	7 097	80.4	232

- Note :   \*   MH stands for Mentally Handicapped  
           \*\*   Pupils on waiting list are due to the following reasons:  
               (a) Referrals being processed by schools;  
               (b) Deferred admission as requested by parents; and  
               (c) Awaiting admission to boarding places.

It is worth noting that the enrolment situation in these schools may fluctuate in the course of the year because special schools of all categories admit students all year round and it is the present policy in special education that children with special educational needs should be integrated into ordinary schools as far and as early as possible.

The reasons for the comparatively low enrolment of below 80% in four of the above categories of special schools are summarized below:

(1)   *Special schools for visually impaired children*

There are only two special schools for visually impaired children in the territory. One caters for visually impaired children with normal intelligence while the other caters for those with mental handicap. In order to maintain the minimum class structure to cater for visually impaired children, there is a need to have two special schools for visually impaired children despite a relatively low enrolment situation.

(2)   *Special schools for hearing impaired children*

There are four special schools for hearing impaired children in the territory. Two are located in Hong Kong, one of which is a secondary school while the other is a primary school. The other

two schools are located in different districts of Kowloon to cater for both primary and secondary pupils with hearing impairment in Kowloon. In order to maintain the minimum class structure to cater for hearing impaired children in the territory, there is a need to have four special schools for hearing impaired children despite a relatively low enrolment situation.

(3) *Hospital school*

There is only one hospital school operating in 16 hospitals to cater for hospitalized compulsory school-aged children in different districts. The enrolment situation in the hospital school fluctuates throughout the year owing to the number of pupils admitted to and discharged from the hospital. For example, in July 1996, the enrolment figure was 458, which was 95.2% of the capacity.

(4) *Special schools for maladjusted children*

Maladjustment is a transient problem. Children with maladjustment will return to the mainstream as soon as they are ready for re-integration. Thus, the turnover rates in these schools are high.

According to our records, there has been an average of 122 declined cases annually for the maladjusted, which is comparatively higher than those in other categories of special schools. Most of these children declined special school placement for the following reasons:

- i) Objection from parents who are concerned with the possible stigmatizing effect of this type of special school;
- ii) Objection from pupils;

- iii) Some of the referrals were court cases. The children refused placement once they were discharged from the court;
  - iv) Some parents/pupils preferred placement in practical schools as an alternative; and
  - v) Some parents/pupils preferred to stay in mainstream schools.
- (b) The estimated number of children who have been assessed to have the need to attend special schools in the 1995-96 school year but have declined placement in such schools is as follows:

<i>Category</i>	<i>Number</i>
Blind	1
Deaf	7
Mildly MH	85
Moderately MH	13
Severely MH	2
Physically Handicapped	9
Hospital School	--
Maladjusted	122
Total	239



The declined cases in the mildly mentally handicapped category are mainly due to parents' preference for integration in mainstream schools. Forty-three out of the 85 declined cases for the mildly handicapped are now receiving mainstream schooling while the other 42 cases are attending resource classes in ordinary schools or adjustment programmes operated by the Education Department. The reasons for the 122 declined cases in special schools for maladjusted children are as explained in paragraph (4) of part (a) above.

All declined cases are followed up by the referring workers. Those children enrolled in ordinary schools but are absent for a long time will be followed up by officers of the Non-attendance Cases Team of the Education Department should they be under the age of 15.

### **Hong Kong Graduates Returning from Overseas**

11. **MR CHOY KAN-PUI** asked (in Chinese): *Will the Government inform this Council:*

- (a) *of the number of local students who went abroad to undertake undergraduate or postgraduate courses in the past three years;*
- (b) *of the number of persons who returned to Hong Kong after completing undergraduate or postgraduate courses abroad in each of the past three years; and*
- (c) *whether, in the light of the figures given in the answers to (a) and (b) above, there is a problem of brain drain among those who have completed higher education abroad, or whether there is an increase in the number of such persons returning to Hong Kong; and of the*

*impact such a situation will have on the territory?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Chinese): Mr President, since the Government does not require Hong Kong residents to reveal the purpose of their entry into or exit from the territory, we do not have a record of the exact numbers of local students going abroad for undergraduate or postgraduate courses in the past three years or the numbers of persons returning to Hong Kong after completing those courses abroad. However, the following data may be of interest to Members:

- (a) Eight countries, namely the United States of America, Canada, Australia, the United Kingdom, the Netherlands, Germany, New Zealand and France, voluntarily report the numbers of student visas issued each year to the Census and Statistics Department through their respective Consulates in Hong Kong. The statistics for 1993 to 1995 are set out in Annex A. However, the University Grants Committee in its Review of Higher Education in Hong Kong estimated that the numbers of full-time students studying overseas in 1994-95 were 13 000 in the United States of America, 10 000 in the United Kingdom, 9 000 in Australia and 6 500 in Canada. Numbers for other places of study, such as mainland China and Taiwan, were smaller but might amount to another 2 000 in all.
- (b) According to an enquiry on higher education attained outside Hong Kong which was conducted by the Census and Statistics Department via the General Household Survey in the fourth quarter of 1991, 57 200 persons aged 18 and above had returned to Hong Kong after completing their matriculation or higher education courses overseas (excluding China and Macau). Of these, 62% completed undergraduate courses and 23% completed postgraduate courses.
- (c) Since most undergraduate courses last from three to four years while

the length of postgraduate courses varies widely from one to six or seven years, students who went abroad for undergraduate or postgraduate courses in the past three years and those who returned over that period are in most cases not the same persons. It is not possible, therefore, to identify whether there has been an increase or decrease of local students returning to Hong Kong after completing their studies abroad in the past three years based on the data mentioned above.

However, the 1996 by-census estimates that about 526 000 Hong Kong residents have completed or are attending their first-degree or postgraduate courses at local or overseas institutions or through distance learning. They represent about 8% of the total resident population in Hong Kong, which is two times the figure in the 1991 census (that is 255 979 persons, 4% of total population). This indicates that the educational attainment of our population has been significantly upgraded between 1991 and 1996. Both the rapid expansion of tertiary education in Hong Kong since 1989 and the increase of returning students and highly educated people from abroad have contributed to this process.

Annex A

Number of Student Visas Issued by Consulates in Hong Kong in 1993 to 1995

<i>Year</i>	<i>United States</i>	<i>United Kingdom<sup>1</sup></i>	<i>Canada</i>	<i>Netherlands</i>	<i>Germany</i>	<i>Australia<sup>2</sup></i>	<i>New Zealand</i>	<i>France</i>
1993	5 025	3 477	2 828	0	0	3 153	362	70

<sup>1</sup> Figures include renewal of visas (about 5%).

<sup>2</sup> Figures include renewal of visas (about 10%).

		(53%) <sup>3</sup>				(25%)	(4%)	
1994	4 555	3 222	2 787	0	7	3 109	387	70
		(49%)				(31%)	(8%)	
1995	4 187	2 979	2 603	0	10	3 579	401	67
		(48%)				(32%)	(5%)	

### Education Funding and Strategy

12. **MR AMBROSE LAU** asked (in Chinese): *It is learnt that some 6 000 primary and secondary students in the territory have recently taken part in the Third Mathematics and Science Study organized by the International Association for the Study of Educational Achievement. The University of Hong Kong has examined the results of the Study and found that the development in mathematics and science in the territory has remained static, and that the territory is trailing behind other developing countries in Asia in this regard. Researchers have attributed this to insufficient emphasis being placed on education by the Government. In this connection, will the Government inform this Council:*

- (a) *of the proportion of the funding on education to the territory's Gross National Product (GNP) in the past 10 years;*
- (b) *whether any study has been conducted on the respective proportions of the education funding to the GNP in Singapore, South Korea, Japan and Taiwan in the same period; and*
- (c) *whether it has formulated any long-term education strategy, particularly in teaching science and mathematics, to ensure that bright and qualified people will be trained up to promote high technology development in the industries of the territory?*

<sup>3</sup> The percentage in brackets denotes the proportion of applicants who indicate their intention to pursue undergraduate or postgraduate courses in the countries concerned.

**SECRETARY FOR EDUCATION AND MANPOWER** (in Chinese): Mr President, the target group under the Third Mathematics and Science Study conducted by the International Association for the Study of Educational Achievement (IEA) was the two grades with the largest population of 13-year-olds, which in the context of Hong Kong corresponds to Secondary One and Two students. Senior secondary students were not included in the study.

Our junior secondary curriculum aims to provide a balanced general education. When students move to the senior secondary level, they will follow either the science, arts, commercial or technical streams according to their interest and aptitude. According to the findings of the IEA Second Mathematics and Science study in 1988, our students at the senior secondary level performed extremely well, especially in Chemistry and Physics, although their performance at the junior secondary level was less satisfactory. Therefore, the results of a single study may not accurately reflect the overall performance of our students.

I now turn to the questions raised by the Member:

- (a) We are unable to provide statistics on funding on education as a percentage of Hong Kong's Gross National Product in the past 10 years as relevant figures are not available. Instead, we have attached at Appendix A a table showing the total funding for education as a percentage of the Gross Domestic Product (GDP).
- (b) Appendix B shows a comparison of total funding on education as a percentage of GDP among a number of countries or territories from 1985 to 1995. However, funding for education as a percentage of GDP may not be the most appropriate indicator of the proportion of public resources spent on education as our overall government expenditure is only about 17% of GDP whereas the corresponding figures in many countries/territories are generally higher.
- (c) The Government is committed to developing the full potential of our children through education. We have taken a number of steps to ensure that our system of education and our curriculum, including

the subjects of science and mathematics, are able to respond to the changing needs of the society. These include:

- Regular updating of the school curriculum. Revised syllabuses for Mathematics at primary and secondary levels will be issued in 1999 and that for Science at junior secondary level in 1997;
- Monitoring and advising schools on the quality of teaching through regular school inspections;
- Providing in-service education programmes to teachers to upgrade their professional skills and update them on latest developments. The Education Department also provides teaching resources and guidelines as necessary;
- Mathematics and Science are among the compulsory subjects for pre-service teachers in both Curriculum and Academic Studies at the Hong Kong Institute of Education; and
- Promoting the Target Oriented Curriculum at primary levels which is expected to enhance the performance of students in problem solving and communication skills in mathematics in the long run.

In addition, mathematics and science education is also enhanced through informal activities such as:

- Inter-school and international mathematics and science activities such as Chemistry Olympiad and Mathematical Olympiad to promote students' interest in these subjects;
- Public lectures on topics of current interest for teachers and students to familiarize them with the latest developments. Some events are organized in collaboration with non-government organizations. In the past two years, a total of 24 lectures and 10 workshops were organized and

participated by over 670 teachers and 5 300 students. In the 1996-97 school year, 11 lectures and five workshops will be organized.

In the tertiary sector, all the University Grants Committee (UGC)-funded institutions have been made aware of the updated manpower forecast of the territory and the projection of the demand for graduates in the various disciplines for their planning of the courses. Information on student enrolment for the past five years indicated that there has been a 52% increase in the student numbers in the science, mathematics and engineering subjects and even more so in respect of the number of postgraduate students in the UGC-funded institutions.

Teaching and learning at the tertiary level is also enhanced through research projects. The total amount of Earmarked Research Grants disbursed to the Research Grants Council for the 1995-98 triennium was \$1,003 million. Out of the grants designated for 1995-96, 54% was allocated to science, mathematics and engineering research projects carried out by researchers in the UGC-funded institutions.

Appendix A

Total Funding for Education 1987-88 to 1996-97

	1987-88	1988-89	1989-90	1990-91	1991-92	1992-93	1993-94	1994-95	1995-96	1996-97
									<i>Revised</i>	<i>Actual</i>
	<i>Actual</i>	<i>Actual</i>	<i>Actual</i>	<i>Actual</i>	<i>Actual</i>	<i>Actual</i>	<i>Actual</i>	<i>Actual</i>	<i>estimate</i>	<i>estimate</i>
	<i>\$ M</i>	<i>\$ M</i>	<i>\$ M</i>	<i>\$ M</i>	<i>\$ M</i>	<i>\$ M</i>	<i>\$ M</i>	<i>\$ M</i>	<i>\$ M</i>	<i>\$ M</i>
Total Funding for	9,450	11,653	13,392	16,542	19,431	22,158	25,409	28,878	33,781	39,825
Education — (a)										
Gross Domestic Product	384,488	455,022	523,861	582,549	668,512	779,335	897,463	1,016,567	1,111,391	1,248,788

(GDP) — (b)

Total Funding for	2.5%	2.6%	2.6%	2.8%	2.9%	2.8%	2.8%	2.8%	3.0%	3.2%
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Education as Percentage

of GDP — (a)/(b)

Total Funding for	17.6%	18.0%	16.3%	17.4%	18.0%	17.9%	16.4%	17.4%	17.3%	17.5%
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Education as Percentage

of Total Government

Expenditure

Source: Finance Branch, Hong Kong Government

## Appendix B

## Total Funding for Education as Percentage of Gross Domestic Product

<i>Country/Territory</i>	<i>1985</i>	<i>1989</i>	<i>1990</i>	<i>1991</i>	<i>1992</i>	<i>1993</i>	<i>1994</i>	<i>1995</i>
Hong Kong	2.8^	2.6	2.8	2.9	2.8	2.8	2.8	3.0*
United States of America	5.1	5.3	5.5	5.8	5.8	N.A.	N.A.	N.A.
United Kingdom	4.8	4.8	4.8	5.1	5.3	5.3	5.2	N.A.
Japan	5.6	5.0	5.1	5.0	5.1	5.2	N.A.	N.A.
China	2.5	2.4	2.5	2.5	2.3	2.2	2.2	N.A.
Korea, Republic of	3.7	3.5	6.2	3.6	4.1	4.1	3.9	N.A.
Malaysia	5.6	5.5	5.8	5.3	5.5	5.2	5.6	N.A.



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Philippines	2.0	3.0	3.1	2.7	3.0	2.6	3.1	N.A.
Singapore	4.6	3.0	3.0	3.1	3.8	3.2	3.0	N.A.
Taiwan	4.1	4.1	4.7	5.1	5.4	5.7	5.7	N.A.
Thailand	3.8	2.6	2.8	3.0	3.1	3.5	3.5	N.A.

*Notes:*

Comparative figures for 1986-88 are not available.

^ Expenditure on "Special Education" are not included.

\* Revised Estimate

N.A. = Not available

### **Postgraduate Intake of Local Tertiary Institutions**

13. **MR IP KWOK-HIM** asked (in Chinese): *Is the Government aware of:*

- (a) *whether the intakes of postgraduate students in various local tertiary institutions have reached the prescribed annual admission targets in the past three years;*
- (b) *the ratio between local and non-local postgraduate students in various tertiary institutions in each of the past three years, and the regions/countries where these non-local students have come from;*
- (c) *whether the University Grants Committee (UGC) has any plan to relax the requirement that non-local students taking postgraduate courses should not exceed 20% of the total number of postgraduate students; if not, why not; and*
- (d) *whether the requirement that non-local postgraduate students should not exceed 20% of the total number of postgraduate students is consistent with the objective of developing the territory into an Asian education centre?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Chinese): Mr President,

- (a) The target and actual enrolment, in full-time-equivalent terms, of research postgraduate (RPg) and taught postgraduate (TPg) students in the UGC-funded institutions for the past three academic years were as follows:

	<i>1993-94</i>	<i>1994-95</i>	<i>1995-96</i>
RPg target	2 217	2 746	2 995
RPg enrolment <sup>1</sup>	2 303	2 547	2 952
TPg target	3 742	4 219	4 558
TPg enrolment <sup>2</sup>	3 904	4 236	4 921

*Note :*

- 1 The slight under-enrolment of RPg students in 94-95 and 95-96 was due to difficulties encountered by some institutions in recruiting qualified local RPg students. The UGC considered such slight under-enrolment acceptable.
  - 2 The TPg enrolment figures include the non-local students that institutions are permitted to enrol beyond their target.
- (b) Between 1993-94 and 1995-96, the UGC-funded institutions have been permitted to enrol 2% of non-local undergraduates (Ug) and TPg students beyond their target number of Ug and TPg and 20% of non-local RPg students within their target number of RPg. The ratio between local and non-local TPg and RPg students in the UGC-funded institutions in the past three academic years were as follows:

	<i>1993-94</i>	<i>1994-95</i>	<i>1995-96</i>
Local RPg: non-local RPg	4.4 : 1	3.1 : 1	2.9 : 1

(% of non-local RPg students in relation to target RPg number) (19.3%) (22.7%) (25.5%)

Local TPg: non-local TPg 57 : 1 52 : 1 55 : 1  
 (% of non-local TPg students in relation to target TPg number) (1.8%) (1.9%) (2.0%)

There is a slight excess enrolment of non-local students in the RPg category. This is because the institutions may, in addition to the non-local RPg students enrolled within their approved student number targets, enrol additional non-local RPg students who are supported by the Earmarked Research Grants awarded by the Research Grants Council, by other public sources of funding such as the Industry and Technology Development Council's Applied Research and Development Scheme and the Co-operative Applied Research and Development Scheme, or by private funding agencies such as the Croucher Foundation and the Hong Kong Jockey Club. The non-local students came mainly from the People's Republic of China, the United States, the United Kingdom, India, Malaysia and other Asian and European countries.

- (c) The Government has recently accepted the UGC's recommendation in its Review Report: Higher Education in Hong Kong that the number of non-local students should be increased. The permitted proportion of non-local RPg students has now be raised from 20% to 33% within the RPg target, and the non-local of Ug and TPg has been revised from 2% beyond the target of local students to include a further 2% within the local student target number.
- (d) This policy is consistent with our aim of developing Hong Kong's tertiary institutions as an internationally recognized education centre for the region as a whole.

### **Hospital Authority Provision for Purchase of Neuroleptic Drugs**

14. **DR HUANG CHEN-YA** asked (in Chinese): *It is known that new antipsychotic drugs are more readily accepted by patients, and this has reduced*

*the number of cases of patients failing to turn up for follow-up consultation and treatment. In this connection, is the Government aware of the following data for the past year:*

- (a) the amount of provision earmarked by the Hospital Authority (HA) for the purchase of neuroleptic drugs, and the proportion of such provision to Hospital Authority's (HA) total expenditure on drugs;*
- (b) the average expenditure by the Hospital Authority (HA) on drugs per mental patient and per non-mental patient respectively; and*
- (c) the respective amounts allocated by the Hospital Authority (HA) for the purchase of antischizophrenic drugs and new antipsychotic drugs, and the respective proportions of these amounts to the total provision for the purchase of neuroleptic drugs?*

**SECRETARY FOR HEALTH AND WELFARE** (in Chinese): Mr President, in 1995-96, the amount of provision earmarked by the Hospital Authority for the purchase of neuroleptic drugs was \$30.75 million, representing 3.14% of the total spending on drugs. A comparison between the average drug cost for psychiatric and non-psychiatric patients based on data obtained from the month of October 1996 is provided below:

	<i>Psychiatric Patients</i>	<i>Non-psychi atric Patients</i>
Average cost per in-patient discharged	\$1,119	\$705
Average cost per specialist out-patient attendance	\$115	\$80

The amount of provision allocated for the purchase of antischizophrenic drugs and new antipsychotic drugs, as well as their respective proportions in relation to the total spending on neuroleptic drugs in 1995-96 are as follows:

<i>Expenditure</i>	<i>% of Total Budget</i>
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	(\$m)	for Neuroleptic Drugs
Antischizophrenic drugs	14.2	46.2%
New antipsychotic drugs	1.89	6.1%

For 1996-97, an additional provision of \$3.3 million has been earmarked specifically for the procurement of new antipsychotic drugs.

### Rehousing for Temporary Housing Area Clearees

15. **MR ALBERT CHAN** asked (in Chinese): *The Government has recently provided the Legislative Council Panel on Housing with information regarding the clearance of Kai Cheung Temporary Housing Area (THA). According to the information, 62.7% of the residents affected have been offered rehousing in new public rental housing (PRH) flats. In this connection, will the Government inform this Council:*

- (a) *of the numbers and percentages of residents in the squatter areas and THAs, which are earmarked for clearance in the same period as that for the Kai Cheung THA, who have been offered rehousing in new and old PRH flats respectively;*
- (b) *whether the overall percentage of residents referred to in (a) above being allocated new PRH flats is lower than that of Kai Cheung THA residents; if so, what the reasons are; and*
- (c) *how the Housing Department determines whether residents of squatter areas and THAs affected by clearance will be allocated new or old PRH flats?*

**SECRETARY FOR HOUSING** (in Chinese): Mr President, the numbers of residents in squatter areas and THAs, who are being cleared at about the same period as Kai Cheung THA and who have been offered rehousing in new or refurbished PRH flats, are as follows:

	<i>Residents rehoused in new flats Number (percentage)</i>	<i>Residents rehoused in refurbished flats Number (percentage)</i>	<i>Total Number (percentage)</i>
Squatter areas	965 (53%)	862 (47%)	1 827 (100%)
Temporary Housing Areas	10 847 (74%)	3 896 (26%)	14 743 (100%)
Squatter areas and Temporary Housing Areas	11 812 (71%)	4 758 (29%)	16 570 (100%)

The percentage of Kai Cheung THA residents allocated new PRH flats is a little lower than that for residents of squatter areas and THAs during this period.

The type of flat offered to eligible residents of squatter areas and THAs depends mainly on the availability of flats at the time, both new and refurbished, and, to some extent, on the personal preferences of residents. Residents who are more selective have to wait significantly longer.

### Young Smokers

16. **DR DAVID LI** asked: *According to figures released by the Census and Statistics Department in March this year, 14.8% of people aged 15 and over smoke daily, compared with 14.9% in 1993. The percentage of young male smokers aged 15 to 19 has risen sharply from 2.4% to 5.9% since 1993, whereas the percentage of young female smokers of the same age group has increased from 0.9% in 1993 to 1.3% this year. In this connection, will the Government inform this Council whether:*

- (a) *it has conducted any research to find out the causes of the rising rate of young smokers;*

- (b) *it has taken into account the rising rate of young smokers in planning anti-smoking campaigns; if not, how it plans to counter this trend in its campaign strategy; and*
- (c) *the Health and Welfare Branch will consider launching a large scale anti-smoking campaign with emphasis being placed on educating young people about the adverse effects of smoking?*

**SECRETARY FOR HEALTH AND WELFARE:** Mr President, to set the record straight, the Census and Statistics Department survey, conducted in January 1996, showed that 5.9% of males aged 15 to 19 are daily smokers. They constitute 2.1% of the total daily smoking male population. These compare with figures of 7.5% and 2.4% respectively for surveys conducted in 1993. In other words, the proportion of males aged 15 to 19 who smoke daily has declined in terms of rate in that age group (from 7.5% in 1993 to 5.9% in 1996), in percentage out of the total daily smoking male population (from 2.4% in 1993 to 2.1% in 1996) and in absolute numbers (from 14 800 to 14 100 in 1993 and 1996) respectively.

The rate of young female smokers has indeed increased from 0.9% to 1.3% of the 15 to 19 age group between 1993 and 1996.

A table showing daily smokers by age and sex for 1993 and 1996 is at Annex A. A table showing the longer-term trend for the 15 to 19 age group from 1982 to 1996 is at Annex B. While the smoking rate for both sexes aged 15 to 19 has fluctuated over the years, the rates today are still higher than the lowest recorded in 1984.

Apart from research into the causes of juvenile smoking in other countries, both The Chinese University of Hong Kong (CUHK) and the University of Hong Kong (HKU) carried out similar research in Hong Kong in 1994\*. They found

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\* Research references:

a positive relationship between cigarette advertising and smoking. Additionally, the CUHK's research found that the influence of close friends and family members, attitudes towards the effect of smoking on health, and age were important variables in predicting teenage smoking behaviour.

These local and overseas studies validate the Government's current multi-faceted anti-smoking strategy. This looks to legislation to restrict tobacco advertising, publicity to inform the community about the health hazards of smoking, and education to influence individual and peer group attitudes towards smoking.

As an important part of our strategy, the Hong Kong Council on Smoking and Health (COSH) — a statutory body wholly funded by the Government — has focussed its campaign efforts towards helping young people to establish a correct perception about smoking, namely, that it is hazardous to health and is not healthy, glamorous, trendy or "cool". A total of \$7.5 million has been granted to COSH to intensify its activities in this area. COSH has produced three Announcement of Public Interests broadcasts on TV targeted particularly at youth. Apart from this general publicity, COSH has staged 80 anti-smoking drama performances and delivered 69 health talks in schools in 1995-96.

The Department of Health, which is responsible for primary health care, also plays a part through its Health Ambassador Scheme. Each year, about 1 000 secondary schools students are trained by the Department of Health as Health Ambassadors. They are taught about health issues and healthy lifestyles, with anti-smoking being one of the topics. These Ambassadors then organize different programmes in their schools, districts and neighbourhoods with advice from the Department. Anti-smoking messages are thus disseminated effectively through these channels to our young people as well as

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Smoking and Health, Report No. 1, November 1994.

Leo Y M Sin, *Cigarette Advertising and Juvenile Smoking Behaviour: A Logit-Model Analysis*, The Chinese University of Hong Kong, October 1994.



their friends and families. As an on going effort to promote a smoke-free culture, leaflets on the hazards of smoking are placed in the Department's Student Health Service Centres, so that students coming to the centre for checkings can take the information home with them.

While anti-smoking publicity and education are mainly carried out by COSH and the Department of Health, the Government plays its part by providing a legislative framework which includes no-smoking areas, health warnings for tobacco products and restrictions on tobacco advertising. We have already banned tobacco advertising on TV, on radio and in cinemas. Since April last year, we have also prohibited the sale or giving of tobacco products to people under the age of 18. We are currently considering further legislative measures and aim to introduce these into the Legislative Council next year.

## Annex A

Table 2a Daily smokers by age and sex

August - September 1993 enquiry

<i>Age group</i>	<i>Male</i>			<i>Female</i>			<i>Overall</i>		
	<i>No. ('000)</i>	<i>%</i>	<i>Rate*</i>	<i>No. ('000)</i>	<i>%</i>	<i>Rate*</i>	<i>No. ('000)</i>	<i>%</i>	<i>Rate*</i>
15-19	14.8	2.4	7.5	1.8	2.8	0.9	16.6	2.4	4.2
20-29	109.0	17.5	23.8	11.2	17.7	2.2	120.2	17.5	12.5
30-39	161.5	25.9	28.1	10.8	17.0	1.8	172.2	25.1	14.8
40-49	136.3	21.8	34.1	3.6	5.7	1.0	139.9	20.4	18.6
50-59	92.4	14.8	34.8	6.7	10.7	3.1	99.1	14.4	20.7
□ 60	109.9	17.6	27.5	29.2	46.1	6.4	139.0	20.2	16.3
Overall	623.8	100.0	27.2	63.2	100.0	2.7	687.1	100.0	14.9
		(90.8)			(9.2)			(100.0)	

January 1996 enquiry

<i>Age group</i>	<i>Male</i>			<i>Female</i>			<i>Overall</i>		
	<i>No. ('000)</i>	<i>%</i>	<i>Rate*</i>	<i>No. ('000)</i>	<i>%</i>	<i>Rate*</i>	<i>No. ('000)</i>	<i>%</i>	<i>Rate*</i>
15-19	14.1	2.1	5.9	2.4	3.1	1.3	16.5	2.2	3.8
20-29	99.7	15.1	23.0	22.0	27.5	4.1	121.7	16.4	12.5
30-39	173.6	26.3	29.0	15.9	19.8	2.5	189.5	25.6	15.2
40-49	148.6	22.5	30.0	11.0	13.7	2.4	159.6	21.6	16.8
50-59	99.7	15.1	35.3	9.8	12.2	4.1	109.4	14.8	20.9
□ 60	124.7	18.9	29.7	19.0	23.7	4.0	143.7	19.4	16.1
Overall	660.3	100.0	26.7	80.1	100.0	3.1	740.4	100.0	14.8
		(89.2)			(10.8)			(100.0)	

\* As a percentage of all persons aged 15 or over in the respective age and sex sub-group.

Note: Figures in brackets represent the proportion to all daily smokers.

Source: General Household Survey, Census and Statistics Department

Annex B

### Smoking Statistics : Daily Smokers

Age Group : 15 -19

<i>Year</i>	<i>Male (%)</i>	<i>Female (%)</i>	<i>Both sexes(%)</i>
1982	7.9	0.4	4.2
1983	6.3	0.3	3.4
1984	4.6	NA	2.3
1986	7.3	0.5	4.0
1988	5.5	1.3	3.4
1990	7.8	1.1	4.6
1993	7.5	0.9	4.2
1996	5.9	1.3	3.8

NA - Not available

Source : General Household Survey, Census and Statistics Department

## Renovation and Improvement Works in Queen Elizabeth and Queen Mary Hospitals

17. **MISS CHRISTINE LOH** asked: *Regarding the renovation and improvement works undertaken in Queen Elizabeth Hospital and Queen Mary Hospital since 1992, is the Government aware of:*

- (a) *the total financial provision earmarked for the renovation and improvement works in Queen Elizabeth Hospital (inclusive of donations from the Hong Kong Jockey Club) and the amount spent so far; and*
- (b) *the total financial provision earmarked for the renovation and improvement works in Queen Mary Hospital and the amount spent so far?*

**SECRETARY FOR HEALTH AND WELFARE:** Mr President, the total approved project estimates and cumulative expenditure of major renovation and improvement works undertaken in Queen Elizabeth Hospital since 1992 are as follows:

<i>Project Title</i>	<i>Approved Project Estimate (\$ million)</i>	<i>Date of Finance Committee Approval</i>	<i>Cumulative Expenditure as at 30 October 1996 (\$ million)</i>
*Block B Extension Phase II - Air Conditioning to Existing Wards	316.0	21 February 1992	300.2
Refurbishment and Improvement to Blocks A, C, E, G and H	432.0	21 February 1992	353.0

Redevelopment of Specialist			
Out-Patient Clinic	238.0	17 June 1994	136.9
Redevelopment of the Operating			
Theatre Block and Rehabilitation Block	671.3	12 January 1996	7.8
Hong Kong Jockey Club Institute of			
Radiotherapy and Oncology	350.0	N/A	201.5

The total approved project estimates and cumulative expenditure of major renovation and improvement works undertaken in Queen Mary Hospital since 1992 are as follows:

<i>Project Title</i>	<i>Approved Project Estimate (\$ million)</i>	<i>Date of Finance Committee Approval</i>	<i>Cumulative Expenditure as at 30 October 96 (\$ million)</i>
Reprovisioning of the Sai Ying Pun Specialist Out-patient Clinic	377.5	5 July 1996	-
Radiotherapy Department Extension	113.6	8 March 1996	4.5

\* A total of \$255 million at July 1986 prices was approved by the Finance Committee on 23 July 1986. The approved project estimate was subsequently revised to \$316 million at November 1991 prices by the Finance Committee on 21 February 1992.

### **Leadership of Securities and Futures Commission**

18. **MR CHIM PUI-CHUNG** asked (in Chinese): *Will the Government*

*inform this Council of:*

- (a) the expiry dates of the agreements of the current Chairman and Deputy Chairman of the Securities and Futures Commission (SFC);*
- (b) the criteria adopted by the authorities concerned for determining whether the agreements of the current Chairman and Deputy Chairman of the SFC will be renewed; and*
- (c) whether the authorities concerned has considered selecting the Chairman and Deputy Chairman of the SFC through open recruitment?*

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

- (a) The agreement of the current Chairman of the SFC will expire on 30 June 1997. The Deputy Chairman's agreement expires on 31 December 1996 and it has been agreed that it be extended for one year.
- (b) In considering whether the agreements of the Chairman and Deputy Chairman, and for that matter, those of all executive directors should be extended, the Administration will have regard to the need for continuity of senior staff at a particular point in time, as well as the suitability and the wish of the persons concerned to continue their service with the SFC.
- (c) Open recruitment procedures have been, and will continue to be used when appropriate. In the case of the current Deputy Chairman, a decision was taken to extend his agreement by one year.

### **Cases of Police Officers Framing Innocent Persons**

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

- (a) of the number of complaints received by the Police in each of the*

*past three years concerning police officers framing innocent persons, together with a breakdown of such cases by category relating to false accusations of "possession of dangerous drugs", "obstructing a police officer in the due execution of his duty", "robbery", "wounding" and "assaulting a police officer", as well as the number of complaints alleging police officers taking fingerprints by force to fabricate evidence for the purpose of bringing about a conviction; the number of complaints found to be substantiated in each category and the punishment imposed on the police officers concerned;*

- (b) in regard to those complaints which have been found to be substantiated, of the reasons why police officers have framed innocent persons; and*
- (c) of the mechanism in place within the Police Force to prevent the occurrence of cases of police officers framing innocent persons?*

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

- (a) (i) Detailed breakdown on complaints received alleging police officers framing innocent persons in each of the past three years is in the Annex. The police do not keep separate statistics on complaints alleging taking fingerprints by force to fabricate evidence. They keep statistics on such complaints according to the offences arising from the alleged fabricated evidence. As such, the figures in the Annex have already included cases, if any, related to taking fingerprints by force.
- (ii) For cases substantiated in 1993, four officers were convicted with imprisonment ranging from three to seven months. Five others were disciplined with one receiving caution and four interviewed by their senior officers with an entry of the incident in their record of service. Disciplinary proceedings against the 10 officers under the category of "obstructing/assaulting a police

officer" are in progress.

- (iii) For cases substantiated in 1994, one officer was disciplined with "severe reprimand" and barred from promotion for two years. The other officer is under interdiction in connection with another criminal trial. As such, disciplinary action against that officer will be taken after the conclusion of his criminal trial.
- (b) The reasons behind the six substantiated cases in the Annex are as follows:

*Year/Nature of Cases*

*Reasons for framing*

1993 "Others"

A traffic warden wrongly issued eight fixed penalty tickets and fabricated evidence when the mistake was discovered. He was disciplined with a "caution".

*Year/Nature of Cases*

*Reasons for framing*

"Others"

Four police officers were accused of stealing property from an illegal immigrant. During the investigation, the four officers gave false information regarding the circumstances under which the illegal immigrant was arrested. They were interviewed by senior officers with an entry into their record of service.

"Obstructing/assaulting a police officer"  
(two cases)

Four police officers were convicted of unlawfully assaulting five persons during a stop and search action with imprisonment ranging

from three to seven months. These officers together with another 10 officers attending the scene fabricated evidence afterwards to support the arrest. Disciplinary action against the 10 officers are in progress.

1994  
"Obstructing/assaulting  
a police officer"

An off duty police officer involved in a traffic accident falsely accused the driver of another vehicle of assault. Disciplinary action against the officer will be taken after the completion of his criminal trial in connection with another case.

"Others"

A police officer summonsed a shop owner for "Articles Obstruction" when the owner was away from Hong Kong. The officer was disciplined with "severe reprimand".

- (c) The following mechanism is in place to prevent the occurrence of cases of police officers framing innocent persons:
- (i) enhancing the quality of police officers through careful recruitment and training;
  - (ii) inculcating a high standard of ethics and values among police officers through different channels;
  - (iii) examination of all evidence to be presented before the Court for prosecution of all criminal cases by officers of or above the rank of inspector in order to determine their reliability and cogency;
  - (iv) taking a serious view on police officers framing innocent persons and instituting criminal/disciplinary action



against officers concerned by the Police Force senior management; and

- (v) enhancing the existing complaint system comprising the Complaints Against Police Office with oversight by the Independent Police Complaints Council to ensure that any complaint against police officers, including fabrication of evidence, will be thoroughly investigated.

Annex

Statistics on Complaints of Fabrication of Evidence

	1993			1994			1995		
	<i>No. of Cases</i>	<i>No. of Cases</i>	<i>No. of</i>	<i>No. of Cases</i>	<i>No. of Cases</i>	<i>No. of</i>	<i>No. of Cases</i>	<i>No. of Cases</i>	<i>No. of</i>
	<i>Received</i>	<i>Substantiated</i>	<i>Officers</i>	<i>Received</i>	<i>Substantiated</i>	<i>Officers</i>	<i>Received</i>	<i>Substantiated</i>	<i>Officers</i>
			<i>Convicted/ Disciplined</i>			<i>Convicted/ Disciplined</i>			<i>Convicted/ Disciplined</i>
Possession of Dangerous Drugs	97	0	0/0	77	0	0/0	100	0	0
	1993			1994			1995		
	<i>No. of Cases</i>	<i>No. of Cases</i>	<i>No. of</i>	<i>No. of Cases</i>	<i>No. of Cases</i>	<i>No. of</i>	<i>No. of Cases</i>	<i>No. of Cases</i>	<i>No. of</i>
	<i>Received</i>	<i>Substantiated</i>	<i>Officers</i>	<i>Received</i>	<i>Substantiated</i>	<i>Officers</i>	<i>Received</i>	<i>Substantiated</i>	<i>Officers</i>
			<i>Convicted/ Disciplined</i>			<i>Convicted/ Disciplined</i>			<i>Convicted/ Disciplined</i>
Obstructing/ Assaulting a Police Officer	40	2	4/10	45	1	0/1	29	0	0
Robbery	10	0	0/0	8	0	0/0	8	0	0
Wounding	12	0	0/0	16	0	0/0	9	0	0
Others	133	2	0/5	133	1	0/1	126	0	0
Total	292	4	4/15	279	2	0/2	272	0	0

**Review on Long Term Prison Sentences**

20. **MR LEUNG YIU-CHUNG** asked (in Chinese): *It is learnt that section 70 of the Criminal Procedure Ordinance, under which the court could order a young offender who was under 18 when the offence was committed to be detained until Her Majesty's pleasure shall be known, was repealed in 1993. At present, there are still such prisoners being detained pending the Governor's decision on their sentences, and some of them have already been detained for 10 years or more. The Board of Review on Long Term Prison Sentences (the Board) now reviews such cases once every year, and after the prisoners concerned have reached the age of 21, the cases are reviewed once every two years, so that recommendations may be made to the Governor regarding the remission of the sentences of the prisoners concerned. In this connection, will the Government inform this Council:*

- (a) *whether the prisoners concerned and their families will be advised of the outcome of the Board's review and the reasons for the Board's recommendations; if not, what the reasons are;*
- (b) *of the appeal channels open to the prisoners concerned if they are dissatisfied with the outcome of the Board's review;*
- (c) *given that such prisoners are not allowed to apply for parole as their sentences have yet to be determined, whether the Government has considered if the existing arrangement of detaining such prisoners pending the Governor's decision on their sentences has deprived the rights of such prisoners, and if such prisoners may suffer greater mental stress than other prisoners; and*
- (d) *whether there is a minimum length of sentence imposed on such prisoners and whether the Government will consider setting a deadline (for example, within one year after the prisoner reaches the age of 21) for determining the length of sentence for such prisoners, so as to ensure that these prisoners will not have to serve sentences longer than those served by adult prisoners committing the same offences?*

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

- (a) The results of reviews by the Board of Review, Long Term Prison Sentences (the Board) are conveyed to the prisoners concerned by the Prison Superintendent or his representative, and to the prisoners' families upon request. The Board does not disclose any information on its decision-making process, that is, deciding whether to recommend to the Governor the exercise of the prerogative of mercy.
- (b) Prisoners who are dissatisfied with the outcome of their reviews may make representations to the Governor.
- (c) The existing arrangement does not deprive prisoners serving sentences under Her Majesty's pleasure their right of receiving regular reviews of their sentences by the Board. The Board reviews each of these cases every year until the prisoner has reached the age of 21, and thereafter every two years. If the prisoner's sentence is changed to a determinate one on the recommendation of the Board, he will be eligible for consideration for release under supervision in accordance with the provisions of the Prisoners (Release Under Supervision) Ordinance or the Post-Release Supervision of Prisoners Ordinance. At present, we are preparing legislation to establish a statutory Board of Review, Long Term Prison Sentences, and one of the proposals under consideration is to allow an appropriate tariff period to be determined in each of these prisoners' cases, and to enable the new Board to consider their suitability for release after the prisoners have served their tariff periods.
- (d) Sentences under Her Majesty's pleasure are not subject to a minimum length because they are indeterminate sentences. The actual length of sentence served will depend on, among other things, the length of the determinate sentence if recommended by the Board and granted by the Governor. The Board considers each case on its merits.

## GOVERNMENT MOTIONS

### INTERPRETATION AND GENERAL CLAUSES ORDINANCE

***THE SECRETARY FOR ECONOMIC SERVICES to move the following motion:***

"That the Gas Safety (Gas Supply) (Amendment) Regulation 1996, published as Legal Notice No. 455 of 1996 and laid on the table of the Legislative Council on 6 November 1996, be amended in section 2, in new regulation 23A(2), by repealing everything after “因該” and substituting “工程所引起的相當可能會危及安全的損害。”."

He said (in Cantonese): Mr President, I move the motion standing in my name as set out in the Order Paper. The purpose of the proposed amendment is to clarify the wording of the Chinese version of the proposed section 23A(2) to better reflect the policy intention.

The proposed regulation 23A(2) provides that a person who carries out, or permits to be carried out, any works in the vicinity of a gas pipe shall ensure that all reasonable measures are taken to protect the gas pipe from damage arising out of the works that would be likely to prejudice safety. The proposed amendment clarifies the Chinese wording so as to make clear that it is the "damage" to the gas pipe, rather than the "work" in the vicinity of the gas pipe, that would be likely to prejudice safety.

Mr President, I beg to move.

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

## GOVERNMENT BILLS

### First Reading of Bills

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**LAW REFORM (MISCELLANEOUS PROVISIONS AND MINOR AMENDMENTS) BILL 1996**

**OCCUPATIONAL SAFETY AND HEALTH BILL**

**CRIMES (AMENDMENT) (NO. 2) BILL 1996**

**CARRIAGE BY AIR BILL**

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

**Second Reading of Bills**

**LAW REFORM (MISCELLANEOUS PROVISIONS AND MINOR AMENDMENTS) BILL 1996**

*THE ATTORNEY GENERAL to move the Second Reading of: "A Bill to transfer the power to make certain regulations and orders from the Governor in Council to specified authorities, to amend certain provisions relating to age, to amend provisions in the Marriage Ordinance relating to the consent to the marriage of persons aged 16 or over but under 21 and replace the obsolete references of "articulo mortis", to provide for mail sent "On Government Service", to provide for the taxation of foreign lawyers' bills, to remove from Ordinances references to "ex officio" or "official" members of the Legislative Council, to make provisions enabling registers or other records under the Births and Deaths Registration Ordinance and the Marriage Ordinance to be kept in non-legible form and for related matters, to repeal the Affiliation Proceedings Ordinance and make consequential amendments to the Guardianship of Minors Ordinance, to amend certain definitions in the Crimes*

***Ordinance, to amend various provisions to align with the language policy of giving equal status to both the Chinese and English languages, and to make a number of minor miscellaneous amendments to various Ordinances."***

He said: Mr President, I move that the Law Reform (Miscellaneous Provisions and Minor Amendments) Bill 1996 be read a Second time.

The Bill is part of the on going process of law reform directed at repealing obsolete statutory provisions, removing anomalies and inconsistencies in legislation and making a variety of improvements which do not justify the introduction of separate Bills. This Bill proposes to devolve some of the less important powers to make subsidiary legislation from the Governor in Council to more appropriate authorities; to effect certain reforms in the law relating to marriage and children; and to modernize the law governing the keeping of records of births, deaths and marriages. It also proposes a large number of miscellaneous minor amendments to our laws.

*Devolution of powers to make subsidiary legislation*

Clauses 2 to 24 of the Bill continue a process started some years ago of transferring the power to make subsidiary legislation of a technical nature from the Executive Council to more appropriate bodies.

In all, subsidiary law-making powers under 13 Ordinances are affected. Depending on the circumstances, the powers are transferred to a Branch Secretary, a Departmental Head or a statutory board or committee. In three instances, the power to be transferred is a power to amend Schedules to Ordinances, but in each case the schedule consists of technical detail of the kind normally found in subsidiary legislation.

*Family law reforms*

The Bill proposes to bring about reforms in four areas of family law.

*(a) Age of majority*

The first area relates to the age of majority. Clauses 25 to 26 of the Bill

make some minor changes to the Domestic Violence Ordinance and the Adoption Ordinance to reflect the reduction in the age of majority from 21 to 18 which was introduced in 1990. It is also proposed by clause 27 to amend the Adoption Ordinance so as to eliminate an inequality in the treatment of male and female children. At present, the power of officers of the Social Welfare Department to visit and examine a child pending proceedings for adoption cease to apply once an adoption order is made in the case of a male child, but not in the case of a female child. Under the Bill, the power would cease upon the making of an adoption order irrespective of the sex of the child.

*(b) Consent to marriage*

The second area of family law reform relates to consent to marriage. As the law now stands, normally only the father is legally competent to give a valid legal consent to the marriage of a child who is under 21 years of age. The mother can only do so if the father is either dead or insane. Subject to such consent, a child aged 16 or over, but under 21, may marry.

Clause 28 of the Bill seeks to place the father and the mother in the same position by amending the relevant provisions of the Marriage Ordinance and introducing a new Third Schedule which sets out in detail the persons whose consents are required in various specified circumstances.

*(c) Maintenance of illegitimate children*

The third area of family law reform relates to illegitimate children. Under the Affiliation Proceedings Ordinance, the mother of an illegitimate child may apply to the court for an order against the putative father for the maintenance of the child. The Guardianship of Minors Ordinance allows either of the parents of a minor child or the Director of Social Welfare to apply for custody of the child, irrespective of whether the parents are married to one another. At present, under that Ordinance, the court may grant a maintenance order against a parent, but only in favour of the person (whether parent or not) who has been granted custody of the child.

The Bill, by clause 79, proposes to amend the Guardianship of Minors Ordinance so as to enable the mother of an illegitimate child who has legal

custody of that child (even though no custody order has been made under the Ordinance) to obtain a maintenance order in respect of the child. Since the proposed amendment makes the Affiliation Proceedings Ordinance redundant, it is proposed to repeal it.

*(d) Obsolete matrimonial remedies*

The fourth area of family law reform relates to certain obsolete remedies. Clauses 83 to 86 of the Bill are intended to bring about minor reforms in the law of matrimonial proceedings by abolishing the now virtually obsolete decree of jactitation of marriage. This is a court order to restrain a person from wrongfully claiming to be another person's spouse. Clause 87 removes a redundant reference in subsidiary legislation to the remedy of restoration of conjugal rights which was abolished in 1972.

*Keeping registers of births, deaths and marriages in non-legible form*

Mr President, as I mentioned earlier, the Bill proposes to modernize the law governing the keeping of records of births, deaths and marriages. The methods employed to maintain official registers of those events in Hong Kong need to be updated in the light of modern technological developments. Clauses 48 to 78 of the Bill contain a series of proposals for amending the Births and Deaths Registration Ordinance and the Marriage Ordinance for the purpose of legalizing the storage of marriage records by microfilming and the storage of births and deaths records in both microfilm and computerized forms.

*Miscellaneous Minor Amendments*

I now turn to some of the other miscellaneous amendments in the Bill.

Clauses 37 to 40 reflect the forthcoming change of sovereignty by providing for the mark on government envelopes to be changed from "On Her Majesty's Service" to "On Government Service". The new mark will enjoy the same privileges and protection as the existing one. The amendments affect the Post Office Ordinance and Regulations made under it.

Since 1994, foreign lawyers have been permitted to practise in Hong Kong subject to certain conditions and requirements imposed by the Legal Practitioners



Ordinance. That Ordinance provides for the "taxation" of a solicitor's bill of costs, that is to say, it enables an application to be made to the court for a determination of what the appropriate charges should be. No similar provision presently exists in respect of foreign lawyers' bills. Clauses 41 to 43 provide that those bills of costs will be treated in the same way as solicitors' bills.

Clauses 81 and 82 seek to close two loopholes which have been identified in certain offences under the Crimes Ordinance. The first concerns the meaning of "currency note" for the purpose of counterfeiting offences. At present, the definition of "currency note" is limited to a note that is lawfully issued outside Hong Kong and is customarily used as money in the country of issue. The law does not therefore criminalize the counterfeiting of foreign notes that are no longer used as money. The amendment will ensure that the definition extends to a note which is or has been customarily used as money in the country of issue. The second loophole relates to the definition of "defective" for the purpose of various sexual offences. Because the existing definition does not cover conditions such as schizophrenia, a defendant was acquitted of the offence of unlawful sexual intercourse with a defective in a case which came before the courts in 1994. The amendment proposed in clause 82 plugs this loophole by bringing the definition of "defective" in the Crimes Ordinance into line with the definition of "mental disorder" in the Mental Health Ordinance.

Clauses 88 to 120, in Parts XII and XIII of the Bill, propose a large number of minor amendments which are needed to revise penalty provisions, correct grammatical errors and errors of cross-referencing, provide Chinese equivalents for terms and expressions which at present appear only in English, and to make other purely textual changes.

As I indicated earlier, Mr President, this Bill is part of a continuing process of tidying up Hong Kong's statute law and effecting minor reforms. The proposals in it are largely of a routine and uncontroversial nature.

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).*

## **OCCUPATIONAL SAFETY AND HEALTH BILL**

***THE SECRETARY FOR EDUCATION AND MANPOWER to move the Second Reading of: "A Bill to ensure the safety and health of persons when they are at work, to provide for related matters, and to consequentially amend the Factories and Industrial Undertakings Ordinance and the Administrative Appeals Board Ordinance."***

He said (in Cantonese): Mr President, I move the Second Reading of the Occupational Safety and Health Bill.

The Occupational Safety and Health Bill proposes to extend for the first time occupational safety and health protection to employees in the non-industrial sectors. It is a piece of milestone legislation in enhancing the occupational safety and health standards for employees in Hong Kong.

At present, there are about 3.1 million people at work in Hong Kong. Some 800 000 of them are employed in industries covered by the Factories and Industrial Undertakings Ordinance, namely manufacturing, construction and catering. Most of the remaining 2.3 million workforce are employed in the non-industrial sectors and are not covered by that Ordinance.

In the 1995 Consultation Paper on the Review of Industrial Safety in Hong Kong, we included the recommendation of a tripartite Ad Hoc Committee under the Labour Advisory Board that safety and health legislation should be extended to cover all employees. It was recommended that new legislation should be enacted under which different regulations, to be implemented in stages, would set out specific standards for the working environment in general and regulate certain hazardous processes, equipment and substances in particular under the

following six broad categories:

- (a) safety, health and welfare of the workplace (including ventilation, lighting, fire precautions, lavatory, first-aid, drinking water, and so on);
- (b) manual handling operations;
- (c) personal protective equipment at work;
- (d) dangerous substances and their labelling, handling, storage, and so on;
- (e) health and safety aspects of work in the use of visual display equipment; and
- (f) use of machinery and equipment.

This recommendation has received wide support during the public consultation period.

The Occupational Safety and Health Bill is the result of the recommendation to extend protection to the non-industrial employees. It will apply to all workplaces, with the following exceptions:

- (a) persons employed in land, sea and air transport, which are already protected by other legislation such as the Road Traffic Ordinance, the Merchant Shipping Ordinance and the Civil Aviation Ordinance;
- (b) persons employed in maritime operations, which are regulated by the Merchant Shipping (Safety) Ordinance;
- (c) persons employed in domestic services, as it is not intended to intrude into the private life of individual household; and
- (d) self-employed persons, since there is no employer/employee relationship.

The Occupational Safety and Health Bill contains the following main provisions:

- (a) Part I specifies the title of the Bill and defines certain terms used in it.
- (b) Part II prescribes the general responsibilities of employers and occupiers of premises. The employers are responsible for ensuring the safety and health of their employees at work. Occupiers of premises, where persons working there are not their employees, are also responsible for ensuring the safety and health of those employees.
- (c) Part III enables the Commissioner for Labour to issue improvement notices and suspension notices. It also confers a right of appeal by the employers or occupiers, against the issue of a suspension notice, to the Commissioner for Labour and the Administrative Appeal Board.
- (d) Part IV provides for the reporting of accidents resulting in death or incapacity, and dangerous occurrences at the workplaces, by the proprietors, the notification by medical practitioners of cases of occupational disease, and the holding of informal and formal inquiries into accidents by the Commissioner for Labour.
- (e) Part V provides for the appointment and functions of public officers to administer the Bill's provisions.
- (f) Part VI prescribes miscellaneous offences, such as the disclosure of the identities of complainants; interference with or misuse of equipment for safety and health at the workplace.
- (g) Part VII sets out the procedure for prosecuting offences under the Bill.
- (h) Part VIII empowers the Commissioner for Labour to make regulations to supplement the Bill's provisions, to issue, amend and

revoke workplace codes of practice, and to amend schedules to the Bill.

- (i) Part IX provides for the provisions of the Bill to prevail over any possible inconsistent provisions in the Factories and Industrial Undertakings Ordinance, and make consequential amendments to the Administrative Appeal Board Ordinance.

The Occupational Safety and Health Bill, being basically an enabling legislation, should have no major impact on the employers. We intend to introduce subsidiary regulations under the Bill in three stages, so that employers and employees can adjust themselves gradually and comply with the law progressively. As the first stage, we propose that the Occupational Safety and Health Regulation, which provides control over the safety, health and facilities of the workplace in general, and manual handling operations in particular, should be made as soon as the Bill is enacted.

The tragic fire at Garley Building a fortnight ago has aroused great public concern over the adequacy or otherwise of fire safety protection in older buildings. The Fire Safety (Commercial Premises) Bill is being examined by a Bills Committee. We hope that the Legislative Council will agree to it quickly so that it can be enacted. It will cover commercial premises of over 230 sq m that are used as banks; off-course betting centres; jewellery and goldsmith shops; supermarkets or department stores; and shopping arcades. The need for legislation to deal with commercial/office buildings will be considered separately, in the light of the investigation report being compiled by the Director of Fire Services on the Garley Building fire. In the meantime, as "workplace" defined in the Occupational Safety and Health Bill will cover all types of premises, the provisions in this bill can be used to deal with fire problems in workplaces not already covered by the Fire Safety (Commercial Premises) Bill. The Occupational Safety and Health Regulation, which will be made by the Commissioner for Labour upon the enactment of the Bill, also contains a provision that the Commissioner may require employers or occupiers of a workplace to provide fire safety measures in addition to those required by or under any other law. In exercising such power, the Commissioner for Labour will obviously take into account the physical and other constraints which may be encountered in that particular workplace, but she does have the power to ensure that adequate fire precautions are in place to ensure the safety of the people at

work in a workplace.

In many ways, the Occupational Safety and Health Bill and the Regulation seek to enshrine in a consolidated piece of legislation most of the existing safety and health standards in a workplace which the average employer follows at present. We will minimize the potential financial burden on the employers, particularly those who run smaller establishment, with a phased introduction of the subsidiary regulations under the Bill.

The Administration intends to bring the provisions of the Bill and Regulation into operation 12 months after enactment. The grace period will allow time for Government to launch a public education and promotion programme, and for employers and occupiers of affected premises to become familiar with the legislation and to make the necessary preparations.

In line with the new strategy on promoting industrial safety, our approach to occupational safety and health in the non-industrial sectors will be preventive rather than curative; and promotional and educational rather than prosecution-oriented. The overall emphasis would be to encourage employers and occupiers of workplaces to identify risks and hazards, and to take steps to control or minimize them.

The Administration will develop, in consultation with the Occupational Safety and Health Council (OSHC), proposals for promoting general awareness of occupational safety and health among employers and employees in the non-industrial sectors. The Labour Department will also advise employers and employees about the new legislation, enforcement and compliance standards, approved codes of practice, and so on. Additional staff will be provided to the Department for the implementation of the new legislation.

The enforcement of the new legislation, together with the enhanced publicity and promotional activities by Government and bodies like the OSHC should, in the long run, raise the safety and health awareness of employers and employees in all sectors. This should help to reduce the number of occupational

injuries and diseases in the non-industrial sectors in Hong Kong.

The Manpower Panel of this Council was briefed on the Occupational Safety and Health Bill on 25 November and Panel members expressed their strong support for it. I would therefore urge Members to accord high priority to the Bill so that it could be enacted as soon as possible.

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).*

## **CRIMES (AMENDMENT) (NO. 2) BILL 1996**

***THE SECRETARY FOR SECURITY to move the Second Reading of: "A Bill to amend the Crimes Ordinance."***

He said: Mr President, I move the Second Reading of the Crimes (Amendment) (No. 2) Bill 1996.

This Bill deals with the concepts of treason, sedition, secession and subversion which are some of the concepts covered by Article 23 of the Basic Law.

Public concerns about the precise definition of these concepts have been building up since 1995. Honourable Members of this Council, who are elected to represent the community, have since then continued to impress on the Government the need to have clear legal definitions of these concepts on our statute books at the earliest opportunity before 1 July next year.

In response to this Council's and the community's expressed concerns, we passed proposals to amend the Crimes Ordinance to the Chinese side of the Joint Liaison Group (JLG) in July 1995. In July this year, we passed a draft Crimes (Amendment) Bill to the Chinese side covering the concepts of treason, sedition, secession and subversion. I also explained to the Legislative Council Information Policy Panel that, if we made no progress in our discussions with the

Chinese side, we would explain to the public the circumstances of the disagreement.

In brief, the Chinese side considered that there is a clear difference between the adoption of existing Hong Kong laws as the laws of the Hong Kong Special Administrative Region (SAR), and the enactment of laws by the SAR on its own in accordance with Article 23 of the Basic Law. They made it clear that they did not believe that we should make significant amendments to the Crimes Ordinance at this stage to bring it into line with the Basic Law.

We hold a different view. It is quite clear that it is the view of the community, as reflected by this Council, that we should seek to have legislation on these concepts covered in Article 23 of the Basic Law in place before 1 July 1997. We also believe that there is no reason why we should not introduce appropriate legislative amendments to the Crimes Ordinance before 1 July 1997. By producing workable legislative proposals which will need only minimal adaptation to continue beyond the transfer of sovereignty, we will indeed be facilitating the task of the future SAR. This will not diminish the ability of the SAR, under Article 23 of the Basic Law, to make laws on its own, that is to say, not to have such laws made by the sovereign power. The fact is that Hong Kong already has laws on some areas covered by Article 23; neither the existence of those laws nor any amendments to them restricts the power of the SAR to legislate under Article 23.

If the Chinese side were able to agree to our view, then we would together have contributed much towards a smooth transition and allayed the concerns of Hong Kong people. Unfortunately, we have not been able to reconcile these two viewpoints. It has recently become clear that we will not be able to reach consensus in the JLG. Given the need to respond to the concerns of the community, we have come to the view that we must take steps to fulfil our public commitments by introducing this Bill into the Legislative Council.

The Bill amends Parts I and II of the Crimes Ordinance. The changes are described in detail in the Legislative Council brief. The two most important changes are:



- (a) first, we have added the offences of secession and subversion which are not currently defined in the Crimes Ordinance; and
- (b) secondly, we have modified the offences concerning seditious activities to reflect the position at common law, that there must be an intention of causing violence or creating public disorder or a public disturbance, by reference to which the existing statute law would, we believe, be interpreted in any event.

The remainder of the Bill is largely aimed at amending the existing legislation to allow for easy adaptation, and to remove duplication of powers appearing in other laws.

We have carefully examined the Bill to ensure that it is consistent with the Joint Declaration, the Basic Law, the Bill of Rights and the International Covenant on Civil and Political Rights as applied to Hong Kong. We are not introducing a Bill which is in breach of either the Joint Declaration or the Basic Law, or any of these other documents.

We have attempted to define, in the Bill, the concepts of secession and subversion in the language of the common law. We hope that the debate in this Council, and more generally in the community, would shed light on whether the definitions we have proposed are reasonable and workable, and does not unnecessarily restrict the freedom of expression. That debate will be of particular value, whether or not the future SAR legislature chooses to leave unchanged the substance of the Crimes Ordinance as amended, or chooses to alter it in any way. If it chooses the latter course, it would of course have to explain to the people of Hong Kong why that would be in their interest.

Mr President, it is through reasoned debate, in an open society where people are free to express their views, that we hope to reach conclusions as to how best to define these sensitive concepts of treason, sedition, secession and subversion to meet the wishes of the community. Given the importance of this matter, the Bill deserves the most careful scrutiny by Members of this Council. I hope that all Members of this Council would discharge their duty to their constituents, by taking part in this process of scrutiny. A successful conclusion to the process of discussion and debate will strengthen public confidence in the law, and the commitment of an elected legislature to uphold the law.

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).*

## **CARRIAGE BY AIR BILL**

***THE SECRETARY FOR ECONOMIC SERVICES to move the Second Reading of: "A Bill to give effect to certain Conventions concerning international carriage by air; to make provisions relating to non-international carriage by air and international carriage by air to which the Conventions do not apply; and for related purposes."***

He said (in Cantonese): Mr President, I move that the Carriage by Air Bill 1996 be read a Second time.

At present, carriage by air is governed by the relevant provisions of the United Kingdom Carriage by Air Act 1961, Carriage by Air (Supplementary Provisions) Act 1962 and the Carriage by Air Acts (Application of Provisions) Order 1967, which are currently applied to Hong Kong by two United Kingdom Orders in Council made in 1967, which are currently applied to Hong Kong by two United Kingdom Orders in Council made in 1967. These enactments given effect to three international agreements (namely, the Warsaw Convention, the Hague Protocol and the Guadalajara Convention) which govern international carriage by air and apply similar provisions to non-international carriage by air and carriage of mail and postal packages. Among other things, they set out the liability limits of air carriers in respect of death or injury of passengers or damage to baggage or cargo, specify the persons who are eligible to lodge a claim against the carriers, set the time limit for bringing proceedings against carriers and specify which States have jurisdiction over cases.

The purpose of the Bill is to localize the relevant enactments thereby preserving the current statutory framework on carriage by air in Hong Kong after 30 June 1997. The Bill reproduces the provisions and schedules of the two

1967 Orders with some modifications in the form of presentation of conform with Hong Kong's legislative style.

The only substantive changes between the provisions currently applied to Hong Kong and that contained in the Bill are mainly technical. They relate to the replacement of authorities respectively by the Governor or the Governor acting on the instructions of the Secretary of State in the certification of contracting parties to the international agreements of evidentiary purposes in clauses 4 and 14 of the Bill and the exemption of certain uses of aircraft from the application of the legislation in clause 8 of the Bill. The Bill also provides for the replacement of the Governor by the Monetary Authority for the specification of Hong Kong dollar equivalents of "francs" and "special drawing rights" for domestic enforcement of liability limits in clauses 6 and 16 of the Bill. New provisions are also included to enable certificates of Hong Kong dollar equivalents to be issued at a fee for evidence purposes.

The Bill represents a significant step in ensuring the continuation of the current civil aviation regime on carriage by air.

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).*

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

### **OCCUPATIONAL DEAFNESS (COMPENSATION) (AMENDMENT) BILL 1996**

### **Resumption of debate on Second Reading which was moved on 23 October 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).*

## **NEW TERRITORIES LAND EXCHANGE ENTITLEMENTS (REDEMPTION) BILL**

### **Resumption of debate on Second Reading which was moved on 5 June 1996**

**MR WONG WAI-YIN** (in Cantonese): Mr President, the New Territories Land Exchange Entitlements (Redemption) Bill seeks to enable the Government to redeem the land exchange entitlements in the New Territories with cash and to extinguish all other rights of land entitlements against the Government. In moving the Second Reading of this Bill in this Council, the Secretary for Planning, Environment and Lands has detailed the background for submitting this Bill. The Bills Committee, of which I was elected Chairman, had two meetings with the Administration. I now highlight the main areas of concern arising in the course of discussion by the Committee.

What Members are most concerned about is that the redemption values would no longer be linked to the current land prices as a result of the Administration's proposal. The Bill provides that the redemption money payable is to be assessed with reference to the monetized values frozen according to the most current payable rate just before the Bill is enacted. Members are of the view that it is unfair for redemption money to be assessed with reference to the monetized values because the monetized values of Letters A/B redemption are far below the current market prices of land. Besides, as time goes by, the monetized values that are frozen will depart more and more from the market prices of land.

The Administration has explained that the Government believes it is reasonable for the redemption values to be unpegged from the current land prices because if the monetized values continue to be linked to land prices, the liabilities that public money has to bear will fluctuate with the market prices of land and will thus become impossible to assess. In choosing monetized values as the basis to calculate the redemption money, the Administration has taken into consideration the fact that monetized values represent the average value of the various types of land. These values have been established a long time ago, and

they are revised twice a year. There has never been any problem in respect of people's acceptance of the monetized values. As the Administration has no responsibility to provide a certain type of land, it is fair to make reference to the monetized values which reflect the latest land prices. The Administration stresses that the monetized values in real terms can be maintained through the payment of interest by the Government.

Some Members held that the Bill proposed by the Administration is actually an intention to alter the contractual relationship unilaterally. Over the years, Letters A/B holders have been given different options for the redemption, but once the Bill is passed, holders will have no other options but to surrender the Letters A/B to trade for cash compensation.

The Administration has stressed that it will not easily resort to altering the contractual liabilities through legislation. However, in this case there is such a need. At present, for the 6.75 ha of land entitlements that are outstanding, about 70% are held by four major developers. It is believed that the remaining 30%, or 2.07 ha of building land, will be untraceable. It would be impractical for the Administration to continue to provide land for redemption. Moreover, the residual untraceable entitlements are likely to be held in small packets, and it is not feasible as far as redemption is concerned. As a matter of fact, Letter A/B holders have been given all the opportunities over the years to exercise their right to exchange for land. The Administration does not intend to apply the Bill to all of the outstanding 6.75 ha of entitlements, since most of the entitlements currently held by the four developers should be redeemed before the Bill takes effect. Members noted that the Administration will provide the final opportunity for redemption by a land auction to be held this year.

The Bills Committee has also examined the extent of the powers to be exercised by the Director of Lands as authorized by the Bill. The Bills empowers the Director to admit or reject part of the claim or the entire claim for redemption money, and he may also request the claimant to furnish to him any further evidence in support of his claim. The Director may also require the claimant to execute an indemnity in favour of the Director as a condition of making payment to the claimant. Some Members were worried that the Director's powers are too wide, and they therefore asked the Administration to study the feasibility of including the appeals people may lodge against the Director's decision in the functions and powers of the Administrative Appeals

Board.

The Administration explained that under the existing arrangements, the Director of Lands may request the holders of land entitlements to furnish to him certain documents so as to determine the ownership of the Letters A/B. Only when the Director is in doubt will he request the claimant to make a statutory declaration. The provisions on indemnity seeks to protect the Administration in cases of wrongful payments, so that the Government can seek refund from the claimant. Under the existing arrangements, in cases of loss of documents or cases involving other problems of title, the persons involved are required to execute an indemnity. Seeking to remove Members' misgiving, the Administration has pointed out that the arrangement of proof of title has been in practice for years, and it is understood that no one has ever lodged a complaint against the Director's powers.

Most of the Members of the Bills Committee support the Bill. However, the Committee asks the Administration to carry out an extensive publicity programme for the general public to learn about the Bill, and to draw up guidelines for the Director of Lands regarding the exercising of his powers. However, one Member of the Committee does not approve of the Bill on the ground that as a matter of principle, the Government should not alter the contractual relationship unilaterally through legislation.

Mr President, with these remarks, I recommend the passing of this Bill.

**MR RONALD ARCULLI:** Mr President, by the New Territories Land Exchange Entitlements (Redemption) Bill, the Administration is seeking this Council's endorsement to effectively abolish the contractual rights now held by landowners of land exchange entitlements. As Members are aware, land exchange entitlements were issued by the Government as compensation for the compulsory resumption by the Government of land in the New Territories. These land exchange entitlements gave the original landowners, whose land was compulsorily resumed, the opportunity without limitation of time to surrender such entitlements in exchange for land. The value attributed to these entitlements is based on a formula which takes into account the sales prices of

land and is adjusted upwards or downwards accordingly. Thus the surrender value is not frozen but is variable. Mr President, it will come as no surprise to Members to learn that since their issue between 1960 and 1983, the value of these entitlements have risen quite substantially with land prices. The age of these entitlements also affect its market value as land offered by the Government specifically for land exchange entitlement tenders are awarded to the tender which has the highest aggregate age. Over the course of time, these entitlements were bought and sold freely with owners having the rights I have outlined.

Mr President, the Administration is now asking this Council to permit the Government to extinguish the right to exchange these entitlements for land and to freeze the value of these entitlements at the date of the passing of this Bill. To put it bluntly, the Administration wants this Council to snuff out the rights that holders of these entitlements have. To ask this Council to pass a Bill that effectively rewrites a contract entered into by the Government is a very very serious matter indeed, so serious that the Administration must provide ample justification for so drastic a measure. And yet what the Bills Committee has been told demonstrates that we should not support the Bill. I shall quote, Mr President, from the Legislative Council Brief as follows:

"In practice, very few Letter A/B holders have accepted cash redemption because Letters A/B are being traded at prices much higher than monetized value. This is because owners can secure, through the Letter A/B tender programme, land in the new towns in a less competitive manner and at premium considerably less than prices that they may otherwise have to pay at public auction."

That is not the end of the matter because during deliberations by the Bills Committee, the Administration was specifically asked whether this Bill was the result of an agreement with China or was due to pressure from China to resolve the matter before the handover. The Administration's answer was a clear NO! Why then, we must ask, is the Administration seeking to have this Bill passed when there is not a single reason to justify such a drastic measure? Or is the Administration worried that if the Legislative Council is told that there is a commitment to China or an understanding with China that the matter would be resolved before the handover that this Council would reject this Bill? I want to

emphasize the simple point I am making by asking questions to which there are no acceptable answers. What reasons do each of you have to support a Bill that abolishes or alters contractual rights? What is so exceptional or compelling about this Bill that deserves this Council's endorsement? Does public interest demand the abolition or alteration of contractual rights by law? I hope that by asking these questions, Members will realize, as the Liberal Party has, that this Council should not abolish or alter contractual rights unless there are exceptional and compelling reasons. Indeed, we believe it is not in the public interest to do so. We therefore believe and hope that Members would vote against the Second Reading of this Bill.

In conclusion, Mr President, I hasten to add that the position I have set out is not connected to the property sector as has been made abundantly clear by the Chairman of the Bills Committee, the Honourable WONG Wai-yin.

Thank you, Mr President.

**MR ALBERT CHAN** (in Cantonese): Mr President, the Honourable Ronald ARCULLI has just said that unless there were exceptional or compelling reasons, we should support his opposition to this Bill. I now attempt to offer some compelling reasons for Mr ARCULLI to consider.

On the question of land exchange entitlements, my understanding is that the Government has had detailed discussions with the Heung Yee Kuk and those involved in rural matters. As to what the Government proposes now, those involved in rural matters as well as rural organizations have no objection. Besides, there is one point I wish to make and that is, in respect of the arrangement for land exchange entitlements, it had its own drawbacks when it was first proposed. It might well be that the proposal is convenient in many ways, but for a form of exchange which has no time limit nor a ceiling, then to some extent it is just like a post-dated cheque on which the amount payable has not been filled in, and there is no telling when it will be honoured, nor the amount to be honoured. This would lead to big problems.

In respect of the row over land exchange entitlements, Mr ARCULLI has also mentioned the fact that at the last committee meeting, it was raised several times whether it was because of pressure from China, or whether there was an agreement with China that this matter had to be resolved before 1 July 1997. Although the Government has denied that, my understanding is that that is really



the main reason why the whole matter of land exchange entitlements has to be resolved. This is because, as I have just explained, land exchange entitlements are in fact a form of post-dated cheque which has no time limit or amount payable, and if this matter continues to exist, it will, in other words, become a financial commitment for the future Hong Kong Special Administrative Region Government for what post-dated cheque the British Hong Kong Government has issued. Therefore, China and Britain may have come to an understanding (not necessarily an agreement) on land exchange entitlements in that the matter has to be resolved before 1 July 1997.

It is my personal view that the present scale determined with reference to the current market prices makes it possible for holders of land exchange entitlements to receive compensation. Although it may not be the best arrangement, to certain people, this may be a protection for them, for in the past the values of these entitlements fluctuated with the market; also, the current market prices seem to be at a reasonable level. Of course, some people may benefit from it while others may suffer losses. But broadly speaking, it can be a more or less acceptable compromise. The Democratic Party supports this proposal.

Thank you, Mr President.

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Mr President, first of all, I would like to express my thanks to the Honourable WONG Wai-yin, Chairman of the Bills Committee on the New Territories Land Exchange Entitlements (Redemption) Bill, and Members of the Committee for supporting the Bill and their careful and detailed deliberation of the Bill over the past six months.

The New Territories Land Exchange Entitlements (Redemption) Bill seeks to make land exchange entitlements redeemable for cash only rather than land after a specified date. As a result, other rights which can be claimed against the Government under the land exchange entitlements will be extinguished.

During the past several decades, we have redeemed about 95% of all land exchange entitlements and we estimate that the existing outstanding land exchange entitlements stand at about 6.75 ha of equivalent building land. Of

them, 4.68 ha are held by property developers. I would like to stress one point: We have made available sufficient land in 1996-97 to redeem all outstanding commitments, so that 6.75 ha of outstanding entitlements can be redeemed. However, it is likely that about 2.07 ha of these entitlements are not traceable and would not service.

As pointed out by Mr WONG Wai-yin a moment ago, in the course of the Bills Committee's deliberation, Members raised concern about the proposal to dissociate the redemption value with the prevailing land prices. This proposal justifies our view that the holders of the entitlements have had ample opportunity to redeem them for many years. Dissociating the redemption value with the land prices is designed to protect the Government from future contingent liability which cannot be estimated and to provide certainty for the holders as to the value of their rights.

The Bills Committee has also discussed whether administrative guidelines should be laid down to govern how the Director of Lands should exercise the powers conferred to him under this Bill, especially in respect of determining a claim for payment. There are already well-established administrative guidelines on the checking of land exchange entitlements and the determining of claims. During the Bills Committee's deliberation of the Bill, such information has been forwarded to the Members. As Mr WONG Wai-yin has just pointed out, no complaint has ever been lodged against the exercise of this powers by the Director of Lands in the past. After the enactment of this Bill, we will continue to adopt this guidelines. However, the claimant may seek a declaration from the court in respect of his/her land exchange entitlement in any event. We believe that the New Territories Land Exchange Entitlements (Redemption) Bill will help advise the holders to exercise their rights to exchange for land within this fiscal year.

The Bills Committee has also pointed out that publicity should be launched by the authorities so as to make those affected by this Bill understand its implication. We fully agree to this point. We are also of the opinion that extensive publicity is of paramount importance. The public was informed of the relevant part of this Bill when this Bill was introduced to the Legislative Council in June 1996. We will continue to launch publicity in Hong Kong and overseas and has requested the Heung Yee Kuk to render assistance by spreading this

message to members of the Heung Yee Kuk and residents in the New Territories and their contacts in other countries.

Mr President, in view of the revision in the recent rates of payment in respect of land exchange entitlements, I shall move to amend this Bill in the Committee stage in order to ensure that the latest rates of payment are shown on the schedule before the enactment of the Bill.

Thank you Mr President.

*Question on the Second Reading of the Bill put.*

*Voice vote taken.*

The President said he thought the "Noes" had it.

Mr WONG Wai-yin claimed a division.

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

**PRESIDENT** (in Cantonese): I would like to remind Members that they are now called upon to vote on the question that the New Territories Land Exchange Entitlements (Redemption) Bill be read the Second time.

Will Members please register their presence by pressing the top button and then proceed to vote by selecting one of the three buttons below?

**PRESIDENT**(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, Dr LEONG Che-hung, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr James TO, Dr Samuel WONG, Dr YEUNG Sum, Mr WONG Wai-Yin, Miss Christine LOH, Mr LEE Cheuk-Yan, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Andrew CHENG, Mr Paul CHENG, Mr CHENG Yiu-tong, Dr Anthony CHEUNG, Mr CHOY Kan-pui, Mr David CHU, Mr IP Kwok-him, Mr LAU

Chin-shek, Mr LAW Chi-kwong, Mr LEE Kai-ming, Mr LEUNG Yiu-chung, Mr LO Suk-ching, Miss Margaret NG, Mr NGAN Kam-chuen, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE and Mr YUM Sin-ling voted for the motion.

Mr Allen LEE, Mrs Selina CHOW, Mr NGAI Shiu-kit, Mr Edward HO, Mr Ronald ARCULLI, Mr Henry TANG, Dr Philip WONG, Mr Howard YOUNG and Mr James TIEN voted against the motion.

The President announced that there were 37 votes in favour of the motion and nine against it. He therefore declared that the motion was carried.

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.

### **OCCUPATIONAL DEAFNESS (COMPENSATION) (AMENDMENT) BILL 1996**

Clauses 1 and 2 were agreed to.

### **NEW TERRITORIES LAND EXCHANGE ENTITLEMENTS (REDEMPTION) BILL**

Clauses 1 to 13 were agreed to.

Schedule

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Mr President, I move that the Schedule to the Bill be amended as set out in the paper circulated to Members.

The rates for redemption money payable to the holders of land exchange entitlements are set out in the Schedule to the Bill. The scheduled rates are based on the latest one published in the Gazette in respect of land exchange entitlements. The published rates have recently been revised. We therefore propose to update this Schedule to the Bill accordingly to ensure that the most up-to-date rates are shown on the Schedule before the enactment of the Bill.

Mr President, I beg to move.

*Proposed amendment*

**Schedule**

That the Schedule be amended, by deleting columns 2 and 3 and substituting —

"Column 2	Column 3
Rate of payment by reference to be area of the affected land, where the status of the affected land is agricultural land	Rate of payment by reference to the area of the affected land, where the status of the affected land is building land
\$3,342.2 per square foot	\$8,353.1 per square foot + face value

Column 2	Column 3
\$3,342.2 per square foot	\$8,353.0 per square foot + face value
\$3,339.3 per square foot	\$8,345.7 per square foot + face value
\$3,335.7 per square foot	\$8,336.7 per square foot + face value

\$3,335.6 per square foot	\$8,336.6 per square foot + face value
\$3,335.6 per square foot	\$8,336.6 per square foot + face value
\$3,330.8 per square foot	\$8,324.4 per square foot + face value
\$3,330.8 per square foot	\$8,324.4 per square foot + face value
\$3,330.7 per square foot	\$8,324.2 per square foot + face value
\$3,320.5 per square foot	\$8,298.8 per square foot + face value
\$3,307.3 per square foot	\$8,265.8 per square foot + face value
\$3,304.6 per square foot	\$8,259.1 per square foot + face value
\$3,283.2 per square foot	\$8,205.6 per square foot + face value
\$3,250.6 per square foot	\$8,124.1 per square foot + face value
\$3,249.3 per square foot	\$8,120.8 per square foot + face value
\$3,260.2 per square foot	\$8,147.9 per square foot + face value
\$3,268.8 per square foot	\$8,146.9 per square foot + face value
\$3,268.9 per square foot	\$8,147.3 per square foot + face value
\$3,254.6 per square foot	\$8,111.5 per square foot + face value
\$3,192.7 per square foot	\$7,956.7 per square foot + face value
\$3,186.7 per square foot Column 2	\$7,941.8 per square foot + face value Column 3
\$3,163.6 per square foot	\$7,884.0 per square foot + face value
\$3,147.3 per square foot	\$7,834.4 per square foot + face value
\$3,064.2 per square foot	\$7,611.8 per square foot + face value

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\$2,945.4 per square foot	\$7,297.3 per square foot + face value
\$2,877.0 per square foot	\$7,118.8 per square foot + face value
\$2,819.3 per square foot	\$6,969.6 per square foot + face value
\$2,518.9 per square foot	\$6,186.1 per square foot + face value
\$2,362.1 per square foot	\$5,776.5 per square foot + face value
\$2,368.3 per square foot	\$5,792.1 per square foot + face value
\$2,675.0 per square foot	\$6,598.8 per square foot + face value
\$2,855.3 per square foot	\$7,078.3 per square foot + face value
\$2,944.6 per square foot	\$7,314.0 per square foot + face value".

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

*Question on the Schedule, as amended, put and agreed to.*

Council then resumed.

### **Third Reading of Bills**

THE SECRETARY FOR EDUCATION AND MANPOWER reported that the

#### **OCCUPATIONAL DEAFNESS (COMPENSATION) (AMENDMENT) BILL 1996**

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

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

Bill read the Third time and passed.

THE SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS reported that the

**NEW TERRITORIES LAND EXCHANGE ENTITLEMENTS  
(REDEMPTION) BILL**

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

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

Bill read the Third time and passed.

**MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Two motions without legal effect. I have accepted the recommendations of the House Committee as to the time limits on speeches for the motion debates and Members were informed by circular on 2 December. The movers of the motions will each have 15 minutes for their speeches including their replies, and another five minutes to speak on the proposed amendments. Other Members, including the movers of the amendments, will each have seven minutes for their speeches. Under Standing Order 27A, I am obliged to direct any Member speaking in excess of the specified time to discontinue his speech.

**TERRITORIAL DEVELOPMENT STRATEGY REVIEW**

**PRESIDENT** (in Cantonese): Before we start the debate on this motion, I would like to explain why part of Miss Christine LOH's proposed amendment to the motion has been deleted. The words to be deleted from Miss LOH's amendment which was circulated to Members on 27 November 1996 are: "which does not rely on excessive reclamation in Victoria Harbour". Members have been



notified of the deletion today and the Order Paper has been amended.

On 26 November 1996, I ordered that Miss LOH's original proposed amendment be printed on the Order Paper. Subsequently, I learned that Miss LOH had given notice to introduce her Protection of the Harbour Bill, which she will move for its Second Reading later in this sitting. The purpose of the Bill is to "protect and preserve the harbour by establishing a presumption against reclamation in the harbour and by requiring such reclamation to be approved by the Legislative Council". The Legislative Brief also states that "The purpose of this Bill is to ensure that Victoria Harbour will be protected against excessive reclamation. In view of the fact that both Miss LOH's amendment and the Bill propose substantially the same matter, I now rule that according to the ruling I made in the sitting on 20 November on the anticipation rule, Miss LOH cannot put forth the above-mentioned words in her amendment, since it has anticipated her Bill. Any inconvenience caused to Members as a result of this ruling is regretted.

***MR EDWARD HO to move the following motion:***

"That this Council regrets that the Government has under-estimated Hong Kong's population growth, as well as its housing, transport and other physical infrastructure needs in the past; and urges the Government to formulate a long-term and balanced territorial development strategy to promote Hong Kong's continual economic growth, and enhance and sustain a high quality of life for the people of Hong Kong."

**MR EDWARD HO** (in Cantonese): Mr President, I move the motion standing in my name as set out in the Order Paper.

The Territory Development Strategy Review (TDSR) should bring to this city a growth pattern for the future, a prospect showing us how we can maintain continual economic growth and how we can improve our quality of life.

*Objectives and Assumptions*

The TDSR begins with six excellent objectives. However, a successful long-term strategy has to be based on a correct assumption. The Government's past performance in this aspect was not encouraging. All along, the Government has been underestimating our basic needs in housing, transport and the society as a whole. It has even underestimated the most basic assumption — population growth, as it has always been.

The TDSR — Development Options that was published as recent as 1993 made an estimation that by the year 2011, the population of Hong Kong will hit the 6.5 million mark. In a debate in the same year, I raised doubts on this assumption. It turned out that by 1996, that is to say, this year, the population of Hong Kong is already 6.3 million, and the population projection for 2011 will be between 7.5 to 8.1 million. Similarly, in 1994 I criticized the Second Comprehensive Transport Study (Revised), for Hong Kong, as the Government's consultant had also underestimated the fact that growth of private vehicles was at a rate of 100%.

As a result of these underestimation, problems of shortage in housing, transport as well as other infrastructure have been aggravated. Of course, these problems are caused not just by incorrect assumptions. Very often, it is because the Government fails to make timely decisions to implement and invest in long-term infrastructural plans. Consequently, as supply fails to meet demand, problems arise.

Usually, the decision-making power on infrastructure is in the hands of non-professional government officials. This may create another problem. In the TDSR document, professional officials strongly recommend that the Government should make expeditious decisions on a number of projects. It is my hope that these recommendations will not be ignored as they were so frequently before.

### *China-Hong Kong Relations*

Even though the commercial and political relations between mainland China and Hong Kong are getting closer and closer, Hong Kong has been planning her development strategy in a completely isolated manner. From what I know, the TDSR is the first document which recognizes the close relations between Hong Kong and South China, in particular, the relations between Hong Kong and the Pearl River Delta. The TDSR has listed two scenarios of

development postulating that China will be Hong Kong's main economic hinterland.

Although the assumptions of this document are made on the basis of the economic relations between Hong Kong and mainland China, its planning projects have not taken into consideration Hong Kong and China as the two parts of "one country, two systems", which will soon come into effect, and how they can be integrated so that it will be mutually beneficial. Apart from a few exceptions, we can see that the planning charts and maps in the document are confined to areas within the boundaries of Hong Kong.

Clearly, it is wrong for either side to disregard the mutual and close relations between the two parts of the same country in the near future. For example, we can say for certain that the efficiency of border check in future for residents of the Hong Kong Special Administrative Region to travel to and from between where they live and where they work will be improved. This will have a positive impact on the locations of housing supply and job opportunities, and even on the overall strategy.

### *Housing*

There is no doubt that housing is a serious problem that keeps plaguing us in recent years. The TDSR has offered no specific solution to it. My view is that the TDSR has once again overestimated the supply, or possibly underestimated the demand. In respect of supply, it is estimated that by 2001, there will be 63 000 public housing units a year; at the same time, private property developers will be supplying 45 400 units. But in view of the fact that the supply from neither side has even been up to the expected level, therefore, if no strong commitment is made in improving the efficiency of development progress, particularly commitment regarding major construction projects of 10 years or above, I shall be extremely doubtful whether the plan can be realized.

### *Density of Housing*

The density of constructed units is directly related to the capacity of land for housing or other purposes. In the past, Hong Kong has been successful in building development areas of rather high density, resulting in the suburban area becoming development areas of relatively low density. Such a strategy should also be used in new towns, and it is the only way to preserve land and

infrastructure.

### *Population Policy*

In respect of population policy, my view is that our primary job should be to plan for the utmost and ultimate capacity, while at the same time strive to maintain the quality of environment. I also believe that this capacity is far above what is described in Scenario B of the TDSR. It is a common phenomenon over the world for immigrants to move into major cities. We should control the number of immigrants according to what is provided in the Basic Law, in order that the growth of immigrants will not become out of control and affect our environment. However, the natural growth of population is inevitably an aspect that has to be handled by planning. It is of course not viable to attempt to control the natural growth by administrative measures.

### *Sub-commercial Areas*

Most of the problems arising from planning are related to the mismatch of people's place of residence and their place of work. Unfortunately, in both the mid-term and long-term strategies, the distribution of population and of jobs is not satisfactory. A larger proportion of the population is living in non-metropolitan areas, but most jobs are concentrated in the metropolitan area. Therefore, the Government has to make more efforts to decentralize the jobs to non-metropolitan areas.

I propose that the Government should consider creating a major sub-commercial area in Northern New Territories. For example, in the Au Tau area in Yuen Long. In doing so, the future Route 3, West Rail and the favourable factors of being close to the border can be fully utilized. This sub-commercial area should be designed as a town of a new generation. Apart from the jobs provided, there will be various kinds of residential areas and all the entertainment and community facilities that should be provided. People who live in such a town of a new generation will be close to where they work. They will also have a carefully planned and spacious environment. To have such a kind of new towns, the Government need to make serious efforts in planning and organizing. It has to provide infrastructure and imaginative solutions to attract businesses to relocate there.

*Environment*

Not only is it necessary for our future city to create sufficient space to meet the needs for housing, industrial, commercial and other purposes, our town-planners, architects, engineers and people in the Government have also to create an environment that is both attractive and in keeping with principles of environmental protection. They have to strike a good balance between creating space for living and working and maintaining a natural ecological environment.

*Reclamation*

I do not approve of a complete ban on all future plans of reclamation. However, I also oppose any arbitrary reclamation. Quite a few professionals and professional bodies have submitted various proposals for reference by the Government. Their proposals will be able to provide the necessary land for infrastructure without having to turn the Victoria Harbour into a river. The Government should carefully consider these proposals. It should also consider locations other than the Victoria Harbour such as Tseung Kwan O. These locations can be reclaimed without doing harm to the environment. Another location to be considered is the Tolo Harbour area in Tai Po.

*Northeast New Territories*

I mention specially the Northeast New Territories because whilst I support the move to develop the Northwest New Territories and the Southeast New Territories. I do not approve of the TDSR's neglect of the development potential of the Northeast New Territories. Since there is already the Kowloon-Canton Railway in this part of the New Territories, the capacity of this very attractive area will be increased once we add another highway to run parallel to the Tolo Highway. I propose that part of the Tolo Harbour be reclaimed to enhance the feasibility of this investment plan.

*Urban Renewal*

If we can decentralize jobs to non-metropolitan areas, we can speed up urban renewal and improve the overcrowded and obsolete metropolitan area. The Government should seriously speed up the urban renewal process and improve the urban environment and development capacity.

*Looking Forward*

My criticism of the TDSR is mainly that it lacks a long-term vision to take us to the 21st century. In spite of the fact that this document is comprehensively and professionally presented, it fails both in depicting the future layouts and environment of Hong Kong and, as far as Hong Kong is concerned, a strategy of 15 years cannot be described as a "long-term" one. Mr President, I hope that the Government can adopt the views of the general public so that the strategy can ensure that we have a city that can enhance and sustain a high quality of life.

*Question on the motion proposed.*

**PRESIDENT** (in Cantonese): Members have been informed by circular that Miss Emily LAU and Miss Christine LOH have separately given notice to move an amendment to the motion. As there are two amendments to the motion, I propose to have the motion and the amendments debated together in a joint debate.

Council shall now debate the motion and the amendments together in a joint debate. I will call upon Miss Emily LAU to speak first, to be followed by Miss Christine LOH; but no amendments are to be moved at this stage. Members may then express their views on the original motion as well as on the proposed amendments as listed on the Order Paper.

**MISS EMILY LAU** (in Cantonese): Mr President, I move that the Honourable Edward HO's motion be amended as set out under my name in the Order Paper.

As has been the case, the town planning of Hong Kong is based on the population figures every five years and population projection provided by the Census and Statistics Department. In this connection, the development

blueprint of Hong Kong for the 21st century has been designed on the basis of the latest population projection of 7.5 million or even as many as 8.1 million people. Technically the plan is feasible. But in terms of long-term development, should we just allow the population to grow unchecked, and then put in more resources to be barely able to maintain a balanced development?

Mr President, the natural resources of Hong Kong, particularly land and the harbour, are very limited. Take 1996 as an example. The average population density of Hong Kong by 1996 has hit the mark of 5 796 people per sq km a figure comparable to other major cities. For certain parts of the urban area, the density is even as high as 53 000 people per sq km, which ranks at the top of the world.

In fact, both the territorial development strategy consultation paper of 1993 and the report on the Territorial Development Strategy Review 1996 have put forth a question, which is: given the limited resources of Hong Kong, how far can Hong Kong be developed? What is the limit of Hong Kong's development? Unfortunately, the report has not given any answer to the question. What the Government is now advocating is "sustainable" development, saying that Hong Kong has to strike a balance between development and environmental protection, and that it should not bring about the negative impact of having our future generations to bear the consequence of development. However, if the population of Hong Kong is allowed to grow endlessly, then are we really able to say that there will be "sustainable continued development"?

Mr President, therefore I think there ought to be an indicator for the limit of development of Hong Kong. We should not allow the population to grow unchecked and then make subsequent revisions of policies to tie in with it, because eventually it will lead to population explosion and the continual deterioration of people's standard of living. Since town planning has always been based on population size, this limit of development should be quantified into a ceiling for the population. Once this ceiling is determined, the Government ought to identify ways to keep the population growth below this ceiling.

How can we determine the ceiling for our population? I believe this will involve sophisticated studies and possibly controversial computations. It follows that we must not propose a figure rashly. But I think in formulating the policy, the Government and Members may consider the following factors, which are also the three main sources of population growth in Hong Kong:

1. Natural growth;
2. Returnees from overseas; and
3. New immigrants from mainland China.

First of all, on the question of natural growth, the birth rate in Hong Kong at present is very low. Take last year as an example. The birth rate in Hong Kong was 11.2 per 1 000 persons, lower even than the rate of 15.6 in Singapore and 14 in Canada. Some have even said that Hong Kong's birth rate is the lowest in the world. Therefore, this is not where the problem lies. As for the number of returnees from overseas countries, from 1981 until now, there are about 585 000 returnees, although some said that the number has been underestimated. Anyhow, these people have the right to return. Besides, there are only a limited number of them. I believe some people have already settled down overseas and they will not even come back. Therefore, this is not the cause of the endless expansion of the population. So, the problem of new immigrants from mainland China remains the biggest headache.

According to certain statistics, from 1981 to 1995, almost half a million people have come to Hong Kong as immigrants. Yet some other statistics have pointed out that in mainland China, about 100 000 spouses and children of Hong Kong citizens are waiting to come to Hong Kong for family reunion. At present, the Chinese Government and the Hong Kong Government have agreed to allow 150 persons to come to Hong Kong everyday on a One-way Exit Permit, which means over 54 000 persons every year. I believe this figure will not change in the next few years. We have also agreed to allow people to come to Hong Kong for family reunion. This is not a policy we oppose. However, Mr President, the question is as simple as this: Exactly how many people have come to Hong Kong not on the ground of family reunion? My proposal today is that we have come to a stage at which we should consider not to let these people come to Hong Kong. If it is for family reunion, then people may come to Hong Kong.

I hope that Mr Bowen LEUNG can inform us later that among the 150 holders of One-way Exit Permits that come everyday, how many of them do so for family reunion? At one time the Government claims that most of them are, but at another it says that it has no idea. Why does the Government have no idea? It is because it is all up to the Chinese Government to give clearance to



these people to come to Hong Kong. There is no telling what sort of criteria the Chinese Government adopts in examining and approving the applications, as in some cases the children can come to Hong Kong whereas their mothers cannot. Family members are forced to stay apart from each other, and that is what we object to. We have also heard that there are people who have no connection in Hong Kong whatsoever, but for the fact that they have money and connections. By negotiating through the right channels, they are able to come to Hong Kong.

Mr President, I think some colleagues may oppose my amendment at first for fear that I would want to control the births in Hong Kong, just like the policy in China where each family can have one child only. That is not what I mean to do, nor do I want to restrict the number of returnees. But I believe Members will see that having people coming from mainland China would become a very serious problem in future. Should we just allow them to come to Hong Kong endlessly, when we have absolutely no participation in the approval process? Should we continue to allow 150 persons to come to Hong Kong everyday? Among these 150 persons, should we allow people to come only for family reunion, that is to say, only if they have close relatives in Hong Kong? I hope that Members can consider this. I hope that Members will support my amendment, and I will support Mr Edward HO's motion. Thank you, Mr President.

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

**MISS CHRISTINE LOH:** Mr Deputy, today's debate is a very important one because we are discussing Hong Kong's broad, long-term planning framework. I originally sought an amendment to the Honourable Edward HO's timely motion in order to emphasize two fundamental points: firstly, that the extent of new harbour reclamation proposed in the Territorial Development Strategy (TDS) Review is too great and should be reviewed; secondly, that our Government must ensure major land use developments are carried out with adequate consideration for the concerns of tomorrow. The TDS should provide a framework to address key sustainable issues of the future, and not just recycle ideas and solutions of the past.

Unfortunately, as the President explained, I am not able to move the first

part of the original amendment according to his decision since I will be moving the First Reading of the Protection of the Harbour Bill later. For some reasons, I was only informed about this decision at 10.30 am this morning. I hope in future such rulings would be advised to Members earlier in the day or earlier even at some other time.

But leaving that aside, let me start with land use planning. The purpose of such planning is to guide and control the development of land with the aim of improving quality of life. This means more than just producing economic benefits, for material gains are insufficient if they do not also promote health, safety, convenience and general well-being of the community.

In a small and high density city like ours, land use planning has always been a challenging job. It is not easy to balance all the competing demands. I am sure that the Government will claim that environmental and public health concerns are key in the implementation of policies. That might be the case in theory, but the results of decision-making in the past show that in practice, things work out very differently.

The TDS is a good case in point. It primarily focuses on recommending major infrastructure developments, such as new towns and new harbour reclamation projects. Environmental management has not been, and is still not, a core component of the planning process. This must change, Mr Deputy.

Environmental considerations are applied only when environmental impact assessments are done, where mitigation, rather than project redesign, is usually made. Furthermore, doing environmental impact assessment is a very recent practice in Hong Kong. Much of the planning ideas of the past which are still very much with us today never had the benefit of environmental consideration at all.

A major concern I have is the extent of the reclamation the Government is proposing in the TDS Review. This Council has already debated the issue once and was unanimous in expressing deep concern. In the mean time, other voices are articulating the same warnings which the Planning Department seems to by and large ignore.

The very eminent Hong Kong Institute of Architects, to which Mr Edward HO is an influential member, produced its own "Alternative Harbour Reclamation Strategy" in June this year. Furthermore, in October, the Society for Protection of the Harbour, to which I am vice-chair, also published its own recommendations for minimum harbour reclamation, developing further some of the ideas proposed by Hong Kong's professional architects.

Both of these plans use the Government's population projection as their base. What they show is that it is possible to significantly reduce reclamation to achieve the Government's objectives.

Mr Deputy, you would have thought that the Government should be pleased that private organizations and individuals have used their own time and resources to provide positive suggestions. And yet, some government officials question their intention. If their suggestions are not workable, let us hear arguments based on merit, and only based on merit.

I also want to say that harbour reclamation has not only attracted the attention of professionals, architects, academics and green groups. The Society for Protection of the Harbour has over the last few weeks collected 61 500 signatures from members of the public. The Society intends to collect a total of 100 000 signatures before the end of the year and to present them in the form of a petition to the Governor in Council.

The way forward therefore is for the Government to revise down the extent of its reclamation plans. Hong Kong does not need to delete so much of our magnificent harbour. The Government should also integrate its economic and infrastructure planning with environmental considerations. To do so successfully, the Government must enable branches and departments covering different responsibilities to work closely together.

The complexity of problems requires cross-disciplinary co-operation at the early planning stages of policies and I hope Members will endorse my amendment.

Mr Deputy, please allow me to make a few comments on the Honourable Miss Emily LAU's amendment. I understand why the Honourable Member is suggesting a cap on population — it seems like the easy way to sort out the problem. But it is simplistic. And she seems to realize that from her own speech by ignoring the complexity of all the issues involved. Miss LAU does not suggest restricting births in Hong Kong, but she ignores the fact that Hong Kong's population has a tradition of going to-and-fro.

This is the reason why the Government was unable to estimate recent increases. I have much sympathy for the Census and Statistics Department. If we are to consider Miss LAU's suggestion, do we restrict Hong Kong emigrants from returning here? She does not seem to think so either. What about immigrants from the Mainland? Social contacts between mainlanders and Hong Kong people will only increase after 1997. People meet, they fall in love, they marry, and they have children. The children will be entitled as of right to reside in Hong Kong under the Basic Law after 1997. Are we suggesting we ought to change that?

What Miss LAU seems to be calling for is a more coherent and comprehensive immigration policy. If that is the case, I do not disagree with her. But unfortunately, her amendment clearly mentions a cap on population, and in that sense, I cannot agree to the amendment.

For now, I would like us and the Government and the Chief Executive-to-be to concentrate on some of the important issues relating to immigration.

Mr Deputy, I will therefore support Mr Edward HO's motion. Hopefully, people will support my amendment but not Miss LAU's amendment.

**MISS CHAN YUEN-HAN** (in Cantonese): Mr Deputy, in recent years, reclamation projects have been launched in Hong Kong like wave upon wave. On the face of it, they are carried out for the development of the Metropolis, but

in reality, it is apparent to every man in the street — the Government seeks to increase usable land of high asset value in keeping with the economic development of Hong Kong. As to what adverse effect reclamation has on environmental protection, I believe colleagues in this Council will speak on that. Therefore, I do not intend to discuss it. However, I will speak on the questions of housing supply and planning and development of land.

Mr Deputy, Hong Kong started to develop satellite towns 20 years ago. However, nobody will say today whether or not satellite towns are successful, for most people have already realized that such a mode of planning can no longer meet the real needs of Hong Kong, particularly when Hong Kong has gone through an economic transformation, in which industries have moved to other regions and a large number of job opportunities have been lost. As a result, many people are unable to find jobs in the areas they live. In addition, in view of the serious faults in transport planning and facilities, it is impossible to realize the so-called concept of "self-sufficiency".

Mr Deputy, in the Territorial Development Strategy Review (TDSR) published by the Government, the projection for the population of Hong Kong by 2011 is 8.1 million, and the demand for land for housing is 850 ha. It has also estimated that public housing units provided for the next five years in Hong Kong will be between 290 000 and 328 000. However, it has not elaborated on the number of Home Ownership Scheme (HOS) units and rental public housing units, nor has it made a serious estimation of the number of public housing units to be constructed.

The TDSR has also estimated the mid-term housing needs from now to 2011, that is to say, during the six years between 2001 and 2006, among one million people who need housing, 640 000 will move to the new development areas, and about 57.8% of these people will live in newly developed areas or the original new towns in the New Territories. It can be seen from this that there will be a northward movement in Hong Kong's population distribution in the future.

Mr Deputy, it is not a fresh idea to move Hong Kong's population from urban centres to the new towns step by step. People's impression of the past experience is rather bad, because from what we have learnt in the past,

corresponding facilities would be developed only when the population of these new towns reached a certain level, and such an interval could often be as long as several years or even 10 years. New towns like Tun Mun and Tseung Kwan O are good examples to illustrate this. Many residents in these new towns keep complaining that they are "the bulls to open up the virgin soil".

Why is it so? It is because the Government often puts the responsibility to develop new towns on the investors. We have to realize that it should be the responsibility of the Government to develop the existing land of Hong Kong, and that seeking private developers' help to invest and develop at the appropriate time, though workable, is not reliable. However, the Government's attitude at present is clearly a "parasitic" mode of land development, as it has placed the responsibility of land development almost entirely on private developers. The Government's lack of long-term vision and going after economic effectiveness by disregarding the rights of the general public of Hong Kong is virtually an act to "transfer" the interests of members of the public to the Government itself and the capitalists.

In view of this, I cannot help lamenting that human beings who have created everything should deserve to have a share of the necessities of their livelihood in the building and development of the society, and it is a matter of course that they should be provided housing. So, it follows that two aspects should be taken into consideration in respect of the long-term development planning of the society: On the one hand, there are the people's basic needs of livelihood, and on the other hand there is the society's economic effectiveness to be considered. However, the essential rights of living of the people of Hong Kong, namely the question of housing, has been seriously neglected.

I do not approve of the fact that for its own convenience only, the Government carries out reclamation work recklessly to seek revenue from land sale, and the question of environmental protection of the harbour is ignored. On the other hand, the Government is not keen to proceed with the development of the vast area in the New Territories for the even distribution of population and for the construction of more rental public housing units. According to estimation based on the relevant information, by the year 2001, there will still be over 50 000 applicants on the Waiting List for public housing units. However,

this figure is still only an ideal estimation, and I dare not be optimistic whether or not this can be realized. I am even pessimistic about it, for if the Government insists on increasing the ratio of HOS housing units to rental public housing units, paying no attention to the needs of the society's grassroots, I think the number of applications on the Waiting List would only be on the increase. It is not an exaggeration for me to say so.

In fact, Hong Kong's problem of housing has all along been a big headache, particularly when the Government has underestimated the housing needs of the third generation after the Second World War, making housing shortage all the more serious. Moreover, the population of Hong Kong keeps on growing, and most of the new immigrants are from mainland China, especially those who come to Hong Kong on a One-way Exit Permit for family reunion. Most of these people belong to low-income families. Not only do they find it difficult to sustain a good quality of life, but they also have a keen demand for housing. In view of the problems of this large group of new comers, it is necessary for the Hong Kong society to consider taking certain measures regarding land planning.

Mr Deputy, in view of these new circumstances, as we debate the territorial development strategy today, I think the Government should face squarely the people's problem in housing. It should realize that in the wake of population growth and social development, the problem would be more and more difficult to the situation. It must not be blindly attracted to the revenue as a result of the spiralling property prices, leaving people in the grassroots, paying exorbitant rents or mortgage payments and waiting endlessly for the allocation of public housing units. It is our view that the Government should not try to shirk its responsibility on these problems any more. Furthermore, the Government should not shift its responsibility to provide inexpensive housing for the grassroots to the mandatory privatization of housing. Should the Government do so, the housing problem after a number of years would only be worse than it is now. It is our hope that in the Government's planning for development, it can commit itself to building more rental public housing units, complete with good infrastructure and adequate community facilities, so that people in the grassroots can live contentment. In this way, they would not complain anymore and say that the Government is driving them to live in the new towns but, as the whole set of facilities cannot keep pace with it, they have to suffer from traffic

congestion and lack of facilities, literally turning themselves into "the bulls to open up the virgin soil". I hope that such a situation will not occur again.

Thank you, Mr Deputy.

**MR RONALD ARCULLI:** Mr Deputy, it was 1993 when this Council debated the same topic, also moved by the Honourable Edward Ho, that I pointed out in my speech that the Administration should learn from experience and not underestimate the dynamic growth of Hong Kong.

Three years later, we received the TDS Review (TDSR) stating that the population in 2011 is assumed to be between 7.5 and 8.1 million instead of the original estimate of 6.5 million. The Administration, I believe, owes us an explanation for this underestimate.

It has taken the Administration six years to come up with the current consultative digest from the beginning of its review on the Territorial Development Strategy in 1990. Why the Administration needs seven years to produce a so-called long-term strategy plan of only 15 years and a mid-term strategy of only five years is beyond belief.

That having been said, I should like now to deal with some specific points. Firstly, old industrial areas. Mr Deputy, although I welcomed the TDSR which highlights the problem of existing obsolete industrial areas and recognize that the general manufacturing industry has been declining, the TDSR offers no suggestions, let alone definite proposals. With the removal of much of the manufacturing industries, many of the problems associated with industrial/residential interface have been reduced or disappeared, and selective re-zoning should be considered. The re-zoning of selected existing industrial areas to commercial/residential, apart from providing much needed land for commercial/residential redevelopment, may well provide an alternative to excessive harbour reclamation.

Second, office development strategy. The Honourable Edward HO rightly highlighted that most of the planning problems are associated with a mismatch between places where people live and places where they work. From



my point of view, what is presented in the review contains a major contradiction in policy. On the one hand, the TDSR advocates decentralizing office nodes based on railway interchanges to enhance job balance and as a way to regenerate obsolete industrial areas, and at the same time proposes a major expansion of the central business district on further phases of Central and Wanchai Reclamation.

To proceed with this and the proposed Kowloon Point reclamations will undermine any prospect of decentralization. It would appear evident that the Administration places a different priority, namely, that of the sale of newly-formed industrial sites, rather than it does on its professed desire to see or assist in the implementation of the regeneration of older, out-dated urban areas. For new business nodes to develop, the Administration should proactively concentrate on providing the appropriate infrastructure and introducing measures to assist site assembly.

Third, transport infrastructure. Mr Deputy, may I once again refer back to my speech three years ago stating that the production of land and the development of transport and infrastructure has been somewhat out of sequence. Sadly, the statement is still true today. It is amazing for the Administration not to commit to an MTR link to Tseung Kwan O at the outset of the new town development, given the known problems in the first generation of new towns which have no rail link.

Apart from wasted resources and making provisions for a large bus fleet and the environmental consequences in terms of noise and vehicle emissions, a commitment to the railway would have resulted in substantially increased land revenues for the public coffers. If a minimum population was necessary for a rail link to be viable, then the Administration should have developed Tseung Kwan O ahead of Ma On Shan to create one fully serviced new town rather than two inadequately serviced satellite towns. If in the longer term further new town developments are to proceed in the New Territories, then I urge the Administration to ensure that it is of sufficient scale for a proper rail connection from the outset.

Fourth, fragmented land ownership. The TDSR argument against the land-based option is based on the assumption that new layouts will be implemented by the private sector through land exchange without any

government input. Whilst this may be possible in the longer term, particularly if the development potential is sufficient to make the land assembly process viable, it is only one option. However, what we experience here today is, take Tung Chung as an example, in part land-based options but land assembly was undertaken by the Administration through resumption. Formed sites were then sold by competitive tender or auction. To exclude this option for future land-based options distorts the comparison with the reclamation alternative. The Administration should state clearly why this proven option is no longer available.

Next, implementation. Mr Deputy, the TDSR makes no attempt to identify ways to implement its declared objectives other than by existing policies. The inevitable result is that mid-term strategy selects the easiest options for development. By doing so, one likely consequence is that the Administration adopts a double standard to development. It has frequently restricted the development potential of existing sites through the imposition of plot ratio controls in OZPs on the ground of infrastructure limitation, but at the same time proceeded to offer new government land sites for sale. By restricting supply through OZP controls, the Administration reduces the incentive for redevelopment, discourages urban renewal whilst maximising revenues from land sales.

Mr Deputy, in conclusion, while I regret the TDSR offers little new thought and generally re-states well-known problems without offering new ideas on possible solutions, I acknowledge that this document has identified most of the major areas in our development strategy which need to be attended to. Whilst I echo what the Honourable Edward HO has said, that this is a comprehensively presented and professionally prepared document that can be built upon, I want to assure everyone that Hong Kong developers are committed to Hong Kong. They have the financial and managerial resources available, and could contribute significantly if the right policy framework were put in place.

**MR LO SUK-CHING** (in Cantonese): Mr Deputy, although the Government has instituted town planning in recent years, the numerous variables in population

has led to great errors in planning. As a result, the supply of infrastructure, housing and transport is far lower than the demand. The planning of land use and transport should be, in my opinion, co-ordinated with the entire development rhythm of the society, in particular when the Government develops and plans the allocation of land resources, the interests of the whole community ought to be borne in mind.

### *The pressure of growing population*

Great deviations occurred in the Government's estimation of population growth in 1991. At that time, the Government expected that the population would grow to 6.5 million in 2011; however, the population has already reached 6.3 million now. If we get to the root of the cause, we would find that although the birth rate in Hong Kong has become steady and remains low, the Government has underestimated the number of returning emigrants and new immigrants from the Mainland. On the one hand, Hong Kong people have the freedom to enter or leave the territory and so the people emigrated in earlier years can return to Hong Kong at any time; on the other hand, other than the 50 000-odd new immigrants holding One-way Exit Permit who come to settle in Hong Kong each year from China, the children of Hong Kong citizens who were born in the Mainland will also have the right of abode in Hong Kong.

As for the quality of our population, what we are facing are the increasing complexity of the background of the population, the expanding disparity between the rich and the poor, and the difference in cultural level, habits and customs. When the Government formulates the social development strategy, these issues have to be faced squarely. The Government should try to co-ordinate not only in respect of the hardware, but also in respect of the software, such as education and community integration.

### *The demand for housing*

Mr Deputy, the Government has all along been pursuing a high land price policy, which has resulted in the lofty prices and rents of properties. Hong Kong now ranks third in the world with its high property prices. At present, in order to soothe the needs for housing, the Government plans to sell the Home Ownership Scheme (HOS) flats to public housing tenants only and to allocate more land for the building of low-density luxury residences, but it has no intention to meet the target of constructing 40 000 public housing units each year. It seems that the Government does not intend to completely solve the problem of

housing.

It is expected that 580 to 850 ha of land will have to be developed in the coming 10 to 15 years. I suggest that the Government allocate the land sensibly to build more public housing, HOS and Sandwich Class Housing Scheme estates in order to meet the housing needs of the lower-middle class (including the new immigrants).

### *Transport Planning*

In the last ten years or so the Government has been actively developing the New Territories and building new towns, hoping that the people living these districts would be self-sufficient. However, with the economic transformation, and the manufacturing industry declines, whereas the infrastructure in the new towns provided by the Government is inadequate, especially in the aspect of transport. On the other hand, the private sector is reluctant to invest in the new towns, resulting in inadequate job opportunities in these districts and the influx of labour into urban areas in search of jobs, which further aggravates the traffic problem. The dilemma faced by Tuen Mun and Yuen Long are typical examples.

I propose that high-capacity mass transit networks be developed among the new towns and between the new towns and urban areas, so as to disperse the dense population. With regard to transport planning, the Government should have foresight to co-ordinate the development of new towns and the growth of population.

### *Direction of development*

In land development, the Government should give priority to the opening up of land in the New Territories, followed by speeding up the rebuilding of old areas. Reclamation should only be considered when environmental protection and sea traffic are not affected, and when it goes in line with the overall planning. In the case of reclamation, the Victoria Harbour, one of the best harbour in the world, should not continue to be disrupted. The Government can take other areas into consideration, such as the Tolo Harbour or other appropriate bays.

Mr Deputy, the focal points of development in Hong Kong should be placed on key economic sectors and the aim is to expand the present and

potential industries, such as services, finance, information and technology, in order to maintain the status of Hong Kong as a financial centre of the Asia Pacific region, an international economic city and a shipping centre.

Mr Deputy, the goal of the whole development strategy of Hong Kong is to raise the quality of life of the people. To achieve this, the primary targets should be to improve the people's living environment, improve the quality of the population quality and strengthen community integration.

Mr Deputy, these are my remarks.

**MR WONG WAI-YIN** (in Cantonese): Mr Deputy,

*The problems of transport planning in Hong Kong*

In view of the rapid growth of population in Hong Kong, the Government has been developing new towns incessantly in the past 10-odd years in order to alleviate the congested condition in the urban areas. But unfortunately, in planning for these new towns, the Government has very often neglected the provision of a consummate external transport network. Tuen Mun is a very good example from which the Government should learn a lesson. In fact, the new towns are far away from the urban areas and it takes longer time to travel to and fro; it is therefore inadequate to rely only on road networks. To cope with the enormous demand for external transport and to provide the people with reliable, fast and comfortable transport service, it is imperative to develop mass passenger transport facilities, which is also the best choice. However, the Government always lacks foresight in planning for transport network development and is often unable to provide for future contingencies. Furthermore, it has failed to co-ordinate the construction of other infrastructural facilities in the development areas. On the other hand, the strategy of the Government is to wait till the population of a certain area reaches a certain level before it undertakes any planning. Therefore, under most circumstances, the Transport Department would not think about any solution until the traffic becomes congested or the needs for transport cannot be met. Since planning takes a long time and so does construction, the citizens would have suffered quite enough from traffic jam before planning is completed. Ironically, when the facilities are finally built, they can no longer satisfy the even more rapidly growing needs.

*Serious error in population projection*

I have criticized many times in this Council that the Government has committed numerous errors in transport planning and that it lacks a comprehensive and long-term development strategy. Even the planned construction projects are constantly delayed, resulting in deterioration in the traffic problems in Hong Kong. But what surprises and worries me more is that the estimated population figure used all along by the Government as the basis for all sorts of planning has erred seriously recently. In 1993, the Government estimated that the population of Hong Kong will reach 6.5 million by 2011. According to the latest figure, however, the present population of Hong Kong has already reached about 6.3 million. The latest projection by the Government shows that the population of Hong Kong may reach 7.5 million, or even 8.1 million, in 2011. In the face of rapid growth of population, I think that the Government has to adjust all sorts of planning as soon as possible and undertakes detailed feasibility studies, so that the various infrastructural developments can keep pace with the needs in accordance with the latest projection.

*The need to extend the mass transit railways*

In line with the latest population projection, it is imperative for the Government to continue developing more land so as to provide sufficient housing and employment opportunity for the people. To do this, the Government plans to develop the New Territories and the Harbour. At present, the transport link between Northwest New Territories and the urban areas has already become the most serious traffic problem in Hong Kong. I hope that the Government can really learn from the relevant experiences and change the strategy in which transport planning always lags behind area development, so that when it starts planning for the development of other areas in the New Territories, comprehensive and long-term planning for both internal and external transport facilities will be drawn up as early as possible. Other than the construction of more roads, more railway lines have to be developed in order to co-ordinate the progress of the transport network and the major development plans in these areas and in the urban areas. Meanwhile, since there are always deviations between the actual and estimated growth of population, in order to ensure that the transport network is adequate to cater to any the rapid growth in the needs beyond the estimates, the Government should consider providing such transport facilities in advance to protect the newly developed areas and their inhabitants from the adverse effect of inadequate traffic networks and transport facilities.

*Shorten the time for transport planning*

Mr Deputy, there are only 14 years to go before 2011. In terms of the Government's planning for large-scale housing, construction of roads, railways and infrastructure, time is actually pressing. In the 1996 Territorial Development Strategy Review Consultative Digest, the Government set out various schemes and patterns of development for consultation. It will publish the Territorial Development Strategy Review Administrative Report in mid 1997, setting out the chosen development outlines. I urge the Government to see to it that, as soon as the development scheme is chosen, planning for various infrastructure facilities should take place immediately and planning for housing and transport should be done simultaneously.

With respect to the levels of needs for transport in different areas in Hong Kong, the Railway Development Strategy published by the Transport Branch in December 1994 worked out the timetable of priorities and implementation of railway plans. The railway plans were divided into categories A, B and C. In view of the fact that the population growth in Hong Kong now has far exceeded the figure estimated by the Government in 1993, the timetable for implementing various railway plans have to be advanced to cope with the needs. However, the development plans that are given priority, namely the Northwest Railway, the Tseung Kwan O Extension of the Mass Transit Railway and the Ma On Shan Railway have already been postponed. If all these railway plans are to be implemented earlier, or even more railways are to be built to cope with the growth in population, the Government has to put in more resources to shorten the time for transport planning. Moreover, the third overall transport study of Hong Kong will be carried out by the Transport Department in early 1997, which will be a comprehensive research on the transport needs of Hong Kong up to the year 2011. It will be used as the basis for formulating transport strategy. I hope that the Government, on the basis of the data provided by the latest population projection, will draw up a prudent and complete long-term plan for the future development and planning of transport in Hong Kong.

Mr Deputy, these are my remarks.

THE PRESIDENT resumed the Chair.

**MR CHOY KAN-PUI** (in Cantonese): Mr President, the population of Hong Kong has risen rapidly in recent years and now we already have 6.3 million people. According to the present rate of increase of about 120 000 people per annum, the population of Hong Kong will reach 8.1 million by the year 2011 even by a conservative estimation. In the formulation of long-term territorial development strategy, the projection of population growth will play an important and decisive role. However, there are a number of variables in population projection and the three major factors:

(1) *The influx of immigrants from mainland China*

At present, 150 new Chinese immigrants holding One-way Exit Permit enter and settle in Hong Kong everyday. In other words, there are 54 000 people coming each year. As it is stipulated in the Basic Law that Hong Kong permanent residents' children who were born in the Mainland are entitled to the right of abode in Hong Kong, a large number of such children may throng to Hong Kong in the first few years following 1997, and the figure may be difficult to estimate at the present moment. What is more serious is that after 1997, a large number of Mainland residents may come to Hong Kong through legal or illegal means. If the control by the relevant authorities in China and Hong Kong is not effective, projection of population growth will be even more difficult and the situation is worrisome.

(2) *The return of emigrants*

In recent years, the number of emigrants leaving Hong Kong is less than those in the 1980s, while the number of returnees has conspicuously increased. At present, the number of returnees has already exceeded that of people emigrating. After 1 July 1997, if the economy of Hong Kong keeps growing steadily and the development of the economy in the Asia Pacific region continues to be better than those in the Western countries, the number of returnees is expected to increase further.



(3) *Birth rate*

Hong Kong is not a city that controls birth, but the family planning policy has been very successful. However, with the influx of new immigrants, this situation may change and the future birth figure will be difficult to forecast accurately.

In view of the above three major factors, the projection of future population may fluctuate greatly and so it will be quite difficult to have the situation controlled. In the Territorial Development Strategy Review published by the Government in mid 1996, the population was estimated to be 7.5 million in plan A and 8.1 million in plan B by the year 2011. In view of the present trend of population growth in Hong Kong, the 7.5 million estimated in plan A seems to be impractical while the 8.1 million in plan B seems to be a more prudent projection. The rapid growth in population will mean a heavy pressure upon the development of Hong Kong. How can the Government draw up the outlines of a plan that are practical and ensure that the resources will be used effectively? The Government ought to provide for contingencies, meet the needs of housing, transport, environmental hygiene, education and medical care, and ensure the overall development of the society.

Mr President, in formulating the whole plan, I hope that special attention will be paid to the following three points of co-ordination:

(1) *Co-ordination in housing*

The serious shortage of housing is undoubtedly the most knotty problem in Hong Kong nowadays. Moreover, in the next few years, the local population may experience a rapid and drastic change both in terms of quality and quantity. That will directly influence the long-term land and infrastructure policies of the Government. The Government should look squarely at the problem and develop more land for the construction of public and private housing to meet the needs of different strata by speeding up the development of land in the New Territories, redevelop the old districts, and moderately reclaiming land from the sea on condition that environmental protection, sea traffic and town planning will not be affected. The Government should formulate anew the long-term housing policy and build more rental housing to thoroughly solve the housing problem in Hong Kong.

(2) *Co-ordination in transport*

While new towns are developed and more housing units are provided, the co-ordination of transport networks should not be neglected. Due to the transformation of the local economic structure, the concept of self-sufficient new towns which provide their inhabitants with ample employment opportunities has proved to be infeasible. A lesson should be learned from the mistakes committed in the planning for the development of Northwest New Territories. The Government must take a serious look at how to solve the traffic chaos in the new towns. In order to thoroughly ameliorate the serious traffic congestion problem in Hong Kong and to provide for a rainy day, the Government should endeavour to develop high-capacity mass transit networks and to construct as soon as possible the north-south and east-west high-capacity trunk routes and railways so as to link up all of Hong Kong's centres of activities, the various new towns, and the new towns and urban areas together.

(3) *Co-ordination with the development in mainland China*

In formulating the long-term strategy, the importance of mutual influence between Hong Kong and China, especially within the economy of South China, has to be taken into account, since there is a closely related interactive relationship between the two places. The future planning of Hong Kong must be closely co-ordinated with that of South China, each having its share of work and its emphasis of development. In this way, Hong Kong can act as the central port of the Pearl River delta, Guangdong Province and other inland provinces. At the same time, Hong Kong should make the best use of the Mainland as economic hinterland to support its economic development. Therefore, the Government must completely grasp and study the development direction of South China and reach a consensus with the relevant regions in order to formulate a more practical and feasible development strategy.

Mr President, these are my remarks.

**DR LAW CHEUNG-KWOK** (in Cantonese): Mr President, according to the 1996 by-census, Hong Kong's population has increased by about 150 000 when compared with the figure for the corresponding period last year. This increase of 2.5% has brought the local population to 6.3 million, a number far exceeds the demographic projection made by the Government on the basis of the data obtained in the 1991 census. The Government's underestimation of the extent in population growth has resulted in housing shortage, traffic congestion and failure of the other infrastructural facilities to meet the needs of the growing population. The Hong Kong Association for Democracy and People's Livelihood (ADPL) expresses its deep regrets over such a situation.

With the sustained economic growth in Hong Kong, in order to ensure that there will be sufficient land to meet the needs of economic development and population growth, the Planning, Environment and Lands Branch has published the 1996 Territorial Development Strategy Review.

The ADPL thinks that when the Government draws up its territorial development strategy, allocates land and designs demographic distribution, it should take into consideration maintaining balance in two aspects and upholding one principle as the basic key points. First of all, balance should be maintained in population distribution and employment distribution.

The 1996 Territorial Development Strategy Review has listed 21 areas with potential of strategic population growth. These areas concentrate on both sides of Victoria Harbour, in Kowloon Peninsula and in Northwest New Territories. Among them, the reclaimed land on both sides of Victoria Harbour and the redevelopment zones in Hong Kong and Kowloon will accommodate nearly 800 000 people. At present, population in the metropolitan area is already approaching 3.7 million, which amounts to 57% of the total population. As concluded in the 1996 Territorial Development Strategy Review, the population in the metropolitan area will reach 4.5 million in the future.

The ADPL believes that concentration of over 50% of the population in a metropolitan area that lacks consummate planning is a very inappropriate strategy. The over-concentration of population will definitely exert pressure on transport and affect the living environment and activity space in the area. Moreover, the present data show that the working population in the metropolitan area accounts for 76% of the total working population of Hong Kong, therefore

they aggravate even more the transport problem in the area during rush hours. The transport capacity now is unable to cope with an over-concentrated population.

In the 1970s, Hong Kong endeavoured to develop new towns in the New Territories and successfully dispersed the concentrated population to different areas in the New Territories. If the Government does not insist on carrying through this successful policy, not only will the fruit of many years of work be ruined, but numerous problems will arise from the extension of the metropolitan area. As for the past failure of the Government in providing more employment opportunities in the new towns, it should indeed review, in the context of strategy, the whole geographic distribution of economic activities and employment in order to use the land resources more effectively and lower the public's cost of transport.

Also, the ADPL is of the view that the concept of sustainable development should be upheld as the principle in the formulation of development strategy. To cope with the future population growth, it is inevitable to strategically open up the Northwest New Territories. But the concept of sustainable development as the principle should be upheld so as to ensure that the precious natural environment and cultural heritage of Hong Kong are preserved. The Northwest New Territories is the cradle of local culture, and it is also the location of numerous Hong Kong cultural relics and historic sites. However, since at present there is no clear restriction on land use in the New Territories, a lot of private land and farmland have already been turned into carparks, open-air container depots and open-air workshops. The use of land without planning has not only destroyed the environment of the New Territories, but it has also changed the permeability of the land and the circulation system of underground water. That is why extensive floods occur during the rainy seasons and the living and work of local inhabitants are seriously affected.

Other than developing the Northwest New Territories, the Government also increases land through reclamation. However, as the water quality in the vicinity of the Victoria Harbour is already very poor, it will definitely be worsened further by the extensive reclamation inside the harbour with the delay of the strategic sewage projects. Once the water quality is seriously damaged, with the present natural recuperative power and the condition of the harbour, it will be even more difficult to improve the water quality in the harbour.

Moreover, a narrow harbour is obviously detrimental to the busy sea traffic of Hong Kong, and it will indirectly undermine the safety of ships inside the harbour.

In the long run, Hong Kong ought to formulate a clearer and more definite policy on immigration and labour importation, and to keep abreast of the detailed information of departing and returning emigrants so as to strategically control population growth effectively and to provide the essential social facilities. Besides, many Hong Kong residents are now settling down in the Mainland. If the transportation between China and Hong Kong can be improved, more Hong Kong people will be attracted to move to the Mainland. Living and working in peace and contentment has always been an ideal for Hong Kong people. The ADPL hopes that the Government can draw up a long-term territorial development strategy to cope with the rapid growth of population and improve the living quality of the people.

With these remarks, I support the Honourable Edward HO's original motion and the Honourable Miss Christine LOH's amendment. Thank you, Mr President.

**MR LAU WONG-FAT** (in Cantonese): Mr President, Hong Kong has little land but a dense population. With the territory's rapid development, the problem of how to provide sufficient land to cope with the needs of development in different social aspects has always been knotty. The Territorial Development Strategy Review 1996 proposes two development options: the New Territories-biased option and the Harbour-biased option. The review assesses from the point of so-called overall effects and tends to favour the Harbour-biased option. I do not think that is a wise policy.

From the viewpoint of individual aspects, the Harbour-biased option of development may have many advantages. But if the overall long-term interests of Hong Kong are taken into account, there are definitely more disadvantages than advantages in this option and the loss outweighs the gain. By merely looking at the damage caused by reclamation to such excellent and valuable resources as our Victoria Harbour, it can be seen that the Harbour-biased option is not a correct choice. It may be true that there are quite a number of disadvantages in the New Territories-biased option as suggested in the Territorial Development Strategy Review, but these disadvantages can all be overcome.

Mr President, an overwhelming majority of Hong Kong's land resources are located in the New Territories, and more and more important infrastructure facilities, including the new airport, Route 3 and the Northwest Railway, are also located in the region. Moreover, with the rapid growth of cross-border communication and economic activities between Hong Kong and China, it is obvious that putting in more resources to develop the New Territories is a sensible and natural move. As for more effective ways to develop the New Territories, there are of course many planning experts in the Planning, Environment and Lands Branch who can give advice, but there is a very important point to ponder, and that is the Government should provide appropriate conditions and encourage private developers to participate. For example, the use of land can be adjusted moderately and the plot ratio which is too low at present can be relaxed, so that land in the New Territories can be fully utilized.

At present, a lot of areas in the New Territories are designated as agricultural priority areas. This was originally not a bad idea; however, with the rapid development of Hong Kong, the construction of new towns and the decline of agriculture, many of these agricultural priority areas have not been properly used and have laid waste. In order to use the land resources more effectively, the Administration should consider changing the designated use of agricultural priority areas, but subjective decision should not be made.

The population of Hong Kong is increasing at a rate much faster than that estimated by the Government and this has resulted in a great demand for housing. The Heung Yee Kuk in the New Territories has all along stated very clearly that land resources should firstly be used to satisfy the housing needs of the people. In order to alleviate the pressure of the demand for housing, we hope that the Government can plan anew the green belt in the New Territories to make more room for housing.

Moreover, extensive sites are available around Lok Ma Chau, San Tin, Ta Kwu Ling and Lau Fau Shan in the New Territories. Although these areas are close to the border, with appropriate planning and co-ordinated measures, they should have great potentials for development. If the Authority is still keen on reclaiming land from the sea, I think that the Tolo Harbour in the New Territories can be considered. The Tolo Harbour is a more polluted inland sea, but the two new towns located on its two sides, Tai Po and Shatin, are quite developed. The

adverse effect of reclamation in the Tolo Harbour would be much less than that in Victoria Harbour, and it would also be more beneficial economically.

Mr President, when the Government opens up land in the New Territories to meet the needs for housing, the planning for road networks cannot be overlooked. The predicted traffic load and design of the road networks have to be co-ordinated with the needs of long-term development, so that a recurrence of anything similar to the traffic chaos experienced by Tuen Mun residents which resulted from the miscalculation in Tuen Mun's external traffic link can be avoided.

In fact, the errors committed by the Administration in highway design can be seen everywhere. Take the Tolo Highway as an example. As a three-lane highway, it is incomprehensible why when the road gets to near Hong Lok Yuen in Tai Po and near Ma Liu Shui, it changes into two lanes, forming a man-made bottleneck which often causes traffic congestion and accidents. Other than this, the Southern By-pass finished recently between Tuen Mun and Yuen Long again has only two lanes on either side instead of three. Such a design will soon be unable to cope with the rapid growth in traffic flow.

Furthermore, as I have said before, the old highways in the New Territories such as Fanling Highway and Lam Kam Highway should be widened to ensure safety in driving and to enhance traffic flow. I hope that the Government could pay more attention to the needs of the people and co-ordinate on the issue of road construction.

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

**MR ALBERT CHAN** (in Cantonese): Mr President, in July this year the Government released the final report on the Territorial Development Strategy Review (TDSR), which sets out the planning outline for Hong Kong in the next 15 years. The part in the report which arouses the most concern is the underestimation of population growth by the Government in the past, resulting in the shortage in housing and land supply. The Government cannot shirk its responsibility in this respect.

There are, however, commendable points in this review. Although it has taken the Government as long as six years to come up with this report, the review gives the public a full understanding of the direction taken in the review as well

as the rationale behind the proposals of the Government. What I find the most impressive are the three big volumes of reports published by the Government, giving a clear account of the Government's efforts in the last six years, including the various assessments of the economy, environmental impacts as well as the impacts on the people's quality of life. All these were rarely seen in the past.

As stated in the original motion, because of the Government's underestimation of population growth and the demands for housing and other infrastructure facilities, there will be a shortfall of 50 000 to 100 000 housing units between 2001 and 2005. Although the Government has proposed to increase the density of land development and turn a certain plots into residential land to increase the supply of residential units, it still fails to resolve the problem completely. In view of this, the Democratic Party has put forward four recommendations to the Government, including. (1) To expeditiously develop the properties above the Airport Railway stations and increase the plot ratio. In particular, the plots in the Tung Chung Phase 3 development, above the Tsing Yi Airport Railway Station and at the stations of the Mass Transit Railway (MTR) Tseung Kwan O Extension as well as other land with high development potentials can become focuses of development. (2) The Government should complete the planning for the Kai Tak Airport and the neighbouring reclamation area at an early date to make it ready for construction as soon as the airport is vacated in 1998 so that the area can be developed into a new community with a population of not less than 50 000 within five to seven years and a community of 150 000 people within a decade. (3) To increase housing production in Tseung Kwan O and, after the out-bound traffic in that area has been substantially improved, raise the density of development so that after the completion of the MTR extension, there will be an addition of 10 000 to 15 000 housing units. (4) To speed up the development of Northwest New Territories, particularly the Yuen Long and Kam Tin area, to create a new land reserve for Hong Kong. However, I have to reiterate that the Government must plan carefully and have proper arrangements for the infrastructural facilities, transport networks and flood control measures in the regions concerned before implementing any of these recommendations.

On planning for the supply of and demand for land and housing, the Democratic Party considers that the Government must improve the present situation where approvals are delayed because of the red tape and complicated bureaucracy. At present, many lands in the New Territories are owned by private developers, and some of them are non-residential lands or low density residential lands. Recently, some private developers have suggested that if the



Government agrees to increase of the plot ratio, developers can, in addition to building private residential units, assist the Government in the construction of public rental housing and Home Ownership Scheme housing units or assist the Government to develop the government lands in the vicinity of their private lots to help increase the land supply. I think that this suggestion is worth the Government's careful consideration but any decision must be made with the interests of the public in mind. In fact, it is obvious that the Government's current strategy of small districts and low density development cannot tackle the problem of housing shortage. The Government should accept the reality, adopt a policy which allows a higher density in land development and also plan for a mass transit system in co-ordination as soon as possible. At the same time, the Government should also review the current policies about prohibiting the construction of houses on the catchment areas and also the country park policy so as to provide more land for housing construction.

In regard to development strategy, the Democratic Party thinks that the Government should do its best to cut down on land reclamation and inject new resources to speed up urban renewal. Putting the comprehensive redevelopment of old districts in full swing will certainly help to increase the supply of residential units solve the problem of housing shortage. Over the past years, one third of the newly completed buildings have been redeveloped from old buildings, proving that urban redevelopment is a good way to increase housing supply. Nevertheless, because of the question of cost-effectiveness, the ratio of redeveloped buildings will certainly dwindle and so the Government should not turn a blind eye to the land in old districts. Should the Government have the faith and sincerity, it can put in additional manpower and other resources to speed up the redevelopment of old districts. This should increase housing supply in the urban areas substantially.

The objectives of the TDSR cannot be put into effect just by paying lip service and telling fancy lies. In its first Territorial Development Strategy released in 1984, the Government already included the Green Island reclamation project. But 12 years later, the plan is yet to be carried out and the result is land shortage. The Government's misjudgement in planning has resulted in high land prices and high property prices. Sky-high property prices have not only affected industrial and commercial development in Hong Kong, but also added to the already heavy burden of the Hong Kong public. I hope that the Government will learn from the past mistakes and earnestly put the objectives of the TDSR into effect so as to increase land supply and improve the people's quality of life.

The Democratic Party will object to the amendment moved by the Honourable Miss Emily LAU. The Honourable LAW Chi-kwong will speak on behalf of the Democratic Party later on.

Mr President, with these remarks, I support the Honourable Edward HO's original motion.

**MR NGAN KAM-CHUEN** (in Cantonese): Mr President, I thought that with one year of postponement, the consultative digest on the Territorial Development Strategy Review 1996, which was not released until July this year, was going to be elaborately prepared, showing us a complete land development strategy. However, this consultative document which I waited for so long has not brought me the slightest excitement. On the contrary, it has made me even more disappointed.

The consultative document was published one year later than the scheduled time because, as it was claimed, the Government wanted to take public opinion into consideration and decided to insert in the review a comparison between the advantages of reclamation and those of developing land in the New Territories.

It is surprising that the medium and long-term development strategies mentioned in the consultative document still focus on large-scale reclamation. How can this be taken as sincerity to listen to public views? The Government has in fact ignored utterly the people's objection to unreasonable reclamation projects!

The Government proposes to reclaim 636 hectares of land from the Victoria Harbour. In addition to the 661 hectares already reclaimed from the harbour in the past few years, almost 1 300 hectares of land will be reclaimed from the Victoria Harbour. As a result, the width of the harbour will be reduced to merely 860 m. The narrowed channel and the straightened shoreline will make the sea current more rapid, causing threats to ships of smaller power.

There were only 163 accidents of vessels colliding in the harbour in 1991, but the figure has risen to almost 400 at present.

Reclamation only provides the Government with an excellent opportunity to make more money. According to a government report, the population ratio between the New Territories and the metropolitan area is 4 : 6, which will become 4.4 : 5.6 in 2011. It will be the trend of the future for people to move to the New Territories. Reclamation is not a means to increase housing, but a means for the Government to earn a huge profit of \$300 billion by auctioning the large plots of reclaimed land. The Government has made a big profit. But is it sacrificing the safety of the ships sailing in the channel and the natural ecological environment of the Victoria Harbour?

In view of the ever increasing transport activities between Hong Kong and China, the Government should change its traditional concept of land development and gradually shift the focus from Hong Kong Island or the Kowloon Peninsula to the Northwest New Territories.

The Government has all along viewed the Northwest New Territories as countryside and, other than adopting a low-density development policy, has reserved 63% of the land in the New Territories for agriculture and recreation. From the viewpoint of resource benefit, this is obviously a waste.

In the last 30 years, agriculture has declined gradually in Hong Kong. The agricultural market accounted for 3.4% of our gross domestic product in 1961, but it dropped to 0.2% in 1994.

I think that the government officials responsible for the planning of land use in the New Territories should spare some time and make a trip to the New Territories, trying to see for themselves how much land is still in use for agricultural production.

Thirty years ago when I first moved to live in the New Territories, there were green fields with crops everywhere, and Yuen Long still abounded with Si-miao rice. However, with the development of our society, especially in the last decade or so, it has become very difficult to find paddy fields in the New

Territories. Even if there are a few remaining ones, their sizes are small and they too have to face the fate of gradual extinction.

Most of the farmlands have in fact long been deserted, but the government officials have disregarded the change and stuck to old ways. As a result, while there are lands unused, reclamation is done at random and the ecology is damaged.

As for the 35% of land left in the New Territories, they are designated as low-density development areas as well. Take Northwest New Territories as an example. Only 54 000 people live in an area of over 1 000 hectares. On the contrary, over two thirds of Hong Kong's population live in crowded conditions in about 10% of the land in Hong Kong.

The Government ought to review anew the present land use in the New Territories, including the agricultural policy. It should change the ineffective use of land to enhance effectiveness, and stop concentrating all its efforts on reclamation.

The Government always says that there are a lot of constraints in developing the New Territories. The development is not cost-effective and so it is better to reclaim land from the sea. I have raised strong objection to this point on many occasions. Floods, scattered land ownership and inadequate infrastructure are merely technical problems. The biggest problem is actually the Government's lack of sincerity in developing the New Territories.

I would like to take the government officials concerned to an imaginary tour of the New Territories. First of all, the supply of water and electricity would not be a problem since the drinking water of the urban area is imported from China via the New Territories. On the other hand, most of the power stations are located in the New Territories, and 70% of the inhabitants in the New Territories are supplied with gas. From this we can see that the basic infrastructural facilities have already existed in the New Territories. As for other problems, they are no more than those of drainage and transportation. The deficiency in drainage system is exactly the cause for constant floods in the New Territories and the Government's should be held responsible for them. But now

the Government is trying to shift the responsibility to the ordinary people. Does it want the people to build drainage pipes and roads by themselves?

With regard to transportation, I have heard a fallacy suggested by the Government which is most ridiculous. The Government says that whether it is at present or in the future, almost 80% of the jobs still concentrate in the Metro area. If the focus of development is turned to the New Territories, the number of people working and living in two different areas will increase and it is both time-consuming and troublesome for the New Territories inhabitants to commute a long way to work in the Metro Area. However, if this should happen, it is only because the Government fails to create job opportunities in the New Territories and to provide cheap and efficient modes of transport. Does the Government think that the inhabitants like to spend a whole lot of time and money on transportation? It is hard for me to imagine that, time after time, the Government is shifting its own responsibility to the people! Both drainage and transportation are infrastructural facilities and the Government is duty-bound. The Government should stop shirking its responsibility with all sorts of excuses.

Besides, as regards the strategy of developing land in the New Territories, low-density development is no longer appropriate due to the rapid growth in population. I suggest that a development strategy committee be set up to focus on the development of the New Territories and to formulate the future reclamation and territorial development plans.

I met some architects and town planners lately and we agreed that Hong Kong can learn from Singapore's "micro zoning" model of development. We can thus preserve the characteristics of the countryside on the one hand, and make the best use of what we have on the other. Compared with our low-density planning, this model of development can produce on the same area of land 30% more housing units for people.

**MR TSANG KIN-SHING** (in Cantonese): Mr President, I would like to discuss two points concerning the Territorial Development Strategy Review. For many

years, Hong Kong had been a place with plenty of rice and fishes until this advantage was wholly neglected by the Government. It allowed arbitrary change of land use in the Northwest New Territories, including the conversion of land into container storage yards. As a result, the area afflicted by flooding has now extended from Shek Kong to Ho Sheung Heung. The continual expansion and shifting of the area of land afflicted by flooding has resulted from a lack of effective monitoring on land use in the development strategy. Consequently, flooding occurs whenever there is a downpour. I hope that more funds will be made available for facilities which can help drain excessive water and prevent floods. This will include not only the dredging of the bend of the Shenzhen River but also the widening of the channels along the Ng Tung River. Only in this way can the declining agriculture in Hong Kong survive.

In regard to reclamation, the Hong Kong Government seems eager for instant benefits. Perhaps this is because reclamation is a quick way to earn money. However, reclamation has adversely affected the fishermen, who are the voters in my constituency. The Government can earn astronomical sums of money, in hundreds of billions of dollars, through reclamation. But in return, the Government has only spent \$0.1 billion on the development of artificial reefs. In addition, the chances for people to have fish for consumption and for the fishermen to catch fish have been undermined. From the standpoint of the fishermen, the benefit they have obtained is small but the loss they have suffered is great. The Government has never tried to shoulder the responsibility of developing the artificial reefs for the benefit of the fishermen. Over the past few years, the Government has only spent \$0.1 billion on a relevant pilot project, which is too trivial to mention. In the next 10 or 20 years, there may not be sufficient catches for people's consumption. For the anglers, they will find that the chances of getting big fishes have become slim. Small fish which were only used as baits in the past are now regarded as gourmet food. As far as the Chinese white dolphins which are regarded as the mascots of Hong Kong are concerned, their number has dropped drastically to 80 due to the construction of the new airport at Chek Lap Kok. Although some experts said that there are still about 200 Chinese white dolphins in the waters of Hong Kong, the mascots of Hong Kong will ultimately be extinct if reclamation continues on the channel leading up to the Pearl River and there is no comprehensive plan for the protection of marine life in the long-term development strategy. I hope the

Government will put in more resources to develop the natural environment and a fishing port as part of its development strategy and solve the flooding problem in Northwest New Territories.

Mr President, here I would like to sing a few verses of a song for Members. The song was probably written some 10 or 20 years ago .....

**PRESIDENT** (in Cantonese): Mr TSANG, please remember that I have made a ruling on this. The words in your song must be pertinent to the question.

**MR TSANG KIN-SHING** (in Cantonese): They are absolutely pertinent to the question. If not, you can stop me immediately.

The verses of the song go like this: "Who has caused the green mountain to change and it is now a filthy place; who has caused the blue sea to change and it is now all polluted ....." This song was written 20 years ago, but up to this moment, the situation still persists, reflecting that the British Hong Kong Government is still making a big profit.

I hope the Government, while making a big profit, can inject more investments back into the territory to benefit those who are engaged in agriculture and fishery, those who love the natural environment and those who are fond of fishing like me so that we can catch some big fish.

Thank you, Mr President.

**MR CHAN WING-CHAN** (in Cantonese): Mr President, the motion today on the "Territorial Development Strategy" certainly cannot be separated from our population growth. In the discussion of Hong Kong's demographic development, a question which should not be overlooked is that the population of the elderly in Hong Kong is on the rise. Alongside with that are a host of problems relating to the livelihood of the elderly which urgently need the whole

community to face up to and come up with a solution.

Among the many problems relating to the livelihood of the elderly, nothing deserves more of our attention than their housing and medical care. At present, out of the 150 000 applicants on the Waiting List for public housing, over 10 200 are elderly singletons, indicating the great demand for housing by the people of Hong Kong and among them the elderly account for a large proportion. It is impractical to tackle the problem by relying on reclamation alone.

It has been suggested that in planning for housing development, the Government should also take into account the demographic structure and future trends, provide various types of non-institutional and institutional units in the new housing estates and also have social workers stationed there to provide outreach service for the elderly tenants. Hospitals and health care centres should be built nearby to cater for the needs of the elderly who suffer from ill-health and chronic illnesses. Regrettably, such a conception as found in Tao Yuanming's *Legend of the Land of Peach Blossoms* is simply unimaginable in Hong Kong nowadays where the price of land far exceeds the price of gold with the supply of land so limited. It is projected that, in 15 years from now, the population may well exceed the predicted 8.1 million, and housing for the elderly will then be in even shorter supply.

As the saying goes, "a small quantity of rice can only produce a small meal". In planning for the future metropolis, if the Government only sets its eyes on the limited areas of land available within Hong Kong, it will only find itself in the predicament of "not able to make bricks as there is no straw". If it can slightly widen its scope, it may find new resources and new ideas.

In the Territorial Development Strategy Review recently released by the Government, what I find most desirable is that the Government has, in making strategic plans for future development, has taken note of the importance of the mutual economical influences between Hong Kong and South China, and has thus developed the concept of "economic integration of South China" in its planning for the economic development and transport infrastructure system. I find this concept very important and should be propagated in solving the



problems of Hong Kong's ageing population as well as housing for the elderly.

As I have said above, with Hong Kong's territorial constraint and shortage of land resources, it is extremely difficult to solve the housing problem of the elderly. But does it mean that there is no way to do it? Not quite. It can be done as long as the Government can face up to the problem positively, such as paying housing allowance to the old people who are willing to return to their home village to settle there or building large-scale villages and multi-care centres for the elderly who are willing to settle in the neighbouring regions. To tie in with the construction of villages for the elderly across the border, the Government should at the same time plan to build hospitals and health care centres on this side of the border for the convenience of the old people when they need medical treatment and emergency hospital services.

With the return of Hong Kong's sovereignty, transport and immigration between Shenzhen and Hong Kong will become increasingly convenient and therefore the above conception can become a reality. On the other hand, as the Government has decided to lift the 180-day absence rule on the elderly recipients of the Comprehensive Social Security Assistance and Old Age Allowance next April, it should be more convenient for those old people who choose to leave Hong Kong for a long time to settle in mainland China where the cost of living is lower. What is more important, I think, is that we should create a reasonably comfortable home for the hundreds of thousands of old people who are now troubled with their livelihood so that they can live out their lives free from worries.

Mr President, it is the Chinese traditional thinking that "the old are to be provided for". It is a pity that in general the elderly in Hong Kong have not received adequate attention and care with most of them lacking security in their retired lives, living in places with appalling living environments and not receiving sufficient medical care. This situation is especially true for the tens of thousands of elderly singletons. We hope that the Government will, when considering the territorial development plans, not just focus on reclaiming land for sale but will at the same time consider the needs of the various sectors in the community and make fairer, more reasonable long-term preparations.

Mr President, these are my remarks. Thank you.

**MR LEE WING-TAT** (in Cantonese): Mr President, the Honourable Albert CHAN has already commented on the whole Territorial Development Strategy Review on behalf of the Democratic Party. I just want to make three additional comments concerning land and housing.

The first point is about the errors in population projection. There is no need for me to repeat this point as many colleagues have already discussed it. In the whole process of planning, we have to be clear about the blueprints of the plans and the relevant strategies; it is also most important that we have a practical implementation programme which can achieve our goals. According to the current Review, it is necessary to strike a balance between reclamation and development of land in the New Territories. I agree to this. One major point of the programme should be to provide sufficient land to satisfy the needs for housing and various other aspects. However, to actually implement the plans in the blueprint within 10 to 15 years, we will encounter many problems. For instance, I once discussed at a meeting of the Panel on Housing of the Legislative Council a plot of land given to us for appraisal. When it was ready for construction, it had already taken 10 years or more, during which time we had to go through nine government departments and 18 procedures. Such an approach has been widely criticized. Besides, conflicts will arise as the interests of various government departments and their focuses on the problem may be different. For example, to the Housing Department, it will be best if they can build more blocks on a plot of land and have a higher plot ratio; the Transport Department's concern will be whether the traffic requirements can be met; while the Environment Protection Department will pay attention to whether the direction of the buildings will be under the impact of serious noise pollution. In the planning process, it is not difficult to prepare a blueprint; what is difficult is how to implement the plans and adhere to the time schedule set down.

Many a time, the powers of various government departments are not in a hierarchy. Say, the Transport Department is under the Transport Branch; the head of the Planning Department is Mr LEUNG and the head of the Housing Department is the Secretary for Housing. All the Policy Secretaries have the same level of power, and that means no one is superior to another. When it comes to a point where they are faced with an extremely serious problem, they

will then form a co-ordinating committee to resolve it. Therefore, I feel that the foremost point for consideration is when a problem arises, how we are going to face it.

Regarding the second point of the implementation programme, I want to talk about the safety margin. When the first report was released in the 1980s, the Administration set down plans on how much land to be provided every year or every five years. History has proved that in the past the Government was very conservative in its allowance of the safety margin which was around 5%. Once a problem arose in the safety margin, it would be difficult to find more land. Therefore, the safety margin would become a shortfall and the shortfall would gradually accumulate. Our experience has shown that problem of the safety margin will arise, whether in the supply of land or construction of housing. Hence, we should adopt a greater safety margin or allow a higher ceiling to compensate for the deviation and miscalculations which are not foreseeable during planning.

Mr President, I feel that we have to make a fundamental change in the first place. Sometimes we would consider the implementation programme and the production from the angle of the blueprint. But can we look at it in the reverse direction? Suppose 100 000 housing units are to be constructed in 2001, let us work backward to consider what procedures or approaches have to be taken between now and five years later in order to have that many buildings constructed. In other words, to achieve the final goal, some procedures have to be shortened or even cancelled.

Mr President, the second major point concerns with planning, which involves the conflicts between the so-called perfectionism, environmental protection and housing supply. Mr President, I do understand the Planning Department and the Planning, Environment and Lands Branch have a stronger tendency towards perfectionism in the design of the city. It is comprehensible that whether they are architects or town planners, they tend to design a beautiful city. I sympathize with them and I understand them. But when various needs arise in society, we have to keep shifting the balance. In other words, when the community is under a greater pressure in terms of land and housing supply, we have to lower our expectation of perfection in planning. As regards environmental protection, we may also have to make some sacrifice. Personally,

I also wish to live in a low density residential area with a garden outside my house rather than in a high density 18-storey building but our society just cannot afford that. When the land supply does not allow us to have such wishes and when we are faced with the so-called contradictory demands, we have to make adjustments according to the demands of the people in present-day society. That is to say, we have to strike the right balance. With regards to society, we have to attend to the various problems concerning population growth and new immigrants in the coming five to 10 years and set the balance at the point where the emphasis is on increasing land and housing supply.

Mr President, the third point I would like to talk about is the response mechanism. In fact, there is no such thing as a perfect plan or a perfect blueprint. Therefore, when society undergoes changes, it is very important whether the whole social framework and the whole governmental structure can respond quickly to the changing demands. In particular, housing problem is unlike baking bread where you make a dough today and have the bread ready tomorrow. The response mechanism is very important. We have to know, after gathering up-to-date information on the population, changing social demands and the people's aspirations, how we can translate the information into a new planning programme quickly through an internal mechanism. Let me give an example. In 1986, the metropolitan area accommodated three million plus people, but this year, are we still accommodating three million plus people? When land is in short supply, do we need to make some adjustments? Is the Planning, Environment and Lands Branch responding fast enough to this problem? Such response mechanism is also very important to the work in other areas. Otherwise, when we are faced with new challenges, it may take us longer time to deal with the new demands.

Mr President, these are my comments on the above points. Thank you.

**MR CHENG YIU-TONG** (in Cantonese): Mr President, in the last few years, because of changes in the political situation and policies, there have been rapid demographic movements in Hong Kong. The 150 new immigrants arriving from mainland China every day are mostly unskilled or have received little education. Of course, among them there are also those who are well-educated and highly skilled. Therefore, apart from improving the co-ordination of manpower resources to deal with local workers' problems concerning changing

jobs and employment, Hong Kong must also be well-prepared for the overall planning on "social engineering" for the ever increasing number of new immigrants, particularly the utilization of industrial land to assist the local industries. Therefore, the creation of more employment opportunities appears to be even more important.

I still remember the time when the Government was very keen on developing satellite towns to regulate the distribution of population in Hong Kong and to establish the planning direction of self-contained towns. It was a good idea originally. However, as everyone knows, along with the structural transformation of Hong Kong's economy, local industries have kept shrinking and that has led to a drop in the number of job opportunities and jobs are falling short of the demand for employment. This change has also jeopardized the development of our town planning. In the Territorial Development Strategy (TDS) Review, the Government has obviously freed itself from the development model of satellite towns. Some of its plans have been made to tie in with the return of Hong Kong's sovereignty and the recent economic development in preparation for the planning of something like "the integrated economy of South China".

Nevertheless, apart from the detailed explanation about the general direction of future land development in Hong Kong, one point worth noting in the TDS Review is the reservation of industrial land in this study. For example, the Government has estimated that 175 hectares of land is to be reserved for the use of general industries and another 397 hectares for special industries. Of course we cannot deduce any result just from the Review about how these plots of industrial land are to be utilized and distributed as the utilization of industrial land still has to depend on Hong Kong's industrial development and industrial policies and only in so doing can the land be fully utilized.

I would like to stress here that with the return of Hong Kong's sovereignty and the interaction between the economies of China and Hong Kong, Hong Kong's industrial policies ought to have been revised long ago. But the Administration failed to anticipate the impact on the local economic structure by China's reforms in the late 1970s and failed to support industrial development and technologies. Also, it has not considered seriously the formulation of any corresponding policies. As a result, many industrial investors, faced with the lack of a conducive environment and the increasingly keen competition, have decided to relocate their undertakings elsewhere after having considered the

various interests. There was a lack of investment and development in high technology. Consequently, the development of local industries has been completely crippled in recent years.

Looking at the revised forecasts of Hong Kong's external trade in 1996, especially those of domestic exports, we can see that the growth is even lower than the predicted zero growth. The revised figure is a negative 5.5%. Fortunately, owing to the 9% real growth in re-exports, the overall exports could still maintain a growth of 6.5%. The growth in total value of exports in the first three quarters of this year is only 4%. Obviously, it is the continuous shrinking of Hong Kong's manufacturing industry that has led to the negative growth in the forecast of our export trade.

Mr President, the lack of an appropriate industrial policy and the development of the local "strategic industry" over such a long time has rendered Hong Kong completely helpless in the face of the economic transformation. In fact, the structural unemployment in Hong Kong is the result of the shrinking local industries. That Hong Kong's industries are shrinking has repeatedly played jokes with the Hong Kong Government on its planning of industrial land but these jokes are not amusing at all.

Everyone knows that the biggest landlord in Hong Kong is the Government. The Government has always insisted on a so-called *laissez faire* policy of non-intervention and its main revenue has been from land sales over the years. As the saying goes, "Cut open the hills and take away the rocks year after year; it makes good profit by reclaiming land from the sea and digging up the ground." Yet, the problem is not whether the Government's revenue from land sales is good enough or satisfactory; but that the Government seems to have turned a blind eye to the fact that many plots of industrial land have failed to attract buyers in recent years and that it has continued to ignore the development of the local industries, letting them go on shrinking.

With the return of Hong Kong's sovereignty fast approaching, I hope the Government will expeditiously conduct a comprehensive and in-depth review and planning on the territorial development. We not only need the hardware of planning but also the co-ordination of adequate and reasonable software. The Government should formulate suitable policies on employment, housing, social integration and other issues as soon as possible and should stop "drawing a circle on the ground to restrict itself". It should not rely solely on reclamation from

the sea, thus ignoring the needs of the whole community as a result of Hong Kong's population growth.

Mr President, these are my remarks.

**MR LAW CHI-KWONG** (in Cantonese): Mr President, I am speaking mainly on behalf of the Democratic Party in response to the amendment moved by the Honourable Miss Emily LAU.

Miss Emily LAU has just indicated clearly in her speech that she does not want to control births in Hong Kong, nor is she against the arrangements for people coming from the Mainland to join their families in Hong Kong. She only wants to set a limit for cases not belonging to the category of family reunion.

The Democratic Party is against the introduction of a birth control policy. It is also of the opinion that priority should be given to cases where people are coming for family reunion. As regards whether Mainland residents, for reasons other than family reunion, should be stopped from immigrating to Hong Kong, the Democratic Party thinks that this is open to question. I believe that many people in Hong Kong do support the idea of allowing some Mainland professionals to immigrate to Hong Kong.

The quota for new immigrants was raised to 150 per day as from 1 July 1995. One major reason for this is that the Basic Law provides that children born in mainland China of Hong Kong permanent residents have the right of abode in Hong Kong. To avoid a massive influx of the said children after 1 July 1997, the Government thereby raised the daily quota for One-way Exit Permits. At the beginning of this year, the Government estimated that by 1 July 1997, there would still be 29 000 children in China qualified to immigrate to Hong Kong under the Basic Law. In other words, the above-mentioned crisis of an influx of children in mainland China of Hong Kong permanent residents still exists after 1 July 1997.

The Democratic Party considers that Hong Kong should review the arrangements for people in mainland China to immigrate to Hong Kong. At present, since the handling of applications and the granting of approval are all handled by the relevant authorities in China, Hong Kong can neither decide on

the priority for different people to come, nor can we have in hand the precise figure of applications. I hope that this Council will in future have a more in-depth discussion on how Hong Kong can participate in the handling of applications and the granting of approval.

As for Miss Emily LAU's amendment of "imposing a cap on population growth", because the wording can lead to misunderstanding, it would give an impression that the Legislative Council is in support of birth control or is against the policy of allowing Mainland residents to come to join their families in Hong Kong if it is passed. Though the Democratic Party agrees with some of the points mentioned by Miss Emily LAU in her speech, we have to object to her amendment.

I so submit.

**MR YUM SIN-LING** (in Cantonese): Mr President, it seems that the Government has missed out certain things in the planning of land use in the New Territories over the last 10-odd years. The Government has on the one hand overestimated the proportion of agricultural land and on the other hand underestimated the need for land for industrial and commercial use. The most obvious example is that the Government has not allocated sufficient land to be used as the logistic bases to support the planning of the ports, such as land for the storage of containers and vehicle repairs. Consequently, poor co-ordination has arisen in the plans of various departments.

Although the Government has set aside certain land in the more remote areas for the container and vehicle industries, some of these plots fall on fish ponds or some totally unusable areas, still others are simply inaccessible by container trucks.

The container industry has a direct impact on the economic development of Hong Kong and the Pearl River Delta and the import and export of vehicles also plays a significant role in Hong Kong's foreign trade. I hope that the Planning, Environment and Lands Branch and also the Economic Services Branch will conduct an in-depth study to assess the needs of Hong Kong's future economic development, make more site visits instead of emphasizing



environment protection without any attempt to understand the real problems in the community. I hope that the Government will strengthen communication among the various departments through new planning.

Thank you, Mr President.

**DR HUANG CHEN-YA** (in Cantonese): Mr President, I see on the table here a paper about stopping land reclamation. We certainly do not wish to see that land reclamation will go on unchecked until the entire harbour disappears. I wish to speak mainly on the Green Island reclamation project here.

Traffic in the Western District is very congested. Residents in the district are constantly troubled by the traffic problem when they commute between their homes and workplaces. With the opening of the Western Harbour Crossing in the future, congestion in road traffic in the whole Western District will worsen even further. Actually, there is hardly any room for effective development of the road networks to take place in that area.

For years, residents in Western District have hoped that the Mass Transit Railway (MTR) will be extended to the end of West Point but the Government has kept delaying this project. One of the reasons cited is that it has to wait till the Green Island reclamation project to complete before it can go ahead with the development plan in the district. Later when enough people have moved into this district, together with the redevelopment of the old districts, cost-effectiveness can be achieved when the MTR is extended to this district, meaning that there will be sufficient passengers to support the extension of the MTR.

For a long time, traffic in the Southern District is also extremely congested because one side of this district is linked to other places by way of the Aberdeen Tunnel or by climbing up the hill along Nam Fung Road. Therefore, if you listen to the radio every morning, you will certainly hear about the serious congestion in the Aberdeen Tunnel, and traffic there has to be halted intermittently. On the other hand, Victoria Road on the other side of the Southern District is very narrow and is impossible to be widened. In addition, Pok Fu Lam Road is also very congested every morning. If you have driven in that area during the morning when you go to work or have passed by that area after work in the last few weeks or last few months, you should realize that it is

really very congested there. Therefore, residents in the Southern District have to spend over an hour to and from Central when they go to work and come back from work. Residents of the Southern District has long requested the construction of Route 7, a carriageway built along the coast just like the Eastern Corridor, but because the Green Island reclamation project has not yet completed, the construction of Route 7 cannot be carried out.

To the residents of the Western District and Southern District, that the traffic problem has remained unsolved for such a long time is mainly due to the Green Island reclamation issue. The Government had once promised to carry out the work but immediately backed down after being criticized by some pro-China people and now it does not even commit itself to say when the reclamation work will commence. Even an agreement on the MTR project has not been reached, let alone Route 7. Therefore, the livelihood problems of the residents of the Western and Southern Districts still remain unsolved.

After being criticized by the Chinese side, the Government has lost the courage to stand up for the interests of the Hong Kong residents. To this, I feel very sad and angry. I also hope that the environmentalists will understand that they should not oppose reclamation for the sake of ideology. Under certain circumstances, reclamation is necessary. Otherwise, many Hong Kong people will suffer as their livelihood cannot be improved.

**MR JAMES TO** (in Cantonese): Mr President, because of the blunders on the part of the Government in planning during the past, the population growth has been wrongly forecast. It is estimated by the Government that there will be a shortfall of 5 000 units in both the public and private sectors between 2001 and 2004. In the face of rapid population growth, the Government has listed out a number of potential strategic growth areas in the Territorial Development Strategy Review (TDSR), which include reclaimed areas, new sites and renewal areas.

Nevertheless, from the discussions of the Panel on Housing, we learnt that according to the medium-term strategy, out of the 10 high-priority strategic development sites, only the West Kowloon reclamation area and Whitehead can have the housing construction projects completed by 2004 to house 35 000 people. As for the remaining eight areas, the feasibility study is still underway.

Even after the study is completed, land resumption and site clearance will still be required, and traffic and environmental assessments will have to be undertaken by various government departments before site formation can be done and infrastructure both inside and outside the areas provided for. Only after all these have been finished are the sites ready for construction. In other words, from the commencement of the feasibility study to the completion of the construction work, it will take 108 to 140 months. Such being the case, there will be a historic low point in housing production from 2001 to 2006, resulting in a severe shortage of housing units.

The Honourable LEE Wing-tat has discussed several remedial measures. Since we can foresee a number of difficulties in the development of new sites, which will keep us from meeting the target of housing production before 2006, we have to speed up urban renewal.

The population of Hong Kong is growing rapidly but all the new sites are concentrated in remote areas such as North Lantau, the border areas, country areas and North Fanling. Although the Government has planned to expand the transport networks and infrastructure facilities in the above areas, as is pointed out in the TDSR, a problem with the New Territories-biased Option is that two-thirds of the New Territories residents have to go to work in the urban areas. Even though more commercial centres are to be built in the strategic development sites, most of the industrial activities are still concentrated in the urban areas, and this will create a great deal of pressure on our traffic. Therefore, there is a pressing need for the Government to speed up urban renewal so as to fully utilize the potentials of urban redevelopment to provide accommodation for 290 000 people.

The Urban Renewal Policy Statement published in the middle of this year proposes the establishment of an Urban Renewal Authority to co-ordinate and implement some of the renewal work. But it seems that a concrete work schedule is yet to be set to map out when the recommendations in the Urban Renewal Policy Statement can be realized. In the past, the Government normally took three to five years to study the urban renewal policies; for example, the Legislative Council first debated on the issue of urban renewal in 1991, but it was not until four years later that the Government actually published a consultative paper. When the Urban Renewal Policy Statement was released, the Government indicated at the same time that it was studying some proposals

including having the majority of property owners to apply to the court for a mandatory sale of a complete lot. We have to understand that urban renewal is an extremely urgent matter. If the Government still spends three to seven years on studying the feasibility of an option, it means that the study will not be finished until 1999 or 2000 and there is hardly any way that the plan to house 29 000 people through urban renewal between 2001 and 2006 will be realized.

I have repeatedly pointed out that the delay in urban renewal in the past was due to the Government's reluctance to put in resources, and private developers are unwilling to pay a large sum of money to rehouse the evacuated tenants. Being responsible for 90% of the redevelopment work, private developers do play an important role. It is already a sign of progress that the Government has offered to grant sites at one third of the full market value to the Housing Society to rehouse the affected tenants. However, in regard to the effect of speeding up urban renewal, this effort is no more than the attempt to put out a carload of burning firewood with a cup of water. We think that the Government must set a timetable for renewal from now to 2006, clearly mapping out the plan for each year as to what is to be done to fulfil the commitment to accommodate 290 000 people during the six years from 2001 to 2006.

In the foreseeable future, it is not hard to imagine how much attractive the high-priority strategic development sites will be to the developers. In comparison, to carry out urban renewal, the developers have to face such knotty problems as land resumption and compensation. Therefore, if the Government does not put in more resources and come up with a better-conceived and more comprehensive redevelopment plan and timetable, leaving it to the private developers to sort out the urban renewal problems, the result will be that, owing to the problem of capital and other problems, the developers will only choose, or have no other alternative but, to invest solely in new sites. To them, "urban renewal" will become a very marginal project. If, by the end of 1996, the Government still holds on to the idea of "making a big profit with a little capital" and "carrying out redevelopment without any capital", and refuses to put in more resources, thinking that urban renewal can be carried out smoothly on its own through market adjustment, we can foresee that between 2001 and 2006, there will be a severe shortage in housing supply. Hong Kong will return to the situation back in the 1960s with squatter huts everywhere or a whole family cramming in a small room with wooden partitions.

Mr President, these are my remarks.

**MR EDWARD HO** (in Cantonese): Mr President, first of all I would like to thank the Honourable Miss Emily LAU and the Honourable Miss Christine LOH for their support to my original motion and, as a matter of courtesy, I should also support their amendments in return. However, I would still like to raise a few points.

As regards Miss Emily LAU's amendment, first she has mentioned the limits of Hong Kong's development. In my opinion, in theory, if we consider Hong Kong as a separate region, limits do exist. But I feel that the Government should first listen to our views today, that is, we should consider whether the land can be utilized to the maximum, and at the same time estimate where the limits of our future developments lie in order to determine a contingency plan or, as the Honourable LEE Wing-tat has just put it, to establish a response mechanism.

Another problem is, I feel that as we enter into the 21st century, we should look at Hong Kong and southern Guangdong as an integral part, especially as far as the planning of the Pearl River Delta is concerned. By the next century, many Hong Kong citizens may be living in Guangdong or living in Hong Kong while working in Guangdong. In fact, many Hong Kong residents are already commuting between Hong Kong and China, living and working on either side of the border. Moreover, many recreational facilities such as golf courses are located in the south of Guangdong Province. In fact, I do find Miss Emily LAU's points agreeable and I also agree to Miss Christine LOH's ideas on this issue. It is only that Miss Emily LAU was not in this Chamber just now. In fact, Miss Emily LAU's proposal is more on the side of our immigration policy than our population growth. It may be more appropriate to set a cap for restrictive purpose.

I think that our future concerns should include whether the high degree of autonomy provided for us by the Hong Kong Special Administrative Region and the Basic Law will empower us to restrict the mainlanders' entry to Hong Kong and have control over the kinds of people who are allowed to come. Of course, I do not think we should object to family reunion. But whether we support Miss Emily LAU's amendment depends on its wording. When she talks about imposing a cap on population growth, she may arouse a great deal of

misunderstanding and people may even find it frightening. I therefore cannot support her amendment. As for Miss Christine LOH's amendment, I also find her points very agreeable but since my motion already contains the point to "sustain a high quality of life" for the Hong Kong people, I feel that my motion has already covered the part on "continual economic growth" in Miss Christine LOH's amendment, bearing in mind that a high quality of life definitely includes the environmental factor. Therefore, I am not saying that I will oppose her amendment but I will abstain from voting.

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Mr President, first of all I am grateful for the views expressed by Members on the Territorial Development Strategy Review. Some of the views cover other policy areas beyond the scope of the TDS, while some of them are indeed proposals made in the TDS itself. As Members are aware, we are consulting the public on the Review and the Administration will finalize the strategy only after we have thoroughly analyzed the public comments received. The views made by Members in today's debate will also be taken into account. It is therefore inappropriate for me today to respond to the views expressed by Members, but I shall speak on the motion and its amendments.

First, on the background of the Territorial Development Strategy (TDS). Some Members have spoken today as if the TDS Review consultation document is a new one and that the Administration has prepared the review in a vacuum. Some Members will know that this is not true. The first TDS was promulgated in 1984 and updated in 1986. It provided an integrated land use, transport and environmental planning framework to guide the development of the territory. However, taking into account Hong Kong's development changes and rapidly increasing socio-economic interaction with the wider region, especially South China, a comprehensive review was commenced in mid 1990. In 1993, a TDS Review Consultation Digest was published to seek views from individuals, community groups and professional and academic bodies both on the goals and objectives of the TDS Review as well as a number of strategic development options. A good response was received and a comprehensive report on the public consultation was published in 1994.

Just now, we were questioned why the publication of this final consultative

document was postponed for one year to 1995. In fact several Members have already answered the question for me. One of the reasons, as it were, is that although we could have actually published this document in 1995, since there was then a new debate among the community on the issue of reclamation, we had therefore hold back the relevant work and conducted more studies into the needs for a balanced development in this area. Members can see from the debate today that public views have been divided between those who support rapid economic development and those who are concerned about possible adverse impact on the environment arising from rapid growth and development as well as over the question of sustainable development. We are mindful that a reasonable balance between the different sectoral interests will need to be achieved, and a commitment made to the best possible pattern of development within limits set by resource availability and pragmatic compromise, having regard to environmental and other social and economic considerations.

The current TDS Review consultation document is the result of a six-year process, and I stress that at each step of its preparation the public was consulted. We have taken on board the public views we received whenever appropriate in preparing the final recommended strategy, copies of which have been distributed to Members. These include adjustment to population assumptions, land use distributions, transport networks and environmental impact assessment.

Today's motion starts off with a comment on the Government's population forecast. I fully agree that the availability of an accurate population projection is fundamental to the strategic planning of land and infrastructure to meet the needs of the community. I can also appreciate Members' concern on the recent discrepancy in the population projection and population estimates. The Commissioner for Census and Statistics gave a detailed briefing on this to the Legislative Council Panel concerned in July 1996. We must bear in mind that the population projection we had was based on the actual figures from the 1991 Census. In 1995 a population estimate was made which showed that the population at that time was higher than the 1991 projected figure by about 300 000 largely as a result of:

- lower outflow of Hong Kong residents and more returnees;

- more foreign workers in Hong Kong;
- higher birth rate; and
- increased daily quota of legal Chinese immigrants arising from a change of policy after 1991 from 75 persons per day in 1991 to 105 in January 1994 and further to 150 from July 1995 onwards.

I hope Members will look at this in a reasonable manner and appreciate that none of the above could have been foreseen when the population projection figures was prepared in 1991. For example, just a few years ago we were faced with the problem of out-migration. The Administration was urged to adopt all kinds of measures to withhold the "brain drain". Who would have envisaged at that time that so many of our residents would return to Hong Kong and brought their children born overseas with them?

In fact we noted the possible discrepancy as early as 1993 in the course of undertaking the TDS Review. Accordingly, in 1994 we re-examined the demographic trends and migration factor and formulated a new set of assumptions for two broad development scenarios for Hong Kong using higher population figures as our planning parameter so that we would adequately plan for the future housing, transport, infrastructure and economic development of the territory. There is therefore no ground behind the allegation that we have neglected the rising population trend of Hong Kong. Those who have made this allegation may be looking at the situation in retrospect. Using hindsight based on the data in 1995 to accuse a projection made in 1991 for factors not available to those making the projection is, I submit, unfair. Hence the motion to express "regret" on the Government over this matter is rather unfair.

Still on the question of population, the Honourable Miss Emily LAU's amendment to the motion urges the Government to consider imposing a cap on our population growth. I was shocked when I received this amendment. On my part, I do not think this is a feasible solution. It is simply impractical if not totally impossible to implement. I have noted that some Members also expressed grave reservation about such a proposal in their earlier speeches.



There is no one and no country in the world, whether democratic or even draconian, which can artificially impose a limit on its population growth and is able to enforce it effectively. Moreover, imposing such a control on the population of Hong Kong will also mean restricting the migration or return of Hong Kong people, and I am sure Members would not want to see this happen in Hong Kong as an international city. Miss LAU has of course explained in her speech why she has sought to amend the motion. But since there are considerable discrepancies between the wordings of her amendment and what she actually means as expressed in her comments, I cannot indeed accept her amendment.

Many Members have expressed concern about housing and land supply, and justifiably so. This is indeed one of the very areas that the TDS Review wants to address and resolve. It has assumed possible demographic and housing scenarios to produce a planning framework capable of responding to housing demand in future. In other words, the Territorial Development is generally speaking a reactive mechanism, just as suggested by many Members earlier. Let us look at the supply situation of land and housing. Over the last five years, we have been providing more and more land for housing. In 1991-92, 39 hectares of land was provided, and that increased to 65 and 80 hectares in 1994-95 and 1995-96 respectively as a response to further public demands and rising property prices. In short, we have disposed of 134 hectares of land for private housing and 257 hectares of land for subsidized home ownership and rental public housing during the last five years. I would like to assure Members that, up to 2001, we have sufficient capacity within our current plans for a total population of about 6.5 million people. In the next five years, 248 hectares of land will be made available for private housing. Most of these land are for high-density development. This is about 100 hectares more when compared with the total of the last five years. We shall aim to programme for their disposal in a phased and orderly manner, ensuring an even spread. In addition, 327 hectares of new land will be made available for subsidized home ownership and rental public housing. A considerable portion of these sites will be in areas such as Northeast New Territories, Tseung Kwan O new town and Tin Shui Wai new town. A number of strategic growth areas including Southeast Kowloon and Kai Tak airport, the remaining phases of Tung Chung new town and Tseung Kwan O new town and Au Tau-Kam Tin have also been identified in the TDS Review as target areas for further residential development between 2001

and 2006. In addition, we are identifying a list of potential infill sites for detailed feasibility study to provide for more land for housing. These are sites in selected locations previously designated for industrial and unspecified government, institutional and community uses, or sites within comprehensively designed areas where existing community services and other facilities have spare capacity. They also include potential new development sites on the periphery of planned or developed areas to which new roads and infrastructure can be extended without undue difficulty.

Just now some Members have commented that the old or obsolete industrial areas should be converted to residential use. I agree that the potential is there. Indeed we have commissioned studies into this matter and expect to see the recommendations early next year. We shall then be able to review our industrial land policy and where possible, rezone not just part of the old industrial areas but also land reserved for industrial use but not yet taken up as such to meet the more pressing need for housing in Hong Kong. These actions will be lined up when we finalize the new TDS next year. Members may also wish to note that we have been rezoning and giving approvals to applications to convert old or disused industrial sites to other uses. Quite a large number of residential development projects in Sham Tseng, Tsuen Wan and Quarry Bay, for example, and commercial buildings in Kwun Tong, have been developed in this manner. We shall continue to process such applications and give approval to them on their merits. The question of agricultural land was also raised by Members. Perhaps I can tell Honourable Members that the Economic Services Branch is at the moment reviewing our policy on agricultural land. When this review is completed next year, we may then arrive at a better direction on questions such as the future use of agricultural land, the demands for such land and whether or not we should rezone the use of lands currently used for agricultural purposes.

Members have alleged we were, it appears, planning for low density land use and housing developments only in the New Territories. This I cannot understand as the TDS Review document exactly seeks to consult the public on the government plan to develop some parts of the New Territories into high density areas.

A number of Members have spoken on transport issues. I hope Members will appreciate that the TDS deals with overall, major and strategic transport networks to cater for our future development, rather than localized transport facility improvements. The TDS takes into account existing and committed highway and railway systems, and examines the potential and need for future growth. For example, the Comprehensive Transport Study proposals of 1989 have been carried out to extend our strategic highway network both to cater for cross-border traffic and to meet our own territorial transport needs. From such initiatives have come major improvements, including the additional sections of the New Territories Circular Road and Route 3. Steps were taken in 1993-94 to review our future needs for extensions to our railway system, leading to proposals in the Railway Development Strategy for new cross-border connections, links to container port facilities, and a number of major new railway routes. In late 1994, we set up the Major Cross-Border Infrastructure Co-ordinating Committee with China to provide a basis for Hong Kong and the Shenzhen and Zhuhai authorities to jointly consider how to proceed with major new proposals relating to additional cross-border transport links and a new ocean-going shipping channel.

All the above activities and proposals have been incorporated into the TDS Review. Our principal concept is to create a north-south and east-west grid of high capacity trunk roads and railways to connect principal activity roads within the Territory, and to further upgrade our cross-border links with China. All these links are essential to support and reinforce the hub functions of Hong Kong as a service centre and entrepot for the wider region. Moreover, we are planning to launch the Third Comprehensive Transport Study, with a view to reviewing the overall transport strategy in the long term and devising the various transport networks with greater accuracy. This will form a base upon which we will implement the TDS.

In response to the Honourable Miss Christine LOH's amendments to the motion, I believe Members have noted that the TDS Review has indeed examined all possible sources of land supply in Hong Kong to meet our future development needs. In doing so, we have also studied various land use, transport and environmental factors, as well as our economic needs including the needs of our financial, business and industrial sectors, and job distribution patterns.

Our conclusion is that it is neither logical nor practicable to confine Hong Kong's future growth to only the Metro area or the New Territories, as doing so will not be able to satisfy Hong Kong's development needs. We have therefore recommended a balanced approach in forming new land. Furthermore, we will produce a new programme of land production and expedite planning and works in association with the private sector so that land can be formed faster, and transport, community and other infrastructural facilities can be provided in a timely manner.

Miss Christine LOH also raises the question of sustainable development. I am grateful for her views. In preparing the TDS Review and the direction of future development of Hong Kong, we are also very mindful of the question of whether we can maintain accelerated growth without jeopardizing our environmental quality. We also recognize the need to consider the potential of Hong Kong to meet its future needs and to avoid diminishing economic returns due to environmental degradation. There is no doubt in our mind that our community wishes Hong Kong to continue its growth to meet the social and economic needs of its people. It is therefore essential for us to plan for meeting the needs of our expanding population in terms of housing, jobs and infrastructure. But at the same time we also believe it is important to safeguard our natural resources and the environment. We therefore agree fully that we must strike the right balance between development and the environment. In this connection, I have already briefed Members on various occasions in the last few months that the Administration will examine beginning next year whether and how sustainability can be incorporated into our policy framework to integrate planning, environmental, social and economic considerations. This will be a major task and requires the full co-operation and support of all parts of the Government and the community. I look forward to producing recommendations for further consultation with the public and this Council in various phases of our study from 1998 onwards.

Mr President, strategic planning looks into the future. The TDS Review is a forward-looking document. Its primary goal is to establish a broad long-term land use-transport-environmental planning framework within which the necessary land and infrastructure can be provided to meet our development

needs having regard to resource availability and current policies. Since launching the public consultation and publicity exercise in July this year, we have held discussions with 40 institutions and organizations. More than 30 000 copies of the consultative document have been distributed.

We have received about 20 comments and look forward to more in the remainder of the consultation period. We shall then analyze all the comments and views received and publish a report on the public consultation exercise in the form of a summary of comments and our responses. We aim to complete a final strategy in the course of next year so as to set our plans in place and implement them to take Hong Kong into the next century.

Thank you, Mr President.

***MISS EMILY LAU's amendment to MR EDWARD HO's motion:***

"To delete "formulate" and to substitute with "consider imposing a cap on population growth, so as to facilitate the formulation of"."

**MISS EMILY LAU** (in Cantonese): Mr President, I move that Mr Edward HO's motion be amended as set out under my name on the Order Paper.

*Question on Miss Emily LAU's amendment proposed, put and negatived.*

***MISS CHRISTINE LOH's amendment to MR EDWARD HO's motion:***

"To add "so as" after "balanced territorial development strategy"; and to add "in an environmentally sustainable manner" after "continual economic growth"."

**MISS CHRISTINE LOH**: Mr President, I move that Mr Edward HO's motion be amended as set out under my name on the Order Paper.

*Question on Miss Christine LOH's amendment proposed and put.*

*Voice vote taken.*

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

Mr Edward HO claimed a division.

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

**PRESIDENT** (in Cantonese): I would like to remind Members that they are now called upon to vote on the question that the amendment moved by Miss Christine LOH be made to Mr Edward HO's motion.

Will Members please register their presence first by pressing the top button and then proceed to vote 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.

Dr LEONG Che-hung, Mr Frederick FUNG, Miss Christine LOH, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr CHENG Yiu-tong, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr David CHU, Mr IP Kwok-him, Mr Ambrose LAU, Dr LAW Cheung-kwok, Mr LEE Kai-ming, Mr LEUNG Yiu-chung, Mr Bruce LIU, Mr LO Suk-ching, Mr MOK Ying-fan, Miss Margaret NG, Mr NGAN Kam-chuen and Mr YUM Sin-ling voted for the amendment.

Mr NGAI Shiu-kit, Mr CHIM Pui-chung, Dr Samuel WONG and Dr Philip WONG voted against the amendment.

Mr Allen LEE, Mrs Selina CHOW, Mr SZETO Wah, Mr Edward HO, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Michael HO, Dr HUANG Chen-ya, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr Henry TANG, Mr James TO, Dr YEUNG Sum, Mr Howard YOUNG, Mr WONG Wai-Yin, Mr James TIEN, Mr Andrew CHENG, Dr Anthony CHEUNG, Mr Albert HO, Mr LAW Chi-kwong, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE and Mrs Elizabeth WONG abstained.

The President announced that there were 21 votes in favour of Miss Christine LOH's amendment and four against it. He therefore declared that the amendment was carried.

**PRESIDENT** (in Cantonese): Mr Edward HO, you are now entitled to reply and you have three minutes 29 seconds out of your original 15 minutes.

**MR EDWARD HO** (in Cantonese): Mr President, the reason I move this motion today is that I hope Honourable Members will offer more valuable ideas before the consultation period on Territorial Strategy Review ends. It seems that this objective has been achieved now. I thank the Honourable Members for actively speaking on this motion. For the Administration, they can also take this opportunity to explain their grounds in formulating the strategy. The Secretary for Planning, Environment and Lands just mentioned that he did not think that the Government had under estimated the seriousness of such problems as housing. He even spoke in defence of the population figures. I believe that Honourable Members will agree that Hong Kong has been developing very quickly in these few years and that the population is also growing very rapidly. However, the housing problem has not come out in recent years only. I have been in the Housing Authority for a decade and I have participated in debates in this Council on this issue on numerous occasions. Not only has the Secretary said that there is no problem and that the Government can allocate land for housing development, but a number of other Policy Secretaries before him have also said so. However, we can see that there is a problem today. From the viewpoint of the public, we can see the existence of a problem.

I hope that when the Government formulates any long-term strategy, it will see to it that the problems of the past will not re-occur. I hope that, as stated in the motion, there is a high quality of life in Hong Kong. Thank you, Mr President.

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

## **PROVISIONAL LEGISLATURE**

**PRESIDENT** (in Cantonese): Before inviting Mr Andrew CHENG to move his motion, I would like to make a ruling.

Mr David CHU has given notice to move an amendment to the motion. Mr MOK Ying-fan has also given notice to move an amendment to Mr David CHU's proposed amendment. The amendments are set out in the Order Paper and circulated to Members. Members will be aware that all the effective words in Mr Andrew CHENG's motion have been deleted and new words added in Mr David CHU's amendment to replace the proposed deletions. Under these circumstances, if Mr David CHU's amendment, or his amendment as amended by Mr MOK Ying-fan, is agreed to after being put to a vote in this Council, it will mean that this Council will accept Mr David CHU's amended version, or his amended version as amended by Mr MOK Ying-fan, as a substitute for the original motion. In accordance with my ruling on the debate on the motion "that regulatory measures should be stepped up towards statutory public utilities" moved by the Honourable SIN Chung-kai at the sitting of 13 November, after declaring that Mr David CHU's amendment, or his amendment as amended by Mr MOK Ying-fan, has been agreed to by this Council, I shall immediately declare that the motion moved by Mr Andrew CHENG as amended by Mr David CHU, or his motion as amended by Mr David CHU and Mr MOK Ying-fan, has been agreed to by this Council. All procedure regarding this debate will end there. The amended motion will not be put to a further vote and Mr Andrew CHENG will not be entitled to reply.



However, if Mr David CHU's amendment, or his amendment as amended by Mr MOK Ying-fan, is not agreed to, the normal procedure will be followed.

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

"That this Council opposes the setting up of the provisional legislature."

**MR ANDREW CHENG** (in Cantonese): Mr President, I move the motion as set out under my name in the Order Paper.

You and I, Mr President, together with other colleagues here were elected with public support under a system of representative government during the 1995 elections. Today, some of our colleagues are prepared to run in the election for a provisional legislature that has neither legal basis nor public support and which represents a retrogression in democracy. In addition, many political opportunists who previously served as appointed Members under the British Hong Kong Government, and China supporters who failed in the 1995 elections and pledged in their election platforms never to join the appointed provisional legislature have nevertheless jumped on the provisional legislature bandwagon in complete renunciation of their earlier pledge. Why are there so many people running in the election? The reason is very simple. To follow China's directives in all matters and win the favours of the 400 Selection Committee members in every tangible and intangible way is much easier than climbing stairs making home visits and answering people's direct questioning face to face.

Mr President, I am sure you will not dispute the fact that the merit of representative government lies in giving people the power to decide who to represent them and who to cast aside. The setting up of the provisional legislature, however, runs counter to the spirit of democracy in a representative government.

It has been said that Hong Kong people never had the right to elect their Governor under 150 years of British rule. It was only in 1991 that direct election was partially introduced into the Legislative Council. Hence, it is argued that Hong Kong people should accept the present method of selecting the Chief Executive and members of the provisional legislature since this marks the beginning of the return of sovereignty under a democratic government. Those who hold this view, however, have overlooked an important point. Our present Governor takes orders from a government and a parliament elected by the British people 8 000 miles away. Moreover, the International Covenant on Human Rights was ratified by Britain in 1976. In other words, Britain's policies pertaining to Hong Kong affairs are monitored by an elected government and the United Nations. The Beijing government, on the other hand, is after all a one-party dictatorship working through the rubber-stamping National People's Congress (NPC) where no debate of any kind is ever heard. How can we place our confidence in a group of future politicians appointed by this kind of regime?

Mr President, if we look closely at the provisional legislature, we can see that candidates must first be nominated by 10 members of the Selection Committee and then put to a vote by all the 400 Selection Committee members. The election is open to members of both the Preparatory Committee and the Selection Committee. The Selection Committee itself is the product of a small group of people. Already now members of the Selection Committee are openly saying that they will nominate and support each other. One can well imagine the intense lobbying, scrambling for seats and division of spoils behind the scene. There is no legislation or guideline to monitor the whole process; self discipline is the only thing required of all parties concerned. Such activities as the buying and selling of votes and the exchange of benefits are bound to occur. Many people have tried to defend the representativeness of the Preliminary Working Committee, the Preparatory Committee, the Selection Committee and the soon-to-be-established provisional legislature. They contend that these members include businessmen, professionals, respected members of the community and people who have joined (either won or lost) in the Legislative Council elections, thus representing the views of a great majority of Hong Kong people. But if these representatives were to be chosen directly by Hong Kong people through an open and democratic process, would they not be more representative and credible? Is the choice of a million Hong Kong people not better than the selection by a small handful of people? When the power comes from the people, our present Legislative Council must answer to the people.

When the power comes from an autocratic government in Beijing, the future provisional legislature will only answer to the "masters from the north".

Furthermore, Mr President, the Basic Law provides for the formation of the future Legislative Council in accordance with the principle of gradual and orderly progress, with the ultimate aim of having all members elected by universal suffrage. An element of direct election was introduced into the Legislative Council in 1991, paving the way for the ultimate goal. In the 1995 election, while the Chinese and British Governments disagreed on whether the addition of certain functional constituencies was in line with the Basic Law, it remains an indisputable fact that the expansion of the universal suffrage element in this election nevertheless brought us closer to the goal aspired to in the Basic Law. Therefore when working on the establishment of the first SAR legislature, the Chinese and British Governments should discuss ways of retaining, within the provisions in the Basic Law, the element of universal suffrage introduced in the 1995 election. The Chinese side should not repeal the results of the 1995 election simply by denouncing its "three violations" and start all over again by setting up an illegal and "gradually retrogressing" provisional legislature. The setting up of the provisional legislature will only contravene the provision in the Basic Law on gradual and orderly progress leading to universal suffrage.

Furthermore, the method of forming the first legislature has already been clearly provided for in a resolution adopted by the NPC. The provisional legislature is purely fabricated and runs counter to the NPC resolution. I will not go into this matter on which much has been said by legal experts. However, the fact that China acts against a resolution passed by its highest authority will certainly become a joke in the international community.

Recently there were even views that members of the Preparatory Committee and Selection Committee can elect each other into the provisional legislature. This further reinforces the impression that the provisional legislature is a game played by a small coterie. These power-worshipping politicians are bound to become the tools used for "Beijing officials ruling Hong Kong".

Mr President, the provisional legislature cannot represent public opinion for lack of a legal basis. As such, its work hardly deserves any mention. However, the main tasks of the provisional legislature reportedly include

formulating laws which are essential for the normal operation of the SAR, amending or repealing laws as required and endorsing the appointment of judges of the Court of Final Appeal and the Chief Judge of the High Court. These are responsibilities of great significance and may cause an impediment to "Hong Kong people ruling Hong Kong" as well as a smooth transition. Thus it is necessary to point out the dire consequences in order to illustrate the point that the provisional legislature should never be set up.

Mr President, the major legislation that will be enacted and amended will most likely include the Garrison Law, the Election Law and the law in connection with Article 23 of the Basic Law. In view of the many negative comments regarding the People's Liberation Army (PLA) that have been circulating recently, Hong Kong people do not have a good impression of the PLA. How the PLA's future activities in Hong Kong can be regulated is a matter of concern and anxiety to local residents. Hence, it is hoped that if members of the PLA are involved in criminal and civil acts such as tortious behaviour, they can be tried in Hong Kong law courts in the spirit of the common law. However, it would be wishful thinking to expect the provisional legislature, which follows only Beijing's lead, to give serious consideration to the wishes of Hong Kong people.

On the question of the Election Law, elections in Hong Kong, starting from the district board elections, have been going on for years without much controversy. However, as soon as the so-called elections of the Selection Committee and provisional legislature were introduced, they have drawn criticisms from all quarters. Members of the provisional legislature are, after all, selected from within a small coterie and in order to hold on to their appointed positions, they will inevitably come up with all sorts of tricks to devise an election method that is custom made to their own interests. How then can the Election Law enacted by the provisional legislature be fair and just? With this Election Law, the public can never elect the greatest number of legislators with the greatest representation.

With regard to the appointment of judges, it was already pointed out by a highly qualified veteran lawyer that once the provisional legislature is ruled to be unconstitutional, the appointment of judges of the Court of Final Appeal and the Chief Judge of the High Court will also become illegal, whereas the appointment of other judges will remain legal. This is indeed a great joke in the international

judicial circles.

Mr President, Hong Kong owes its economic success over the past century or so, to a large extent, to its excellent and independent judicial system. This is a fact that people of all parties will not dispute. But we must not forget that additions, deletions and amendments must constantly be made by the legislature to the laws enforced by the judiciary in keeping with the times. Hence, the legislature and the judiciary are of equal importance. Now Hong Kong people are only concerned whether the independence of the judiciary can be maintained beyond 1997 but fail to recognize the importance of the legislature in the workings of the judiciary. This is something that we must put right today. The provisional legislature has the power and the time to amend existing laws and add new laws, but its composition and representation and the recognition it gets are very weak. Hence its structure alone has determined that it cannot effectively make additions, deletions or amendments to Hong Kong laws on behalf of the people. Furthermore, as I have repeatedly pointed out earlier, both the Chief Executive and members of the provisional legislature follow only China's lead. It is highly possible that the legislative work of the provisional legislature will be far removed from the general views of Hong Kong people. For example, the Criminal Offence (Amendment) Bill recently introduced by the Government gives a rather lax interpretation of such offences as subversion and secession of state. Reports in the print and electronic media indicate that this move is welcomed by the public. Most of the directly elected and popularly elected Members of this Council support the Bill. However, unfortunately, a number of colleagues who have submitted their applications to run in the provisional legislature election and other colleagues express reservations about this Bill. Some have even expressly stated that this would cause the Chinese side to adopt a more stringent policy on this issue in future. It can thus be seen that the views of those who are running in the provisional legislature election are far removed from public opinion. In their minds, China will play a leading role in the legislative process of the future SAR. Local residents can see clearly from this incident that the provisional legislature will not respond to public opinion but will only be China's rubber stamp! If the provisional legislature formulates draconian laws that oppress the people and fail to represent public opinion, the judiciary can only become a means to aid oppression regardless of how independent and good the judicial system is. We must not be fooled by such remarks as "Hong Kong will continue to prosper if it has a good judicial system". We must not forget that the democratic element in the legislature is

also a key factor. This is also one of the main reasons why democrats, myself included, oppose the setting up of the provisional legislature.

Mr President, two Honourable colleagues will be moving amendments to my motion today. I shall respond to them shortly. But let me first point out here that their amendments are in line with the position demonstrated by TUNG Chee-hwa recently when he criticized the Democratic Party for "opposing everything from the Chinese side" and asked us to accept the provisional legislature. However, I must stress here that the Democratic Party has stated clearly in its platform that it will defend the Sino-British Joint Declaration. What we want is that the Chinese and British Governments honour the promise of an elected legislature. We only hope that the two Governments will implement the Joint Declaration. As a matter of fact, it is not us who have changed, but the Communist Party. We voice our opposition because the Chinese Government's stand is already different from what was stated in 1984. The Democratic Party will never accept reality on the assumption that there is no alternative. We will never follow these two Members and readily become China's tool to control the SAR as.

A legislature must formulate good laws, not draconian laws. A legislature must monitor the government's work through its members on behalf of the people. It works for the good of the public and not for the government or to strengthen the political power of a small handful of people.

The Sino-British Joint Declaration states clearly that Hong Kong people will enjoy "a high degree of autonomy". But with the establishment of the provisional legislature, Hong Kong people will be subject to "a high degree of control". The Joint Declaration also states that there will be "one country, two systems". But before reaping the benefits of "one country, two systems", we will first see the drawbacks of "one place, two legislatures".

Mr President, I hope the British Hong Kong Government will stop evading the question of the provisional legislature on the pretext that it has not yet been officially established. The attitude of the British Government is strong, but not strong enough. It has taken no action whatsoever to prevent the establishment and work of the provisional legislature. For this, I strongly urge the British Hong Kong Government to take immediate legal action, such as an injunction against the work of the provisional legislature, and to request the Chinese side to

honour the Sino-British Joint Declaration which is an international agreement that should not be so easily discredited by the Chinese side. This will prevent the provisional legislature from going any further in future in carrying out any work that will be detrimental to the interests of Hong Kong.

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

*Question on the motion proposed.*

**PRESIDENT** (in Cantonese): Mr David CHU has given notice to move an amendment to this motion. Mr MOK Ying-fan has also given notice to move an amendment to Mr David CHU's proposed amendment. The amendments have been printed on the Order Paper and Members have been advised by circulars on 29 November and 2 December. I propose that the motion, the amendment and the amendment to the amendment be debated together in a joint debate.

Council shall debate the motion, the amendment and the amendment to the amendment together in a joint debate. I will first call upon Mr CHU to speak and to move his amendment to the motion, and will then call upon Mr MOK to speak and to move his amendment to Mr CHU's proposed amendment. After Members have debated the main motion as well as the amendments, we will first vote on Mr MOK's amendment to Mr CHU's amendment to the motion. I now call upon Mr CHU to speak and to move his amendment.

***MR DAVID CHU's amendment to MR ANDREW CHENG's motion:***

"To add " , as the negotiations between China and Britain failed to reach a consensus over the political system of Hong Kong, thereby resulting in the non-convergence of the pre- and post-1997 electoral models for the law-making body of the territory and rendering the setting up of the provisional legislature inevitable," after "That"; to delete "opposes the setting up" and substitute with "calls on the candidates for the election"; and to add "to fulfil, as the target of their participation in political affairs,

the principles of 'one country, two systems; Hong Kong people ruling Hong Kong; and high degree of autonomy' after "of the provisional legislature".

**MR DAVID CHU:** Mr President, I move that the Honourable Andrew CHENG's motion be amended as set out under my name on the Order Paper.

Mr President, our Legislative Council will cease to function on 30 June 1997, not because of China, not because of the National People's Congress, and not because of the Selection Committee, but because how we voted on 30 June 1994. Back on that date, we voted for the electoral reforms by a margin of one vote. A margin made possible by the three officials' votes.

There are six reasons why the Legislative Council's mandate will cease and the provisional legislature must take its place. They are:

- (a) The composition of this legislature does not comply with the Basic Law which will take effect on 1 July next year. This is because (a) the Election Committee was not supposed to comprise all district board members, and (b) the nine new functional constituencies conflict with the spirit of the Basic Law which does not permit directly elected seats in disguise.
- (b) The Legislative Council is constitutionally based on the Letters Patent which expires on 30 June. The Legislative Council could only carry on with China's consent. There is now no such consent, thanks to all the confrontation. There is now no legal basis for the Legislative Council's existence beyond 30 June.
- (c) The provisional legislature is required to pass essential laws for the Special Administrative Region (SAR). Among the laws are those pertaining to immigration, passports, residency status, Court of Final Appeal appointments, and so on.



- (d) There can be no SAR legislature elections during the final transitional year. China cannot conduct these elections in Hong Kong while it remains under foreign rule and when stability is paramount.
- (e) The provisional legislature will be modest. It will deal with urgent and necessary issues only.
- (f) The provisional legislature will enact electoral rules for the first SAR legislature in compliance with the Basic Law without which it cannot be constituted.

Now a word about inclusiveness. The provisional legislature does not seek to isolate anyone. The Preparatory Committee had invited all to participate in the Selection Committee and the provisional legislature.

China, the Preparatory Committee and the Selection Committee are prepared to work with all political parties and individuals, despite how they voted the Legislative Council out of existence, despite the charges levelled against us, despite the motion here today. We will continue to be ready to work with all in the SAR. I hope everyone will join us in building a new future. We are all responsible for our actions and must live with the consequences just as the Legislative Council must now live with the consequences of the 30 June 1994 vote.

Mr President, I beg to move.

*Question on Mr David CHU's amendment proposed.*

***MR MOK YING-FAN's amendment to MR DAVID CHU's amendment:***

To add "at this stage" after "the setting up of the provisional legislature"

**MR MOK YING-FAN** (in Cantonese): Mr President, I move that the Honourable David CHU's amendment be amended as set out under my name on the Order Paper.

I believe Honourable Members are all aware that owing to the collapse of Sino-British negotiations, the existing Legislative Council is unable to straddle 1997. In order to avoid a legislative vacuum, the Chinese Government has proposed to set up a provisional legislature to solve the problem. To the Hong Kong people, the setting up of a provisional legislature is not the best solution to the problem of legislative vacuum. Apart from establishing a provisional legislature, there should be other effective measures to solve this problem. Therefore, when the Chinese Government first proposed to set up a provisional legislature, the Hong Kong Association for Democracy and People's Livelihood (ADPL) immediately put forward its proposal on "another kind of through train" to solve the problem of legislative vacuum instead of setting up a provisional legislature. Regrettably, the ADPL's proposal was just like a footstep in the air, and it has not been accepted.

There are 200-odd days to go before the return of sovereignty in 1997. The establishment of a provisional legislature is now inevitable. How should we politicians face the provisional legislature together with the Hong Kong people? Some of my friends in the political circles said they would withdraw from the establishment in order to boycott the provisional legislature as a whole. However, whether we boycott it or not, the provisional legislature will still appear for sure and the laws enacted by it will just the same affect the Hong Kong people's livelihood and rights after 1997. If we boycott the provisional legislature, are we going to boycott all the laws enacted by it after 1997, including the electoral laws relating to the first legislature of the Hong Kong Special Administrative Region (SAR) in 1998, thus refusing to participate in the election for the first legislature of SAR? If that is really the case, there will be far less enthusiastic people in the political field after 1997 to fight for the rights and interests of the people. This is definitely not what the six million Hong Kong people want to see. Therefore, I hope that those who propose a boycott will think about it again. I always respect other people's own decisions. However, when making any political decision, on top of cherishing a pure motive,

we politicians should most importantly consider whether the consequence of this decision is beneficial to the six million Hong Kong people.

As a matter of fact, after 1997, the majority of the six million Hong Kong people will remain in Hong Kong. Whether the Hong Kong people like the decisions of the provisional legislature or not, their way of life will be affected by them. They cannot stay aloof from the affairs. If Hong Kong people turn a blind eye and a deaf ear to the provisional legislature and take a negative attitude of non-participation. Otherwise the operation of the provisional legislature will be devoid of public supervision and the ultimate victims will still be the Hong Kong people themselves. If the Hong Kong people hope that their own reasonable rights and interests can be safeguarded after 1997, and that the existing effective systems, legislation and way of life will continue after 1997, they must face up to the very fact that the provisional legislature will surely emerge. The most effective way of facing up to the provisional legislature will be to take up this historic responsibility of participating in the provisional legislature while "adhering to the principles". Through participation, they can influence the decisions of the provisional legislature. Through participation, they can urge the provisional legislature to do only its own duties. Through participation, they can monitor the operation of the provisional legislature and the SAR Government to ensure that they will not do anything in violation of the interests of Hong Kong people. This has been the effective method practised by the Hong Kong people or the politicians in the legislature of Hong Kong for more than a decade.

There are two aspects in regard to "adhering to the principles" that I mentioned. Firstly, we have to stand firm on our stance, implement the principle of "one country, two systems" and defend the principle of "Hong Kong people ruling Hong Kong". In the face of any violation of the principles of "Hong Kong people ruling Hong Kong" and "a high degree of autonomy", we must step forward bravely in the establishment and call a halt to it in order to prevent anyone from imposing the kind of political culture and practice in the Mainland on Hong Kong.

Secondly, we have to strengthen the democratic voices in the legislature in order to defend people's rights and interests. Hong Kong is a diversified society

with various interests and views of different sectors. If we want to maintain stability and prosperity in Hong Kong, the most effective method will be to bring the voices of different sectors in our community into the legislature, and urge the Government to fully consider the aspirations of the public and strike a balance among the interests of various sectors when formulating policies.

Earlier, I mentioned that the provisional legislature should only do its own duties, because the provisional legislature is the product of the historical background that there is no "through train" due to the breakdown of Sino-British negotiations. Therefore, the purpose of setting up the provisional legislature is merely to deal with the legislative work that has to be done before the formal establishment of the first legislature of the SAR, for example, approval of taxation and public expenditures, confirmation of the definition of permanent residence, formulation of the electoral laws for the first legislature and so on. Any other work outside the above-mentioned scope should be dealt with by the first legislature.

Mr President, it is undeniable that perceptually it is very difficult for the Hong Kong people to fully accept the provisional legislature. Thus, some Hong Kong people are taking a suspicious and reserved attitude towards the provisional legislature. I think that this is understandable. I would therefore call upon the candidates for the election of the provisional legislature to set themselves as an example by doing things with sincerity, and take "implementing the principle of one country, two systems; defending the principle of Hong Kong people ruling Hong Kong; and safeguarding the principle of a high degree of autonomy" as the target of their participation in political affairs so as to build up people's confidence with practical actions. We agree with Mr David CHU who calls on the candidates for the election of the provisional legislature to fulfil, as the target of their participation in political affairs, the principles of "one country, two systems; Hong Kong people ruling Hong Kong; and a high degree of autonomy". However, the ADPL thinks that in the past, there were opportunities and measures more acceptable to the Hong Kong people to solve the problem of legislative vacuum. The point is that the provisional legislature

in the current stage has already become an inevitable fact. The earth will not stop rotating tomorrow and time will not go back to the year 1984 simply because of our opposition. Therefore, Hong Kong people should influence the provisional legislature through active participation with a rational attitude.

Mr President, with these remarks, I propose to amend the amendment moved by Mr David CHU.

*Question on Mr MOK Ying-fan's amendment to Mr David CHU's amendment proposed.*

**MR ALLEN LEE** (in Cantonese): Mr President, the motion moved by the Honourable Andrew CHENG for debate is that "this Council opposes the setting up of the provisional legislature". I believe Mr CHENG is also well aware of the reason for the establishment of the provisional legislature. I told the Governor, Mr PATTEN, no less than 10 times that his proposed political reform package would have no future, that it would throw Hong Kong into chaos and that it would prevent Members elected in 1995 from "going through". A "through train", however, is a goal that many Members of this Council and people in the community have been fighting hard for the past decade. Talking about a "through train", I believe many Honourable Members of this Council can recall that Members from the Democratic Party said that a "through train" was a "red truck for pigs" and questioned its usefulness. It seems to be Mr Andrew CHENG's hope today that Members elected in 1995 will be able to "go through". Mr CHENG, is this also a "red truck for pigs"?

He said an elected legislature will definitely enact good laws. Take for example Nazi Germany, which was often cited by the head of the Democratic Party, the Honourable Martin LEE, during public debates with me. He often says Nazi Germany enacted draconian laws, bringing harm to the Germans. But he forgot that the Nazi Party was chosen by the Germans and that Adolf HITLER, head of the Nazi Party, enacted draconian laws brought harm to the Germans. Was the Nazi Party an elected body? It was popularly elected. So in light of history, democratic elections will not necessarily produce a government which is supported and welcomed by every person. That government even started the

Second World War, bringing harm to millions of people in the world.

About elections, Hong Kong will certainly have to follow a democratic road. Why will there be a provisional legislature? I think not only Mr PATTEN himself but also many Members of this Council should be held responsible. I remember that when a "through train" was first promoted, a lot of hard work was done to secure an agreement. The "through train" was promoted for Hong Kong's future. Now there is still seven months before the transfer of sovereignty. Some people are making sarcastic remarks. Is there anyone who do not know how to make such remarks? Why do you not think about what you said and did in the first place?

I actually heard Mr Andrew CHENG tell two hosts during the radio programme Talkabout this morning that since the debate today is about the provisional legislature, he would challenge your impartiality, Mr President, in chairing the meetings. He said he had heard that you would like to be nominated for the provisional legislature election and so he would challenge you. I was waiting for him to do that, but he has not done so.

**PRESIDENT** (in Cantonese): Mr Allen LEE, would you like to raise a point of order?

**MR ALLEN LEE** (in Cantonese): No. He called the radio station this morning because the debate today is about the provisional legislature. I think he can go ahead with the challenge.

**PRESIDENT** (in Cantonese): Mr Allen LEE, please wait. Mr Andrew CHENG, is it a point of order?

**MR ANDREW CHENG** (in Cantonese): Mr President, I have heard the Honourable Allen LEE's remarks today. I think he has completely distorted two things.

**PRESIDENT** (in Cantonese): If you want an elucidation from Mr Allen LEE, you must obtain his consent. Mr LEE, are you willing to give way?

**MR ALLEN LEE** (in Cantonese): I am sorry. I only said that today I heard Mr Andrew CHENG say in the Talkabout programme he would challenge your neutrality. I wish to speak on the topic of joining the provisional legislature. His motion is about opposing the establishment of the provisional legislature, so he was suggesting that you would not be impartial. I was waiting for him to challenge you. But he has not done so. That means you are presiding over this debate in an impartial manner, Mr President. So I will not let him explain. It is his business what he liked to say when he spoke just now, but I will not let him say whether my remarks are correct. It is his business what he will say later.

**PRESIDENT** (in Cantonese): Mr Allen LEE, please do not often get the President involved when you speak. (*Laughter*)

**MR ALLEN LEE** (in Cantonese): Mr President, it is not my intention to get you involved. But today I heard Mr Andrew CHENG say he would like to get you involved. I think you are neutral. Though this debate is about the provisional legislature, I think you will adopt a neutral attitude in presiding over this meeting. I have finished with this point.

Now I wish to talk about the question of violation of international agreement as mentioned by Mr Andrew CHENG. I told Chris PATTEN many times that China and Britain had a basic agreement. But he did not listen. Who violated the agreement so that a provisional legislature has to be set up today? I believe everyone knows it. I hope people will not resort to sophistry. The provisional legislature is certain to be set up. I said in this Council that there would be no convergence if the political reform proposal were implemented and that it would be a matter for regret in the development of the local political system. When Chris PATTEN leaves office and returns to Britain on 30 June, he will talk about what he formulated and explain why he did that. But who are

the victims? I think not only Members of this Council but also the whole of Hong Kong are victims. No matter how they attack the provisional legislature today, it will be elected by 400 people on 21 December and will become the legislative body of the Special Administrative Region Government. If the future legislative body does not agree with the Hong Kong laws enacted by the provisional legislature, it may amend them at any time. This is the function of a legislature. This has been and will be the case. So it is already useless to condemn the provisional legislature or speak for a "through train" today. It would be meaningless to continue with the debate. I at first thought that the Liberal Party had better remain silent at this moment, but I have to state our position clearly.

These are my remarks.

**DR YEUNG SUM** (in Cantonese): Mr President, it will be a black day for Hong Kong's democracy when the Provisional Legislature is formed on 21 December. The Democratic Party regards the provisional legislature as a body committing "three violations".

First of all, the provisional legislature is a violation of the Sino-British Joint Declaration. According to the Joint Declaration, the legislature after 1997 should be formed by election. It should be a democratic election rather than a selection by a 400-member Selection Committee.

Secondly, the design and scope of the provisional legislature are mentioned in the Basic Law promulgated in 1990. According to the Basic Law, the legislature after 1997 should also be formed by election instead of being selected by a 400-member Selection Committee. So the provisional legislature is also a violation of the Basic Law.

Thirdly, judging from the findings of a number of opinion polls and the result of the 1995 Legislative Council election, Hong Kong people have expected the legislature after 1997 to be formed by democratic election instead of being selected by a small group of 400 members of the Selection Committee. So the



provisional legislature is also a violation of Hong Kong people's aspirations for democracy.

Based on the foregoing principle of democracy and the rule of law, the Democratic Party is firmly opposed to the establishment of the provisional legislature. The Democratic Party is also opposed to its members joining the provisional legislature.

Mr President, the elections of the Chief Executive and the provisional legislature of the Hong Kong Special Administrative Region are undemocratic elections held among a small number of people. It will completely deprive the people of their right to vote. The provisional legislature so formed will have the following serious shortcomings:

*(1) There will be under-the-table transactions and illicit deals*

Since some members of the Selection Committee will also run in the Provisional Legislature election, it will easily lead to an exchange of votes and mutual support. A serious fault of "people electing their own people" will emerge. An election in which bartering is the means is simply a total violation of the principle of fair and open election.

*(2) Clandestine operation will mean it is hardly accountable to the public*

The procedure in which the provisional legislature is selected by 400 people simply lacks transparency and accountability. There is no need for the candidates to put forward platforms and to answer questions by the public. To be selected, they only need to raise enough votes from the 400-member Selection Committee. Such an election is a clandestine operation.

*(3) It will be led by pro-China forces and the business sector*

After screening by China, the 400-member Selection Committee is basically made up of mostly pro-China people and those from the business sector. It is believed that members of the provisional legislature selected by this small group will be mainly this type of people. They can by no means represent the views and interests of different sectors in the society.

Mr President, to sum up, there are "three violations" and "three shortcomings" in the provisional legislature. Because of the foregoing problems, its members will simply have poor credibility, recognition and representative status.

There is no doubt that the provisional legislature will seriously blemish China's resumption of its sovereignty over Hong Kong and deal a heavy blow at Hong Kong's democracy and the rule of law. The Democratic Party will adhere to the principles of democracy and the rule of law and persist in opposing the establishment of the provisional legislature.

I only want to point out to those pragmatists that if their desire for a position in the provisional legislature prevails over basic principles, it will aggravate the regression of democracy and the rule of law in Hong Kong and do irreparable damage to "Hong Kong people ruling Hong Kong" and "a high degree of autonomy". Political participation is only a means to the goal of safeguarding Hong Kong people's human rights, freedom, democracy and the rule of law. Participants in political affairs should not try to win a seat at the expense of the basic goal of political participation.

With these remarks, I support the Honourable Andrew CHENG's motion.

**MR IP KWOK-HIM** (in Cantonese): Mr President, as the saying goes, "There are all sorts of people in the world." Some people have always deluded themselves while deluding others. If there is something that they do not want to happen, they think that by talking about it ten times or even a hundred times it will really cease to happen. Mr President, the issue of setting up a provisional legislature has already been brought up for discussion in this Chamber for more than three times during the short span of one year since I was elected to this Council. On each occasion, I talked in great length on the causes and effects of the provisional legislature, the legal grounds for its establishment and the specifics of its work and time frame. However, it appears that some of my colleagues still do not understand what it is all about. So as a teacher, I feel that I should not spare myself the trouble of repeating this information once again in the belief that one should "educate without discrimination".

Mr President, the resolutions concerning the smooth transition of Members of this Council under the arrangements for transfer of government provided for in

the Basic Law were all made on the basis of co-operation between the Chinese and British Governments. Serving Members of this Council could be endorsed by the Preparatory Committee as conforming to the provisions and conditions of the Basic Law. In other words, they can become members of the first Legislative Council of the Hong Kong Special Administrative Region (SAR). However, none of these arrangements can be implemented now. Whose fault is it?

Governor Chris PATTEN has been in Hong Kong for more than four years. Hong Kong people will perhaps remember him best, apart from his friendly image, for the unforgettable constitutional reform package that he came up with shortly after he assumed office, a "remarkable achievement" that alone accounted for the impasse in Sino-British relations over the last several years. After 17 rounds of talks on the political system, both sides failed to arrive at a consensus on the transfer of government. The Chinese side announced that Members of the Legislative Council returned by election in 1995 would not be able to serve beyond 1997. Despite the string of hysterical invective launched by the Honourable Andrew CHENG a while ago, the fact remains that this Council will come to an end on 30 June 1997 and nothing will change it. Colleagues who oppose the setting up of the provisional legislature should clearly understand who brought us to this situation today. As members of the legislature cannot serve beyond 1997, the Chinese side has stated on many occasions that the establishment of a provisional legislature would be the only option to avoid a legislative vacuum after the return of sovereignty in 1997.

The second general meeting of the Preparatory Committee already endorsed the terms of reference of the provisional legislature. Mr LU Ping, Director of the Hong Kong and Macau Affairs Office of the State Council, recently spoke on the work of the provisional legislature which includes formulating laws relating to the application and issue of the SAR passport, the creation and use of the SAR flag and emblem, as well as the definition of SAR permanent residence under Article 24 of the Basic Law. Certain laws originally in force in Hong Kong but declared by the National People's Congress Standing Committee to be in contravention of the Basic Law will also need to be dealt with by the SAR legislature in a timely manner. Also, the appointment and removal of judges of the Court of Final Appeal and the Chief Judge of the High Court have to be assented to. Judging from the above, it can be seen that the laws to be formulated by the provisional legislature are essential for the smooth transition of Hong Kong and the effective operation of the future SAR

Government.

Mr President, nominations for the provisional legislature will be accepted up to next Monday. A total of nearly 200 application forms have been requested. The 60 members (designate) of the provisional legislature will be elected by a 400-member Selection Committee on 21 December.

While members of the provisional legislature will only serve for a very short term as its time frame does not allow them to serve beyond 30 June 1998, the responsibilities imposed upon them by their work are extremely onerous. The Chief Executive and members of the provisional legislature should regard serving the people and construction of the SAR as their objective, and work together for the implementation of "one country, two systems, Hong Kong people ruling Hong Kong and a high degree of autonomy". They should strive for the greater prosperity and stability of Hong Kong to prove that Hong Kong is built by us Hong Kong people.

Mr President, with these remarks, I support the amendments moved by the Honourable David CHU and the Honourable MOK Ying-fan.

Thank you, Mr President.

**MR SZETO WAH** (in Cantonese): Mr President, Mr QIAN Qichen, Chairman of the Hong Kong Special Administrative Region (SAR) Preparatory Committee, used the expression "the rice is cooked" when alluding to the provisional legislature. This is a common and well known expression. It has a derogatory connotation and is used to describe a wrong move leading to a *fait accompli* that cannot be reversed. Why did Mr QIAN use such a derogatory expression? Certainly not out of ignorance as to its connotation, but rather, I believe, out of a subconscious reaction. If my conjecture is correct, he must have felt that the decision on the provisional legislature was a wrong move, something done badly.

The fact is, even today, "the rice" is not yet "cooked". Damage can still be averted if the mistake is recognized and immediate action is taken to avoid disaster. It appears, however, that this is nothing but wishful thinking.

This derogatory expression — "the rice is cooked" — is more normally used under the following circumstances: A man and a woman are forced to tie the knot after they have done something improper and the woman discovers she is pregnant without having cultivated real love and understanding for each other. This kind of marriage is mostly doomed to failure and their children, who are innocent, will be made to suffer the dire consequences.

The establishment of the provisional legislature will also lead to infinitely dire consequences.

Firstly, the provisional legislature has no legal ground and contravenes the Basic Law as well as the Joint Declaration. It follows that the laws that it enacts will not be recognized and will always be challenged by Hong Kong people and the international community. It also follows that the legislature that comes into being under the provisions of the Election Law that it amends will also face the same challenge, in much the same way as the AIDS virus is passed on by a mother to her baby.

Secondly, both the Chief Executive and the provisional legislature will come into being through equally undemocratic procedures from within a small group of people in an indirectly appointed Selection Committee. The situation can be compared to the two nostrils. If one's nose bleeds, both nostrils will bleed. If one's nose drips, the two nostrils will drip. If there is congestion, both nostrils will suffer the same. There is a complete loss of checks and balances between the executive and the legislature. It is hardly surprising, therefore, before the Chief Executive is even officially selected, someone is already talking confidently about an executive-led government and commanding strong leadership.

Thirdly, China appointed the 150 members of the Preparatory Committee who in turn selected the 400 members of the Selection Committee. They will in turn select the 60 members of the provisional legislature. This is a process of indirect appointment and inbreeding. How can such a legislature become the organ to represent public opinion in a community of great diversity? It can only be a miniature version of the "invisible hand" of the commanding officer. A situation illustrated by the line "how lamentable, as ten thousand horses stand muted" will not resolve our social contradictions. Rather, it only conceals a

deepening and intensifying crisis buried underneath the surface. The provisions in the Basic Law concerning the composition of the legislature are already undemocratic. The establishment of the provisional legislature goes even further. Not only does it lack legal justification, but it is also even more undemocratic.

Fourthly, under the Basic Law, the judges of the Court of Final Appeal and the Chief Judge of the High Court of the SAR are appointed or removed by the Chief Executive with the endorsement of the Legislative Council. The provisional legislature will disrupt the system of checks and balances between the executive and the legislature. Furthermore, as the provisional legislature lacks recognition, the independence and authority of the future SAR's judiciary will inevitably be affected and questioned.

We must question the motive by looking at the effect. "The rice is cooked". Why must it inevitably create this effect? What then is the motive?

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

**MR NGAI SHIU-KIT** (in Cantonese): Mr President, it is common knowledge that Governor Chris PATTEN's unilateral proposal of the political reform package has caused a hitch in the transfer of legislative power before and after 1997. As a result, the Hong Kong Special Administrative Region (SAR) Government will have to face the adverse consequence of a disruption in legislative work, which is detrimental to a smooth transition in Hong Kong. The Preparatory Committee was thus empowered by the Standing Committee of the National People's Congress (NPC) to consider the various proposals for "setting up another stove" and subsequently decided on the option of having a provisional legislature formed by Hong Kong people to deal with legislative work. This was done to avoid having the NPC legislate on behalf of the SAR or having the Chief Executive do so. This pragmatic approach is not, of course, to the liking of certain people.

Admittedly, Members of this Council are divided over the question of the pace of democratic development. Some look for a "fast food" style democracy of rapid growth, while others talk extravagantly of universal suffrage that is not unlike "instant noodles" in nature. Of course, the majority of Members are still

in favour of a gradual approach to democracy in the interests of the community as a whole. Members basically agree on the general direction in which the development of democracy should take. However, they do not agree on the pace of these developments. On the basis of mutual agreement over the direction of democratic development, it would have been a reasonable option for democracy advocates to continue working with others for the common good of Hong Kong within the establishment under the principle of "accommodating minor differences in seeking common ground". However, these so-called democracy advocates chose to reject the provisional legislature, and Members from the Democratic Party even moved a motion in this Council to oppose the setting up of the provisional legislature. Such a move is truly regrettable.

Mr President, the political reform package tore down the "old stove". Without a "new stove", how can we cook any "fast food" or "instant noodles"? In the light of this situation, the Democratic Party's choice is certainly inappropriate. It is hardly surprising, therefore, that a member of the Party had no alternative but to "set up his own stove" by joining the election for the provisional legislature so as to continue the work of social construction within the establishment of the SAR. As a matter of fact, anyone who opposes the provisional legislature will, of course, not be able to take part in the work of the provisional legislature. In so doing, they have given up the opportunity to raise any dissenting views within the legislature and even the opportunity to draw up legislation on electing the first SAR legislature. To quote the Honourable LEUNG Yiu-chung's motto, this "what-what-what grows out of what-what-what" line of thinking .....

**PRESIDENT** (in Cantonese): Mr NGAI Shiu-kit, you are obviously making a remark which I have ruled to be insulting.

**MR NGAI SHIU-KIT** (in Cantonese): I take it back. But I have already made the remark.

**PRESIDENT** (in Cantonese): Please continue.

**MR NGAI SHIU-KIT** (in Cantonese): If this line of thinking is allowed to

develop, will the Democratic Party be compelled to boycott the election of the first SAR legislature? How then will the Democratic Party work for the benefits of Hong Kong people? How are they going to implement the objective of "Hong Kong people ruling Hong Kong with a high degree of autonomy"? Is this not an early preview of their desire to remove themselves from the parliamentary establishment of the SAR Government? How will they explain to their electorate? Members of the Democratic Party should give these questions serious thought.

Mr President, Hong Kong has entered a critical moment in the transitional period. There is a need for us to build our society in a pragmatic and positive manner. For the benefits of all the Hong Kong people, we urge the democrats to take into account the overall situation and refrain from recklessly blowing the magic flute which will only lead Hong Kong people to drown in the sea. As the Honourable SZETO Wah said, the innocent are made to suffer the dire consequences.

Mr President, I oppose the original motion.

**MISS MARGARET NG:** Mr President, the provisional legislature as proposed by the Preparatory Committee (PC) must be opposed because it is morally and politically wrong, illegal and unconstitutional, in breach of the Joint Declaration and inconsistent with the Basic Law. It is undemocratic, illegitimate, inexcusable and unnecessary. It is against the deepest interest of Hong Kong in that it weakens the rule of law and risks the whole basis of Hong Kong's legal system being challenged.

The Joint Declaration states clearly: "The legislature of the Hong Kong Special Administrative Region shall be constituted by elections". This is repeated in the Basic Law. The provisional legislature is to be nominated and selected by a committee of 400. By no stretch of the imagination can such a process be considered an "election".

Only a legislature constituted under the Basic Law, that is, an elected Legislative Council, can legally exercise any legislative power in the SAR. The PC has no authority to create a *de facto* first Legislative Council which is not elected, and confer upon it legislative power.



When asked to justify the legality or legitimacy of the provisional legislature, the only answer, which has been endlessly repeated — and repeated again today in the amendment to be moved by the Honourable David CHU — is that the political reforms initiated by the present Governor and approved by this Council in 1994 were in breach of the Joint Declaration, the Basic Law and some alleged diplomatic agreement contained in correspondence between Britain and China.

First of all, it has to be pointed out, whatever the merits of such an argument, that it does not provide a legal basis at all, unless the Chinese authorities mean to argue that the Joint Declaration has been repudiated, and China can now do whatever it likes without reference to any promises in that agreement. But Chin has not said so.

It is said that since the "through train" is demolished, China has no alternative but to set up a provisional legislature. That argument does not work either. Let us suppose China has the unquestionable right not to go ahead with the through train. This still cannot justify any arrangement that would breach the Joint Declaration, which is a binding international agreement, and the Basic Law which was promulgated as part implementation of China's promises under that agreement.

The National People's Congress (NPC) decision of 4 April 1990 makes it clear: it is the job of the Preparatory Committee to set up the elected first Legislative Council. The fact that the conditions for the through train did not materialize, simply means it should carry on with that task.

It has been said that elections were not practicable due to the shortness of time. But how can it be so, since the NPC decision has provided for it from the start, and since by August 1994, the NPC had already made up its mind that there would be no through train.

But, Mr President, my opposition to the provisional legislature goes beyond the question of legality. Strict legality may or may not be cured by legal means. I oppose it because it is morally and politically appallingly wrong for a sovereign to withdraw from its promises of democracy to a community on the brink of resuming the exercise of its sovereignty over it.

In 1984, when the draft Joint Declaration was announced, Hong Kong people were told that China would follow a policy of Hong Kong people governing Hong Kong. The executive was to be accountable to an elected legislature and abide by law — law made by that elected legislature. On that basis, they were persuaded to accept and support the Joint Declaration. To renege on that promise, by any means at all, is clearly wrong. To do so by making the word "election" mean something plainly not an election, or the *de facto* first Legislative Council different from the first Legislative Council provided by the Basic Law, is beneath the dignity of any sovereign. Even a sovereign of the most feudal times would be ashamed to go back on his word.

The provisional legislature is without doubt undemocratic. There is no excuse or necessity for such a retrogressive step. It is not as if the present system has been found to be unworkable or bad for Hong Kong. On the contrary, it has worked well and without disruption. It has resulted in greater accountability and transparency. It has stimulated better administration. Social stability has been strengthened through a more constant regard for the needs and the voices of all sectors of the community. The economy has not suffered.

It is not as if the present system has been unwelcome by Hong Kong people. On the contrary, more than a million voted this Council in. Even those who opposed to the system had supported these elections by standing as candidates. Many of them have won in these elections. Whatever their criticism, it could not have been that these elections contravened the Basic Law. For it would greatly astonish me, if my honourable colleagues were to say that they would take part in anything they considered contrary to the Basic Law, in letter or in spirit.

Mr President, this Council enjoys the support of the community, and the recognition and respect of the world. It would be one thing if this Council were to be replaced by a legitimate, democratically elected one. It is quite another to replace it with this illegitimate, non-elected provisional legislature. It is not conducive to confidence, for everyone can see that there can be only one aim behind it: to replace those critical of the Chinese authorities with people who are prepared to be more compliant. This would weaken, or even destroy altogether, the checks and balances which a system with a popularly elected legislature would provide.

The political illegitimacy of the provisional legislature will alienate the public. Its illegality will contaminate its every act and therefore create great uncertainty. Shutting out opposition from the government structure will only force the opposition onto the streets.

For all these and other cogent reasons already voiced, I support the motion and oppose the amendment moved.

Thank you, Mr President.

**MR HOWARD YOUNG** (in Cantonese): Mr President, this week, the Legislative Council is having a discussion on the provisional legislature again. In my opinion the provisional legislature is a *fait accompli*. The cut-off date for application to join the provisional legislature is next Monday, and election would take place on 21 December. The names of the 60 members designate will be announced soon.

Indeed, the greater the number of existing Legislative Council Members join the provisional legislature, the more conducive it will be for the smooth transition. Despite its comparatively short duration, the provisional legislature will need to handle very important ordinances and bills for the Hong Kong Special Administrative Region (SAR). Therefore, current Members of the Legislative Council joining the provisional legislature can surely attribute to the smooth transition of the SAR and the continuity of the operation of the Government, given the experience Members have.

Furthermore, Members can live up to the expectations of their voters if they run for seats in the provisional legislature, as voters have expected them to hold a term for four years. Since the Legislative Council will dissolve when the Letters Patent and the Royal Instructions cease to have effect on 1 July 1997, joining the provisional legislature will enable Members to continue to serve Hong Kong people.

The Honourable Andrew CHENG mentioned that he was elected. I believe all the 60 Members in this Council are. I believe every one of us is

equal, be that person elected in the two municipal councils with several dozen votes, or through the election committee with 100-odd votes, or through the functional constituencies with several hundred votes, or through geographical constituencies with tens of thousands of votes. In regard to voters' expectations, I told Mr Andrew CHENG I was elected through the tourism constituency. When the two candidates campaigned for the seat, we were asked by voters whether we thought we should join the provisional legislature if there was one. Both of us thought we should, and voters felt we were right. Now, if I did not apply to join the provisional legislature, my voters would query me for not living up to their expectations. I even noted that if Mr Andrew CHENG or any Member could gather more than 50% of the voters in the tourism constituency who object to my joining the provisional legislature, I would reconsider the matter. I notice that there have been reports about survey results obtained by a member of the Democratic Party — I am not sure if they were true — showing that their voters would want them to join the provisional legislature and continue to serve the people.

A legislature is an organ for legislation. It is also an institution for reflecting public opinion. Different voices need to be heard. If those who often criticize the Administration for failing to let different voices be heard refused to run for a seat in the provisional legislature, they would be forfeiting a legitimate chance of reflecting different opinions in the establishment.

Current Members of the Legislative Council joining the provisional legislature would not cause any conflict of roles. On the contrary, they can avoid confusion and conflict. With dual roles, Members can distinguish more clearly those matters which should have their discussions completed before 1997 from those which should be left to be discussed in the provisional legislature after 1997.

Some Members have noted that there is no mention of the establishment of a provisional legislature in the Sino-British Joint Declaration or even in the Basic Law. But can I ask whether the British Nationality Selection Scheme, which has aroused a lot of discussions recently, is mentioned in the Sino-British Joint Declaration? It is not. The proposal has even contravened the third memorandum. However, there has not been any Member in this Council who says the Scheme cannot be implemented because it is not mentioned in the Sino-British Joint Declaration. Britain went ahead with the Scheme,

nevertheless. A number of Members of this Council supported it, despite the fact that the Scheme is not contained in the Basic Law. Chris PATTEN proposed an election committee consisting of 200 to 300 district board members, which was inconsistent with provisions of the Basic Law. He went ahead with the proposal, and a number of Members of this Council voted for the move.

Just now some Members said that during the voting process there could be exchange of votes and private deals. But when I handed in my application last week, I had already made public the names of the 10 people who nominated me. They came from four constituencies. None came from the Liberal Party. Last night, Members from the Liberal Party collected some statistics during a meeting to find out how many of the nominators for the 10 Liberal Party Members were members of the Liberal Party. We could hardly find one. Among my nominators, one was from another political party but in the same constituency as mine. So, I do not think there is any vote exchange. We have in fact broken down party barriers to work for the smooth transition of Hong Kong. Of course, we cannot question the stance of the Democratic Party. We need to respect its stance, but I hope the Democratic Party can consider letting its members have a certain extent of freedom. Are those who often condemn the Communist Party for being autocratic themselves democratic? If you would read Chinese history, you would find that the Chinese Communist Party once allowed MAO Zedong and ZHOU Enlai to join the Kuomintang in their own names. This is a historical fact. When you condemn others for being autocratic, are you practising what you preach?

So, I urge current Legislative Council Members, including the President, to apply to join the provisional legislature and start campaigning. I urge them to contribute to the smooth transition of Hong Kong.

**MR ALBERT CHAN** (in Cantonese): Mr President, he is inviting you to join the provisional legislature. Would that not offend you, Mr President? Can you make a ruling?

**PRESIDENT** (in Cantonese): A moment ago, during Mr Allen LEE's speech, I pointed out that Members should not get me involved. But it was somebody noted that when former President John SWAINE was a Member, he had said

something. Now that I am President, some Members noted that while I was a Member I said something. So everything really depends on the seriousness of the matter. Mr Allen LEE was on the brink of raising a point of order. But it would be quite inappropriate for Mr LEE to talk about what Mr Andrew CHENG said on the radio this morning. Similarly, Mr YOUNG, as regards what you have said just now, I very much hope you would not get me involved.

**MR ALBERT CHAN** (in Cantonese): Mr President, just now you said you did not want the Honourable Howard YOUNG to get you involved. However, he already formally made an invitation here for you to join the provisional legislature. I would like you to make a ruling as to whether what Mr YOUNG said was appropriate or was in order.

**PRESIDENT** (in Cantonese): By not involving the President, I mean that the President should be fair, free from politics and political disputes. But Mr YOUNG did not mention anything I said about the provisional legislature, so that was acceptable. However, what Mr LEE said a moment ago seemed to be problematic because he talked about Mr Andrew CHENG and Mr LEE seemed to be raising a point of order. Mr CHENG, you requested to make an elucidation but that was disallowed by me as you could not explain something which was not part of what you said in your speech. However, later in the meeting I will let you explain in your speech. Mr Andrew CHENG.

**MR ANDREW CHENG** (in Cantonese): Most probably I will only have the chance to speak on the two amendments today. If my motion is defeated, I will have no chance to make the final speech.

**PRESIDENT** (in Cantonese): I would consider allowing you to give a full response.

**MR ANDREW CHENG** (in Cantonese): A full response? But according to your ruling today, how can I have an opportunity to give a full response in case my motion is defeated?

**PRESIDENT** (in Cantonese): It is an additional opportunity for you to speak.

**MR ANDREW CHENG** (in Cantonese): But according to what we are informed today .....

**PRESIDENT** (in Cantonese): Mr Andrew CHENG, please sit down. In a joint debate in this Council, it is intended that before the public officer speaks, the mover of the original motion will have five minutes to give a full response on the amendments after all Members have spoken. The mover will be allowed to give a final reply unless all the effective words of the motion have been deleted by an amendment. However, even if the mover does not have an opportunity to speak as in the case of this debate, I will still allow you to give a full response.

**MR YUM SIN-LING** (in Cantonese): Mr President, please allow me to begin my speech with a few lines to depict my observations about the provisional legislature:

"Establish forces to oppose the provisional legislature;  
Oppose the establishment of the provisional legislature;  
Oppose its establishment just before it is established;  
But, alas, it is established despite all the opposition."

This Council has every reason to oppose the establishment of the provisional legislature. If someone wants to undermine what we have been doing, we will surely resist. Of course, those Members who think they may get on the train again will act otherwise. This is a matter of principle, and of material gain. I predict the provisional legislature will be "low in five aspects":

*(1) Low in autonomy*

After 1997, Hong Kong will change from "executive-led" to "executive-dictated". An "invisible hand" will direct the administration of Hong Kong, and the provisional legislature will need to toe the line of China. So it will definitely be low in autonomy.

(2) *Low in attendance*

Owing to its low autonomy, it does not really matter whether there are meetings or not. Some busy Members will be reluctant to attend provisional legislature meetings or they will come late and leave early.

(3) *Low in the number of speeches made*

The making of speeches will not be meaningful as everything has to be at the beck and call of the master, and discussion topics will not be controversial. Hence, most Members will not make an effort to get prepared to speak. So, there will only be a small number of speeches made.

(4) *Low in the extent of representativeness*

Provisional legislature supporters may say that the provisional legislature is representative of public opinion, but compared with the present Legislative Council, which has a strong basis in terms of public opinion, the provisional legislature lags far behind.

(5) *Low in credibility*

It will be difficult for the provisional legislature to be high in credibility in the light of the previous four factors.

As things stand, half of the Members may have to leave the train while half will board it again. But the train they board may be a diminished toy train found in an amusement park. Those who have to leave, however, can retreat to newer, lustier and greener pastures to do meaningful work for personal growth and development or to fulfil social justice and expectations. Just now, a Member mentioned the Nazis. I still recall in a film, a Nazi general asked his fellow soldiers whether God was on their side. Indeed, the audience knew the answer already in their hearts.

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



**MR CHEUNG MAN-KWONG** (in Cantonese): Mr President, just now, the Honourable NGAI Siu-kit quoted what the Honourable LEUNG Yiu-chung said. The quote should have been "what-what grows out of what-what" but I do not know why Mr NGAI said it was "what-what-what grows out of what-what-what". So, Mr President, you might have mistaken. Mr LEUNG Yiu-chung did not in fact say that. No matter what, the provisional legislature will come into existence two weeks later. Since the provisional legislature is inconsistent with the Basic Law and the Sino-British Joint Declaration, its birth will destroy democracy and the rule of law in Hong Kong, and will turn over a dark page for the 1997 return of sovereignty.

In the past, too many people focused their criticism of the provisional legislature from the legality point of view. Today, just before its birth, I will want to depict the second dark page of the provisional legislature from the angle of political culture and people's power in Hong Kong.

First of all, the provisional legislature marks a regression in election culture in Hong Kong. The provisional legislature deprives the six million residents of their rights to vote. A more far-reaching effect is that the provisional legislature will re-establish a political culture of making deals and sharing loots. Just look at the election of the provisional legislature. Only pro-China political backgrounds and relations are stressed. There has not been any political platform accountable to Hong Kong people. Voters only know how to form groups and parties to monopolize votes without any consideration for public interest and democratic rights. A stately provisional legislature election has degenerated into sheer clandestine deals for political power. What they are interested in are not the well-being of the public but mutual support, mutual nomination and deals, and mutual sharing of loots between political groups. Everything is tarnished with political dirt. In the light of all these, Hong Kong people cannot do anything but harbour resentment in their hearts. They cannot even utter a word of protest.

Secondly, the provisional legislature marks a regression in the checks and balances in Hong Kong. Since 1991, when popularly elected seats were introduced in the Legislative Council, a political culture for the monitoring of and checking on the Government has been successfully established. Although the Hong Kong Government still stresses that administration should be "executive-led", it does a certain extent of consultation before administrative policies are formulated. It is common to see Policy Secretaries or even the

Governor answer questions and explain policies in the Legislative Council. Debates, questions, private Members' bills and amendments to ordinances in the Legislative Council have shown public opinion as a driving force to move Hong Kong forward. Now, once set up, the provisional legislature is not going to challenge the Hong Kong Special Administrative Region Government and the Central Government behind it. The provisional legislature would not dare to do so either. This is because its power comes from the same source as the Chief Executive, that is, the Central Government. This is because it is formed through inbreeding and by sharing loots. This is because it need not be politically accountable to the six million residents. There will only be occasional quarrels over the uneven distribution of loots. These criticisms will only be cosmetic. One can imagine the strongman administration of the Chief Executive, "executive-led" administration of government bureaucrats, and a snobbish legislature will diminish civil rights to the position before the Sino-British Joint Declaration was signed. It is regrettable to find a change back to autocracy and conservatism, after 11 years of hard-earned democracy.

Lastly, the provisional legislature signifies a regression in Hong Kong people's power. A system of elected councils and boards is the product of Hong Kong people's struggle for 25 years since the 1970s. From the elected councils and boards gradually comes a value system in which democracy is respected and human rights are emphasized. The enactment of the Bill of Rights Ordinance (BORO) as well as subsequent amendments to various ordinances makes politics on the streets law-abiding politics of peace, part of which has transformed itself into parliamentary politics in which people can reason. Now, the elected legislative assembly is dismantled. People's dissatisfaction lacks a channel for expression. People are forced to take to the streets. When the provisional legislature viciously wants to repeal the BORO using Article 23 of the Basic Law, when the provisional legislature proposes a system catering to the selfish interests of looter groups and stifling popular elections, inevitably confrontations between street politics, an impotent legislative assembly and a government relying on power politics will take place. Hong Kong will thus become more violent but quieter. Violent elements will resist with all their might. Quiet people will have lost faith. Is this the state of affairs we want? Is this conducive to the stability of Hong Kong? The soil of suppression cannot stifle a crater that will burst any time. Autocratic laws cannot keep angry hearts at bay. Even if most of the people keep silent for loss of heart, is this what we want Hong Kong to be in the next 50 years?

In the past, people have regarded the legislature, the judiciary and the mass

media as forces to prevent the Government from abusing its powers. But, when the provisional legislature continually makes draconian laws, the judiciary can only act according to the laws; and the mass media becomes cautious and self-restraining for fear that they may inadvertently step on a landmine and sin against Article 23 of the Basic Law. People will lose their power. All these will not be far away because the provisional legislature, as I said at the start, will turn over a new dark page.

Mr President, with these remarks, I support the motion and oppose the provisional legislature.

**MRS ELIZABETH WONG:** Universally, taking part in the conduct of public affairs is regarded as a basic human right, and it is increasingly prized by people throughout the world. This right is proclaimed and guaranteed by the International Covenant on Civil and Political Rights and is recognized in many treaties and declarations, including the Sino British Joint Declaration and indeed the Basic Law.

In addition, the rights of citizens to take part in the conduct of public affairs, particularly through elections — which are important and often essential steps towards the democratization of societies — require to be exercised meaningfully. All these rights must be open to equal participation without distinction or discrimination of any kind, and with the assurance of free and fair elections which are in themselves an essential element in the full enjoyment of a wide range of human rights.

Now, Mr President, without wishing to repeat the cogent arguments including the poetic essay advanced against the setting up of the provisional legislature, I would like to look at it from an additional angle.

Honourable colleagues in this Council may wish to be reminded of Article 25 in the International Covenant on Civil and Political Rights (ICCPR) which includes, *inter alia*, the following:

Every citizen shall have the right and the opportunity without any unreasonable restriction:

"(a) to take part in the conduct of public affairs directly or through freely chosen Representatives" and

(c) to have access, on general terms of equality, to public service in his country."

Now we all know that the provisions of the ICCPR as applied to Hong Kong are embodied in Article 156 of the Sino-British Joint Declaration and in Article 39 of the Basic Law, both of which clearly uphold the provisions of the ICCPR as applied to Hong Kong which shall remain in force and shall be implemented through the laws of the Hong Kong SAR.

It does not take a very intelligent person to come to the conclusion that the provisional legislature to be selected by a small group of people with dubious representative status, but anointed by Beijing, will not only offend the basic principles of human rights but will also fly in the face of the Sino-British Joint Declaration and the provisions of the Basic Law. In other words, in one single stroke, it will run the risk of demolishing the provisions of the Basic Law, of breaching an international treaty lodged with the United Nations, and of building up a wall against political progress and against the democratic aspirations of the people of Hong Kong. I do not think anybody wants this to happen, and I do not understand why Hong Kong people should be made to suffer and should be punished for the sins, imagined or otherwise, of the Patten reform package particularly after the British withdrawal in 1997, simply because China dictates that it should be so.

As we embark on the threshold into the 21st century, instead of a great leap forward, we will be taking a giant step backward. This political retrogression will inevitably make many Hong Kong people feel shanghaied, and it is inconceivable to me that a big power like China will seek to abandon the principles enshrined in the Sino-British Joint Declaration and the Basic Law which the setting up of the provisional legislature will inevitably do.

Trust is a fragile thing. One only trusts once. Even then, that once has got to be verified.

Of course, I think the debate today is to a large extent still hypothetical in that the provisional legislature has not yet been set up and is yet to do the evils that it might do.

But I daresay, that even with the provisional legislature, there will still be horse racing, there will still be dancing, although there will be no dancing in the streets, Mr President. And even if the provisional legislature were to be set up, it would not be the end of the world. It would, however, be the end of the rule of law and of Hong Kong's promised high degree of autonomy under the rule of law. Now, that will not be good for business. That will not be good for Hong Kong. That will not be good for China, and that will augur badly for world peace in the years to come.

Politics, Mr President, is not, in my view, a question of right or wrong. It is a question of good or evil. I therefore support the original motion and advise the powers-that-be to pause and rein in the horses on the precipice of change before plunging headlong into the dark abyss littered with the shrapnels of broken promises.

**MR CHIM PUI-CHUNG** (in Cantonese): Mr President, there are only 17 days before the election of the provisional legislature. I am grateful to have this opportunity to promote myself for consideration by the Selection Committee.

I was the first current Legislative Council Member to hand in my application as a candidate to run for a seat in the provisional legislature. At the time, the media asked whether I wanted to be in the limelight by so doing. I said no. Why then did I apply early? That is because I have always supported the provisional legislature without reservation. I have never faltered in the position I hold since the reform package appeared on 29 June 1994, and since the issue of convergence was discussed in the motion debate on 11 October 1992.

Up to the present, there are 13 Legislative Council Members, including you, Mr President (I am referring to you again), and the Honourable James TIEN, who were either appointed or elected Members in 1991. The 13 Members who are still in this Chamber all know clearly what has transpired. Regrettably, at that time, the Honourable Andrew CHENG was not there and he did not know what took place. Unfortunately, members of the Democratic Party have not told him the facts and so he does not know the causes leading to the formation of the provisional legislature.

So, we should not hold the Chinese Government, the Preparatory Committee and the Selection Committee responsible for the formation of the provisional legislature. What leads to its formation is in fact Britain's policy, which has since been executed by Governor Chris PATTEN after his arrival in Hong Kong. Although the so-called democrats share the same aspirations, everybody now knows they can get nothing. Do they not know they have been conned? Four years ago, I reminded everyone that we needed to understand the future political system of Hong Kong. However, people have forgotten my words. Now they cannot even keep their seats. It does not really matter to lose their seats for a year. Treat that as a penalty for supporting the reform package of Governor Chris PATTEN! One has to face the reality. Why then do they insist on saying that other people are not doing the right thing?

Everyone has his or her own right to choose. At the time, you people won by only one vote: 29 to 28. I did a lot of lobbying. I even drank a lot. I got drunk but others did not. I thought we could get one more vote but as things turned out we lost by one vote. We have to accept the reality. We must understand that China will resume its sovereignty over Hong Kong and such a fact cannot be changed. There were some good reasons in what Honourable colleagues from the Democratic Party said a moment ago but the major cause is Britain's policy. Would Members in this Council take a look at themselves in the mirror and they should know we all have yellow skin. Do we still want to be conned? Why do we not wake up? Today, the British Senior Trade Commissioner in Hong Kong publicly declared British passports obtained through the British Nationality Selection Scheme would have problems. We do not really have to be told by the Commissioner. We know if we are not nationals of another country, say for Chinese people who are still dwelling on Chinese soil, we can be sure that we will never have consular protection. Why

did the Commissioner make the declaration? We can see from the Commissioner's words that the British Government, including the British Prime Minister and all British officials, put the interests of Britain first and foremost on all matters. That is a fact and no one can deny. So we have to understand Hong Kong's interests have been driven out by the British Government! Do the democrats intend to continue to mislead residents into wishful thinking? There is now less than seven months before the reversion. Why do they not wake up? Everybody in this Chamber is learned and educated. Do not argue and lobby for face. Please wake up and take my words. Do not look down upon our fellow Chinese people.

Undeniably, Hong Kong at the moment lags behind certain countries in terms of technology or other aspects. But we must take up the historic responsibility. China has opened its doors for just over 10 years. So, it lags behind those Western or European countries, who regard themselves as advanced, in terms of a variety of aspects such as political systems or democracy. We should try to help China understand the rest of the world and vice versa. Should we adopt an antagonistic stance? Before answering this question, we may discuss the matter with our spouses at home.

Hence, I think in future, the Democratic Party will have three choices. I also encourage candidates for the Chief Executive of the Hong Kong Special Administrative Region, no matter who is to be selected, to communicate more with the Democratic Party, to work hard for the future development of Hong Kong rather than to fight each other. On the other hand, the Democratic Party should not think that people are all on their side because the number of voters amount to a maximum of 30% of all residents only. Most of the residents are still silent. Democratic Party members should not think they can be certain of a victory under all circumstances. They should know, in particular in the 1995 election, which party would benefit if the 18 to 21 age group could vote. So, they should not think they are really great. Hence, the Democratic Party has three choices. They may resist; but what is the benefit of resisting? They may give their consent tacitly. They may give support. I believe they are not up to being supporters yet. So, I suggest that they had better give their consent tacitly. If they think they have sufficient strength, they can stage a comeback in 1998.

We must get to the root of the matter from a political point of view. I stress again the root is the fact that Governor Chris PATTEN has executed

Britain's policy. If we think we have a duty to reverse the policy, the 26 Members should hold a rally and march to Government House tomorrow to request the Governor to fulfil the promise he made when he came to Hong Kong on 9 July 1992. In fact, the present state of affairs is the result of the support rendered by Members to the reform package on 29 June 1994.

Thus, to repeat criticisms against the provisional legislature or any institution or structure is, I think, grossly unfair. The current 400 Selection Committee members have tried their best to represent the views of various sectors. In the selection of the Chief Executive this time, everyone will cherish the vote he or she casts. Those who do not approve of the provisional legislature may stand aloof but they should not belittle the efforts of others.

Mr President, I oppose the original motion.

**MR TSANG KIN-SHING** (in Cantonese): Mr President, we can simply use a few words to describe the provisional legislature: "a case of absolute lawlessness". Democracy in Hong Kong ends on the very day the provisional legislature is born. The Selection Committee consisting of 400 members lacks representativeness and credibility. It will deprive the six million Hong Kong residents of their rights to equality and politics. The election system in 1995 may or may not be entirely democratic but it is better than the Selection Committee with 400 members, who are autocratic and destructive, acting at the beck and call of China rather than responding to public opinions. These members are in fact pre-ordained and will take the place of Members popularly elected in Hong Kong. Fair elections have been replaced by illicit deals. This is the impression created by the provisional legislature. Undoubtedly, the provisional legislature is a freak produced by the row between China and Britain. It is also designed to refute the reform package of Governor Chris PATTEN. But what is the reason that the six million people of Hong Kong should be made to suffer as a result of the row?

Take a look at the whole election process. People have changed or evolved from the Preliminary Working Committee to the Preparatory Committee, then to the Selection Committee and finally to the provisional legislature. Everything is pre-ordained by China. This is like going from an old autocracy to a new one. Undeniably, the Honourable CHIM Pui-chung should be respected for his unfaltering position. But, if I remember correctly, three



members of the Democratic Alliance for the Betterment of Hong Kong, namely CHENG Kai-nam, TSANG Yok-sing and TAM Yiu-chung, together with the Honourable Bruce LIU from the Association for Democracy and People's Livelihood once said in an election forum that they would not join the provisional legislature for it had no popular support. Nevertheless, they have all submitted applications to become candidates for provisional legislature. Mr President, if the Selection Committee were selected by our six million residents, would the same bunch of "bootlickers" and "beggar" politicians be selected?

**PRESIDENT** (in Cantonese): Mr TSANG Kin-shing.

**MR TSANG KIN-SHING** (in Cantonese): I withdraw that.

**PRESIDENT** (in Cantonese): Who were you referring to?

**MR TSANG KIN-SHING** (in Cantonese): By "beggar" politicians, I was referring to TAM Yiu-chung, TSANG Yok-sing, CHENG Kai-nam and Mr Bruce LIU. They said they would not join the provisional legislature but they have now entered as candidates. As for Mr CHIM Pui-chung, I respect his firm stance .....

**PRESIDENT** (in Cantonese): Mr TSANG, I need to consider the use of "beggar" to reprove others to see if it is unparliamentary language. I will make a ruling next time. But are you referring to Members of the Legislative Council?

**MR TSANG KIN-SHING** ( in Cantonese): One of them, the Honourable Bruce LIU, once said in an election forum in 1995 that he would not join the provisional legislature as it had no popular support. And there are people like him. I call these people "beggar" politicians.

**PRESIDENT** (in Cantonese): I now rule that calling a Member "beggar" is abusive to the Member.

**MR TSANG KIN-SHING** (in Cantonese): I withdraw the word "beggar". I will not use "beggar" to reprove those people. I would call them "dirty" politicians.

**PRESIDENT** (in Cantonese): Mr TSANG, what do you mean by that?

**MR TSANG KIN-SHING** (in Cantonese): I am prepared to withdraw the word "beggar" to describe any Member of this Council.

**PRESIDENT** (in Cantonese): Yes, Mr CHAN.

**MR CHAN KAM-LAM** (in Cantonese ): I want to know whether it is possible under the Standing Orders for a Member to insult other Members in this Council and then get away by saying that he would "withdraw".

**PRESIDENT** (in Cantonese): Mr TSANG, are you willing to apologize for what you have said, for the abusive words against a Member of this Council? Are you willing to do that?

**MR TSANG KIN-SHING** (in Cantonese): No. Because not long ago, the Honourable NGAI Shiu-kit did the same thing. He could just withdraw his words.

**PRESIDENT** ( in Cantonese): There is now a point of order for me to deal with. In my opinion, under the circumstances that you have repeatedly used the phrases, I think there is a point in the point of order raised by Mr CHAN Kam-lam. Are you willing to apologize? Otherwise Members in this Council would not be acting in a gentlemanly manner.

**MR TSANG KIN-SHING** (in Cantonese): What do I apologize for? Who am I going to apologize to?

**PRESIDENT** (in Cantonese): To the Member. You need to apologize to him although he did not hear what you say.

**MR TSANG KIN-SHING** (in Cantonese): If I cannot use the word "beggar", I will apologize to the Honourable Bruce LIU.

**PRESIDENT** (in Cantonese): Mr TSANG Kin-shing!

**MR TSANG KIN-SHING** (in Cantonese): I apologize to Mr LIU, but I need not apologize to others.

**PRESIDENT** (in Cantonese): Please continue.

**MR TSANG KIN-SHING** (in Cantonese): Those who contended in the 1995 election but have failed to keep their words would certainly be voted down if the provisional legislature were to be constituted through a one-man-one-vote election. They have lied but still thought they are right. They continue to become members of the provisional legislature. There is nothing the Hong Kong voters can do.

**PRESIDENT** (in Cantonese): Please wait a moment. Mr LIU, do you have a point of order?

**MR BRUCE LIU** (in Cantonese): Yes, indeed, Mr President. He was saying that I lied. From the line of thought in what he said, I have been one of those

targeted at. Mr President, please make a ruling as to whether it is out of order. Thank you.

**PRESIDENT** (in Cantonese): I did not hear him utter the word "liars" to describe some people including you. But I could hear very clearly the word he used, which I do not want to repeat. (*Laughter*) If he did say that, I can listen refer to the tape and make a ruling next week.

**MR BRUCE LIU** (in Cantonese): I hope you will do so next week, Mr President. I am talking about the line of thought in his speech. He was referring to a group of people, and among them was a Member, which was me. He said I "lied". One more point, a moment ago .....

**PRESIDENT** (in Cantonese): Mr LIU, please do not go on to elaborate or else I will have to analyze your context and understand your rationale, and then I may get involved. It is a brain-racking exercise to try to figure out whether I should agree with your rationale, but I will listen to the tape later.

**MR TSANG KIN-SHING** (in Cantonese): As to the people I referred to as "liars", basically Hong Kong voters cannot now use their votes to decide whether they can join the provisional legislature. Other than these people, there are others before them such as former Member Mrs Rita FAN, who declared to the general public that politics was wicked; and the "elusive" CHUNG Sze-yuen, who, before NG Ming-yum died, was stuck with the question of overspending for the University of Science and Technology. These people have joined the Selection Committee, but the voters, the Hong Kong residents, have not chosen them to be there. What can the six million Hong Kong voters do except watching helplessly?

Mr President, there are 17 days before the provisional legislature is formed. I have looked up a number of Chinese horoscope books. It is strange that this year's "winter solstice" should fall on 21 December. In the past it was always on 22 December. Has time changed? Furthermore, in the selection of the Chief Executive, even the impartial Chief Justice YANG Ti-liang dared not say the provisional legislature could convene meetings in Hong Kong or be formed in

the territory. This is a fact, showing that the provisional legislature is an illegal body. If the provisional legislature is so bold as to grow on Hong Kong soil, it will be prosecuted with a summons. The provisional legislature is thus a body which does not have the courage to face Hong Kong people. But it is going to be formed and it will claim to represent Hong Kong people. Do the six million residents of Hong Kong need the representation of these "bootlickers"? So, 21 December 1996 is a day of darkness. It is also the first time ever since I come to possess knowledge that the winter solstice changes. I do not know how many times has such a change taken place before. I hope there will not be many. I hope there will not be many provisional legislatures. People are scared by the word "provisional" or "temporary". Temporary markets have existed for over 10 years. Temporary housing policy has stayed on for 17 years. What is temporary can be prolonged. Why do they not dare to face the people and go through the one-man-one-vote process again? Why do some people want to jump the gun? Indeed, Mr President, I would like to ask whether the ICAC would prosecute in accordance with the election laws someone who has cheated by claiming he or she has achieved something by fighting for it but has in fact not done so, or someone who has made some promises which later turned out to be "lies". I mean there are those who said they would not join the provisional legislature but have now changed their minds. I hope to ask the Commissioner of Independent Commission Against Corruption through you, Mr President, whether they will be prosecuted. Thank you, Mr President.

**PRESIDENT** ( in Cantonese): I believe the Commissioner has heard that.

**MR LEUNG YIU-CHUNG** (in Cantonese): Mr President, as the saying goes, "Those with a harelip are wary of broken bowls." The debate today is sure to touch the raw nerve of some people. Whether they are being oversensitive or suffering from neuralgia, it is nothing compared to what the Hong Kong people are going through. The reason is that the Legislative Council voted in by one million people is to cease to exist, and the once sacred votes would become pieces of scrap paper. Instead, it will be replaced by a provisional legislature formed by a Selection Committee of 400 people through a scramble for seats. The future work of legislation and monitoring the Administration will fall on a group of former loyal supporters of the Hong Kong Government and losers of past elections, who will become the representatives to govern Hong Kong.

Amendments to some legislation made in accordance with the Bill of Rights Ordinance will be rescinded, implying that the future Hong Kong Special Administrative Region (SAR) Government can make use of the draconian laws to wilfully infringe upon the human rights of the Hong Kong people. Such a situation not only brings grief to the people of Hong Kong, but it will also leave an indelible stain on the history of the return of Hong Kong to China.

Mr President, some people might argue that the provisional legislature is not constituted by "appointment". I agree with this to a certain extent, since the way the provisional legislature is to be constituted is even worse than the system of "appointment". From newspaper reports, we learned that some Selection Committee members have adopted the strategy of forming alliances and trading votes in order to strengthen the influence of their own camps in the provisional legislature. Personally, with the best of intentions, I hope there will be no clandestine bargains and private deals in this process. However, as Comrade DENG Xiaoping said, "The objective reality is independent of man's own subjective will." The crux of the problem lies in the objective method of constituting the provisional legislature. As we all know, any game within a coterie will easily result in "inbreeding" and the shutting out of those with dissenting views. The various interest groups will each create its sphere of influence and turn public interest into their own private privileges. The game within a coterie is even worse than the appointment system in that the evils of "in-breeding" are taken for granted.

Mr President, the amendment proposed by the Honourable David CHU argued that the setting up of the provisional legislature was rendered inevitable by the failure of China and Britain to reach a consensus over the elections of 1995. I cannot agree with this logic. Setting up the provisional legislature is purely the result of a diplomatic quarrel between China and Britain, and the product of China's confrontational and retaliatory attitude. Throughout the dispute over the political system, the wishes of Hong Kong people have never been respected, and the interests of Hong Kong people are sacrificed in the petty dispute between China and Britain. If "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" are to be implemented, we must oppose the arrangements between China and Britain which have bypassed Hong Kong people and sacrificed their interests! For this reason, we should oppose the setting up of the provisional legislature and fight for a system supported by the majority of Hong Kong people where all members of the legislature are to be

elected through universal franchise.

Some people might think that the setting up of the provisional legislature is now a *fait accompli* and whoever raises opposition now is merely blind to political reality. Instead, they suggest the opposers to adopt a forward-looking attitude. I would like to point out that those who oppose the provisional legislature are indeed forward-looking. They stand at the forefront and work towards the establishment of a more democratic Hong Kong. By contrast, if we agree to go along with Beijing's wishes and support the setting up of the provisional legislature against the wishes of Hong Kong people, we will be going against the principles of "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" and moving further and further away from the goal of a "successful transition". Therefore, opposing the setting up of the provisional legislature is in accord with the wishes of Hong Kong people. We cannot turn back now and support the provisional legislature, which has no popular mandate at all and not recognized by Hong Kong people.

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

**MR AMBROSE LAU** (in Cantonese): Mr President, despite the fact that the necessity and legitimacy of the setting up of the provisional legislature have been repeatedly expounded, some people are still adamant in opposing the provisional legislature. With regard to the right and wrong of the matter, as a Confucian philosopher in the Song Dynasty pointed out, "Truth rests not with man but with objective matters". In order to clarify the question of right and wrong of the provisional legislature, we must avoid mixing up subjective feelings with the truth and legal principles, but should arrive at a correct conclusion from the causes and effects of the relevant matters and seek truth from a diversity of matters.

Mr President, with regard to the setting up of the provisional legislature, I do not want to repeat the causes and effects, which are evident to all. Everything under the sun has its cause and effect. The cause is the demolition of the "through train" and the effect is the setting up of the provisional legislature. If there were no provisional legislature, a "legislative vaccum" would appear

when the Hong Kong Special Administrative Region (SAR) Government is established, which would affect the overall operation of society and the interests of the people.

Mr President, the Hong Kong Act passed by the British Parliament on 7 February 1985 clearly declared that the Letters Patent and the Royal Instructions would expire at midnight on 30 June 1997, whereupon the Legislative Council constituted on the basis of these two constitutional documents would cease to function. As a result of the British Government's breach of the agreement reached in the seven diplomatic letters exchanged between the Foreign Ministers of China and Britain in 1990, Members of this Council can no longer hold their seats beyond 1997 through the "through train" arrangement. Thus the Legislative Council will have to end its life on the expiry date stipulated in the Hong Kong Act. I find this most regrettable.

Mr President, China's sages have pointed out that one has to look at a diversity of facts to arrive at the truth. I would like to cite one example. On 9 June last year, China and Britain reached an agreement on the question of the Hong Kong Court of Final Appeal which states that "The British side agrees to amend the Court of Final Appeal Bill on the basis of the eight suggestions published by the Political Affairs Sub-group of the Preliminary Working Committee of the Preparatory Committee of the Hong Kong Special Administrative Region on 16 May 1995." Out of the eight suggestions of the Political Affairs Sub-group of the Preliminary Working Committee, both the fourth point "Appointment of Judges and Procedures" and the eighth point "The Procedures Governing the Setting Up of the Court of Final Appeal" explicitly provide that "Court of Final Appeal judges shall be appointed after obtaining the endorsement of the Provisional Legislative Council". From this, it is clear that the British Government already formally recognized the legitimacy and necessity of the provisional legislature on 9 June last year. Neither British government officials nor the Governor, nor this Council should squabble over this question any further.

We should stop insisting on our own views and respect the objective law of "Truth rests not with man but with objective matters". We should adopt a positive, supportive attitude towards the setting up of the provisional legislature. Negative opposition is not only futile, but will also affect the smooth transition of Hong Kong and does no good to the interests of the people.



Mr President, I support the amendment moved by the Honourable David CHU. Furthermore, I think we should not just call upon those who have decided to join the provisional legislature election to fulfil, as the target of their participation in political affairs, the principles of "one country, two systems; Hong Kong people ruling Hong Kong; and a high degree of autonomy". We should also call on more people to participate in the election of the provisional legislature with this target. This will give the Selection Committee for the first SAR Government a wider choice for constituting a provisional legislature which is based on balanced participation and can reflect the demands of different strata and the interests of different sectors in Hong Kong.

Mr President, the provisional legislature is now a *fait accompli*, just like "the wood has already been made into a boat", and "the grain has already been cooked into rice". To avoid misunderstanding, I wish to point out that the saying "the grain has already been cooked into rice" has no derogatory connotation. Unfortunately, it is often used by moral fiction writers to describe the consequence of sexual passion between a young couple, and that causes misunderstanding. Mr President, rather than opposing it in vain, it would be better to support it in a constructive way.

Mr President, these are my remarks.

**MR LEE CHEUK-YAN** (in Cantonese): Mr President, in 1991 the military government of Burma refused to recognize the election results. Subsequently, they ordered the arrest of Aung San Suu Kyi and declared martial law. What is the difference between the Beijing leaders setting up the provisional legislature and the Burmese military government overturning the elections by the people? The provisional legislature is the tool used by the Chinese side to subvert democracy and put an end to the Legislative Council voted in by one million voters. It is exactly the same thing as what the Burmese military government did. The only difference is that the Burmese military government crushed the whole democratic election immediately after the announcement of the election results, while we still have a year and a half before the Chinese side carries out the execution. This is the difference, yet the nature is the same, namely, to crush the representatives elected by the people.

Actually, the strategies used by the Beijing leaders are obviously beginning to chill Hong Kong people's hearts. This is because we see that the whole plan is to turn "one country, two systems" into "one Hong Kong, two systems". Politically, Hong Kong will be ruled by one-party dictatorship, while economically the free market economy will be maintained. This one-party dictatorship can be characterized by one word — "control". The first step is to control the Preparatory Committee, which will control the membership of the Selection Committee. The Selection Committee will control the election of the Hong Kong Special Administrative Region Chief Executive and the provisional legislature. By controlling the provisional legislature, they can control the important legislation.

Just now the Honourable David CHU talked about "modest" legislation instead of "important" legislation. In fact, it is not modest, but very important legislation. First, it involves electoral laws. If they control the electoral laws, they will control the first legislature. Second, Mr TUNG Chee-hwa says that he expects the provisional legislature to enact laws based on Article 23 of the Basic Law. This is meant to restrict the freedoms of Hong Kong people, and the provisional legislature is going to enact laws based on Article 23 of the Basic Law. According to Mr TUNG Chee-hwa, the provisional legislature has one more task, and that is to restore at least two of the six ordinances which has been amended in accordance with the Bill of Rights Ordinance to their original form, namely the Public Order Ordinance and the Societies Ordinance. By controlling the provisional legislature, they can control the important legislation, especially the electoral laws. Thereafter, they can control the whole political development of Hong Kong. This is quite obvious.

The Honourable Ambrose LAU said that everything has its cause. Now many Members have pointed out that the cause is the political reform package of Governor Chris PATTEN. I do not think that the cause is simply the Patten reform package. This is just the superficial cause. The real cause lies in one word, which is "control". If the Chinese side were not bent on controlling the post-1997 development of the political situation and of political power, it would not need to set up the provisional legislature. If Chris PATTEN had not created the nine new constituencies, rendering this Legislative Council seemingly uncontrollable, the Chinese side would not have set up the provisional legislature. Actually the whole cause is not the Patten reform package, but the desire for control. With or without the Patten reform package, there could have been a

through train. Why is that so? Because they would allow the through train if they reckoned they could control it, and they would stop the through train if they reckoned they could not. It is as simple as that. Forget about all the causes and effects. The cause is quite simple — the Chinese side does not really want to give Hong Kong "a high degree of autonomy" at all.

Another view which I find most objectionable was the one voiced by the Honourable MOK Ying-fan. He said that the public wanted us to participate, so let us all participate! The public wanted us to join the provisional legislature to do something and fight for Hong Kong people's rights. I feel his remarks treated the public as political "idiots". The public knows perfectly well that you cannot join the provisional legislature just by expressing your wish to do so. To cite one example which I often use, the Honourable Bruce LIU said he wanted to join the Selection Committee, but did he succeed? You cannot join just because you wish to. The whole thing is a matter of desire for control. Do not make light of the matter and treat the public as "idiots". Some members of the public might say one ought to join, but it is not that simple. Do not mislead the public into thinking that it is so easy to participate. I really hope that the public will realize it is not so easy to participate. The whole design is to get rid of those Members who fight for "a high degree of autonomy", who refuse to become Beijing's rubber stamps and are able to think independently. This is the purpose of the whole plan and the whole arrangement to exercise control.

Lastly, I would like to advise the Honourable TSANG Kin-shing not to be so worked up about the matter. Nor did he need to make those remarks of "beggar" politicians. I feel that the public will do justice to him in the end. I am convinced that even if the provisional legislature is set up, the public will remember everything it does and the harm it brings to Hong Kong. They will also remember everything that Members said today, and they will know who stood on the side of the public, and who sided against the six million people. Thank you, Mr President.

**MR JAMES TIEN:** Mr President, I will start with a question. Why are some of my colleagues denouncing the provisional legislature when it is clearly their creation? Those behind the motion today know perfectly well how the provisional legislature came to be. If they have forgotten, I can refresh their memory.

To start with, neither China nor those of us speaking against the motion today ever wanted a provisional legislature. We were looking forward to continuity, to riding the through train, to the lesser change the better for the sake of stability. Then in October 1992, the Governor introduced his reforms without consultation with China, in breach of the Joint Declaration which stipulates closer co-operation. The changes went against the Basic Law and against the seven diplomatic exchanges between the Foreign Ministers.

Throughout 1993, Britain and China negotiated without success. During all that time, the Democratic Party applied pressure on Britain to stick with the violations for their own political objectives.

We the Liberal Party then tried in vain to persuade these other groups not to derail this through train. We explained that democracy would not be advanced but held back if they insisted on a needless showdown with our future sovereign.

Then in June 1994, the Council voted in favour, by a slim majority of one, of the reforms. The reforms without a future were adopted only because the three civil servant officials in this Council would not abstain from voting. The victory for those groups was thus engineered by the Governor with the help of the Democratic Party.

A good many of those through train wrecking legislators are here today. They had ignored China's warnings and our plea. They figured China dared not halt the train that could only go through with its approval. They miscalculated and now they are paying the price. In August 1994, the National People's Congress Standing Committee adopted the provisional legislature resolution, and the rest is history.

The fact is those who voted for political discontinuity are responsible for the provisional legislature. They did their best to thwart co-operation between Britain and China, and succeeded. Because of that, they had a majority in this

Council for two years. They had lots of fun by dominating this Council. But their time is up soon.

The Democratic Party bet everything they had on the Patten electoral reform and thought it would win. Win they did, but only for two short years.

Unfortunately for them now, they made the wrong bet with the Governor and lost and now have to pay the price.

But instead of being a graceful loser, they choose to become crying babies, sulking and complaining.

Mr President, opponents of the provisional legislature also say it will not be representative. But previous Legislative Councils too were not representative. Today's Council is dominated by union leaders and democrats, and yet the advocates of the motion today accepted their decisions as the law. Mr President, these opponents of the provisional legislature were again given a chance to participate in the new assembly, despite they had bet on the wrong Patten horse in 1994. However, they have refused the invitation. The choice is clearly theirs. They must live with their choice rather than blame somebody else.

Mr President, I will vote for the amendment but against the original motion. I hope that one day when scholars and historians look into Hansard to get a feel for these dwindling days of colony, they will better grasp why the Legislative Council shelf life had to expire on 30 June 1997 and make their judgments accordingly.

**MISS EMILY LAU** (in Cantonese): Mr President, I speak in support of the Honourable Andrew CHENG's motion. I would also like to remind people such as the Honourable James TIEN that I too was against the Patten package.

Mr President, as a Member of the colonial Legislative Council serving its last term, I do not think that I should still be sitting in this Chamber in July next

year. If there were to be no through train — the through train was not my first choice anyway (I supported direct election of all 60 seats), I hoped that we would have direct election of 60 seats as soon as possible. However, in order to ensure a smooth transition, I felt that if the outgoing sovereign and the new sovereign could reach an agreement and we could have a through train, many people, including the majority of Members of this Council, would support it. On the other hand, if the two sovereigns failed to reach an agreement and there was to be no through train, it would not be the end of the world. Heaven would not fall. However, I feel that if there is to be no through train, there is only one way by which Members could return to this Council, and that is through election.

Members of the Frontier and myself are for direct election of all 60 seats. Even if we take 10 000 steps backward, and the Chinese Government did suggest, it is written clearly in the Basic Law how the first legislature is to be constituted. However, some people follow neither the Basic Law nor the Joint Declaration but create such a state of affair. I believe that like me, the majority of the public and my voters cannot and will not accept this. Now, they are forcing it upon us. As Hong Kong people are peace-loving, I believe we will not resist by force, although our hearts are heavy, and we feel extremely helpless, sad and angry. We are against setting up such a provisional legislature. My honourable colleagues have cited many arguments. As it is now quite late, I shall not repeat them. However, I would like to say something to some people. They told us to be pragmatic and to exert influence by joining. In another 200 days or so, we will see whether these people who joined can exert their influence. I do not really believe that these people could exert any influence by joining. However, we will still be alive to see that. We will see what sort of influence they can exert.

Besides, I believe that the Chinese communist authorities already have a plan. Just as they had a plan for TUNG Chee-hwa to win the Chief Executive election with a majority of votes, they have a plan for who will join the provisional legislature. It will not be up to the 400 people to select. What a joke. You say you want to compete for a seat, but will they let you all in? If all 60 Legislative Council Members wanted to run for a seat, would they all be elected? It is all a hoax. Only those favoured will get elected, while you will only serve as window dressing. So I feel that the argument that we should be pragmatic and join, though many people might find it persuasive, stands logic on its head and is downright ridiculous. Stop using this lie to cheat people

anymore.

Mr President, I would like to speak on one practical matter, which I have mentioned before. It is about the Civil Service. After the provisional legislature is set up on 21 December, these people will be sure to throw their weight about and insist on exerting influence. This will create a problem. By that time, there will be two legislatures. What will Mr Nicholas NG and his colleagues do about it? They will have to listen to the Legislative Council and the provisional legislature. This legislature wants to enact such laws, while that legislature wants to repeal them. Within a few weeks, the Civil Service will come to a standstill. How are they going to work? Each has his own views. It is best to do nothing at all. Even now there are people who have begun to lay down their work. Is this making a great contribution to the stability and prosperity of Hong Kong? People in the business sector applaud and hail this. Politics and law aside, have they ever thought what impact it will have on our Civil Service?

Lastly, Mr President, I would like to comment on some shocking things that the Governor Chris PATTEN said yesterday. He said if they wanted to hold the election here, he would send the police to maintain law and order. He seemed to be suggesting that people would go there to protest. This is certainly quite true. I do not know how many thousand, or tens of thousand protestors there would be. However, when he said the police would maintain law and order, I was very surprised. Obviously, even China knows itself to be in the wrong and says the election will be held in China. Some of them say it is better to be prudent and not hold the election in Hong Kong. They are scared to death themselves. Now, PATTEN came out in their support, as if telling them not to be afraid. He said the police would be there to maintain law and order, as if the Hong Kong Government has tacitly consented to it. He said that maintaining order does not mean the protestors would be arrested. It is only to prevent them from throwing eggs and so on. I do not know what this means. Everyone that I talked to said that it was unnecessary to say this. This only proves that the British have surrendered totally. They are just trying to please. I will ask Mr Nicholas NG to tell us later on what they are doing to show goodwill, and what the position of the Government is. He will be sure to avoid saying that the provisional legislature election is illegal. In the past, all of us wanted to put the greatest pressure on them and forced them not to hold the election in Hong Kong, because it would create confusion in the territory and affect our stability and

prosperity. Now, we expressly invite them to hold the election in Hong Kong. Why not give them a huge conference centre to hold their meetings too? I think the British Government is going too far. The people of Hong Kong really can no longer bear with Britain. The British Government is totally irresponsible and cowardly. It seems to be saying that now it is better to co-operate. For the second year in a run, that Michael HESELTINE has led a delegation to Beijing to sign contracts and make money. Now it is PATTEN's turn to speak out.

Mr President, I oppose the provisional legislature and I oppose the amendments.

**DR JOHN TSE** (in Cantonese): Mr President, I would like to respond to the remarks made by several Honourable Members. First, the Honourable MOK Ying-fan called on the incumbent Legislative Council Members to join the provisional legislature. He is asking the incumbent Legislative Council Members to become political ornaments. Of course, some people do not mind being ornaments. Fortunately, Legislative Council Members from the Democratic Party refuse to become such ornaments. The 400 members of the Selection Committee are actually depriving Hong Kong people of their right to vote, while the Democratic Party has all along fought for election on a one-man-one-vote basis, so that Hong Kong will become more open, more just and more democratic.

The Honourable Allen LEE said that a popularly elected government and popularly supported legislation are not necessarily good. He cited the example that HITLER too was elected and HITLER took his own life. However, we know that election by the people has at least one advantage. If the person elected does not perform well, he has little chance to get re-elected. Why are there people like HITLER? Because in his times, no one dared to stand up to him. It is just like the future provisional legislature. I predict that the provisional legislature will not allow any dissenting voices. Such environments can easily produce the likes of HITLER.

The Honourable IP Kwok-him and the Honourable Howard YOUNG described the provisional legislature as a *fait accompli* which is irreversible and



asked Hong Kong people to bow to reality. Actually, the most important consideration is whether the provisional legislature is legal or not. If it is legal, it is all right to join. If it is illegal, it would be a different story. The triad society is illegal. Do we want to join it?

The Honourable SZETO Wah used the metaphor of inbreeding to describe how the Preliminary Working Committee produces the Preparatory Committee, how the Preparatory Committee produces the Selection Committee, and how the Selection Committee produces the provisional legislature. According to the little medical knowledge that I have, inbreeding usually produces freaks. The films that I saw when I was young often referred to some people as running dogs. I often asked my elders why those people did not mind being running dogs. I did not understand it then. However, after serving in the Legislative Council for more than a year, I understand it now. In my definition, "running dog" refers to those who use certain powers to oppress the Chinese and the Hong Kong people for their own private gains. These running dogs, or I should say the new generation of running dogs, modern running dogs, are those who betray the interests of the Hong Kong people. They deprive the Hong Kong people of their rights for their own private gains and have no respect for human rights and democracy. I hope — though there is not much use in hoping, since the provisional legislature will most probably be constituted by such a system — I wish Hong Kong good luck and I wish Hong Kong people good luck.

Thank you, Mr President.

**MR CHEUNG HON-CHUNG** (in Cantonese): Mr President, Hong Kong's political culture has always been quite gentlemanly. Today, to my deep regret, I have seen some ungentlemanly debating styles which smack of Taiwan-style hooligan politics. Naturally, what Members say in this Chamber, even if it amounts to slander, can be exempted from punishment by law. However, in view of the gentlemanly culture in Hong Kong, we should not use such law to protect ourselves.

We should base our debates on facts. The Honourable TSANG Kin-shing said that three of my colleagues in the Democratic Alliance for the Betterment of

Hong Kong — Mr TSANG Yok-sing, Mr TAM Yiu-chung and Mr CHENG Kai-nam had vowed they would not join the provisional legislature during the election campaign. He is totally wrong. He is making it up to smear my three colleagues. They only said they would not join an appointed provisional legislature. Today, he is good at making up facts, and I believe he will not be prosecuted either. However, I find his behaviour extremely ungentlemanly. Since my three colleagues have no chance to defend themselves, I cannot but clarify the matter for them. They never said they would not join the provisional legislature, they merely said that they would not join an appointed provisional legislature. I hope we will see no more of such Taiwan-style hooligan politics in this Council.

Just now, three colleagues from the Democratic Party said that the provisional legislature is an illegal body. The Honourable SZETO Wah said that the laws enacted by an illegal body would be illegal too. He compared the provisional legislature to an HIV positive mother and said the legislators to be returned by the 1998 elections would be babies infected with the HIV virus. The Honourable TSANG Kin-shing said the provisional legislature is illegal, while Dr the Honourable John TSE said they would not join an illegal organization. Therefore, I believe that they might not comply with the laws enacted by an illegal organization.

**PRESIDENT** (in Cantonese): Mr CHEUNG Hon-chung, just a minute please. Mr TSANG Kin-shing, do you have a point of order?

**MR TSANG KIN-SHING** (in Cantonese): Mr President, I do have a point of order. Just now I said the provisional legislature is illegal .....

**PRESIDENT** (in Cantonese): Please sit down. You want to give an explanation. I will let you explain later.

**MR CHEUNG HON-CHUNG** (in Cantonese): I was only quoting what he said. He said the provisional legislature is illegal. I was just quoting his words. I

was not trying to argue anything. He did make these remarks. So I would like to ask the colleagues from the Democratic Party whether they would stand for election to an organization which they consider illegal in 1998. If they would not stand, we would feel very lonely. Thank you, Mr President.

**PRESIDENT** (in Cantonese): Mr TSANG Kin-shing, what was it that you wanted to explain? Did Mr CHEUNG Hon-chung misconstrue something that you said?

**MR TSANG KIN-SHING** (in Cantonese): Mr President, the Honourable CHEUNG Hon-chung said I stated that the provisional legislature is illegal. I do not think that I have made a misrepresentation because according to Hong Kong laws, the provisional legislature is illegal.

**PRESIDENT** (in Cantonese): Please sit down. If he did not misquote you, you have no right to explain.

**MR BRUCE LIU** (in Cantonese): Mr President, I am the first Legislative Council Member who is publicly called a "beggar" politician by a colleague in this Council. Although he later withdrew this remark, I do not know whether he was really sincere. Perhaps it was just an insincere apology.

**PRESIDENT** (in Cantonese): Mr Bruce LIU, it will only add fuel to the flames if you speak in this way.

**MR BRUCE LIU** (in Cantonese): Mr President, thank you for your advice.

**PRESIDENT** (in Cantonese): Could you say, "I sincerely hope that he is really sincere in his apology"? *(Laughter)*

**MR BRUCE LIU** (in Cantonese): Mr President, would you please ask him whether he is really sincere? I hope that he is really sincere.

**PRESIDENT** (in Cantonese): Mr Bruce LIU, please go on.

**MR BRUCE LIU** (in Cantonese): Mr President, those who oppose the provisional legislature have raised two very dangerous arguments today. In fact, we should be here to reason because these two arguments can carry serious consequences.

The first reason to oppose the provisional legislature is that it is an illegal body, or even a triad society. So it may be referred to as "the theory of the triad society".

This theory implies that since the provisional legislature is an illegal body (triad society), the laws passed by it will have no binding effect. If that is the case, are the laws passed by such a triad society really laws? Actually, they should not be laws, as they do not have any binding effect. Why is it impossible for the provisional legislature to legislate? It is because a triad society does not have any legislative power. Therefore, even if this triad society has formulated and passed the electoral law for the first legislature in 1998 in accordance with the requirement of the Basic Law and even if the electoral law under the Basic Law has been closely observed, it will not carry any legal effect because it is not a law at all. This electoral law is null and void or it is not a law because a triad society is not empowered to legislate. Therefore, if the colleagues who uphold the theory of the triad society have to match their words with deeds, insisting that the provisional legislature is an illegal body, they will only have one option in 1998—they should not and will not take part in the first legislature election in 1998. This is in fact very dangerous.

On the one hand, they claim that the provisional legislature is illegal and just like a triad society, crying out loudly that it does not have any legislative

power; while on the other hand, they proclaim loudly that they definitely will participate in the legislature election in 1998. Under such circumstances, they are endorsing with their actions the electoral laws passed by a triad society.

For those who uphold "the theory of the triad society", there are only two possibilities. (1) They are not practising what they preach, their words are not in concord with their minds, and they are not being sincere after all. (2) They actually do not think that the provisional legislature is an illegal body. They are only using this argument to attack those who intend to join the provisional legislature. They are not upholding a political principle, but just using a political means to demonstrate that they are upholding a principle in order to attack other people, claiming that all the others are "beggar" politicians who have no principles. In fact, they have also taken the "political reality" into serious consideration.

The second reason for objecting to the provisional legislature is that "the provisional legislature is the puppet of the false Manchurian government", it can so it may be referred to as "the theory of the puppet".

The persons who put forward "the theory of the puppet" state that the provisional legislature is a puppet and an executioner who will betray the interests of the people of Hong Kong, and they also place the Chinese Government on a par with the false Manchurian regime. They have applied the same argument to all the people, claiming that all the participants in the provisional legislature are puppets who have no political principles. They are merely puppets, politicians with no principles or even "beggar" politicians.

However, if the persons who uphold this "theory of the puppet" have to match their words with their deeds, their choices are actually very limited.

For example, even though the provisional legislature is deemed to become a puppet of the false Manchurian government, it will still make a lot of laws, including laws on elections, personal identity, right of abode and taxation. Those who hold on to "the theory of the puppet" can either leave Hong Kong or the political circles, or stay behind to initiate a revolution in order to overthrow the false Manchurian government and its puppet. If they continue to stay in Hong Kong and the political circles but are not brave enough to start a revolution,

then they are either saying one thing and meaning the other, or they are just making irresponsible remarks without taking note of their serious consequences.

Mr President, I think the establishment of the provisional legislature is very controversial. It has come about because no agreement can be reached between the Chinese and the British Governments and there is no through train. As Hong Kong people, we only have limited choices under such circumstances. In fact, we have two possible avenues: The first one is to totally boycott the provisional legislature as an illegal body and the 1998 election. Actually, this is not a sensible way because this will push all the healthy forces out of the establishment. I therefore have reservation about this point. The second one is to strive to remain in the establishment to serve Hong Kong. Whichever option you choose, it is hoped that the people on the two sides will not attack each other. I have no intention to urge those who insist on boycotting the provisional legislature to take part in its election, but I do hope they will not attack those determined and dedicated Members who would like to stay in the establishment to serve the people of Hong Kong.

Mr President, these are my remarks.

**DR HUANG CHEN-YA** (in Cantonese): Mr President, Hong Kong has adopted a colonial political system for more than a century. It was not until 1991 that Hong Kong began to have direct elections, so people could have a little taste of democracy. In 1995, there was a little advancement in the democratic development, so people could have more democracy although they were still under a colonial political system. At present, a group of appointed Preparatory Committee members have chosen a group of Selection Committee members, that means one small group has elected another small group, and yet another smaller group — the provisional legislature is going to be elected by this small group. Mr President, it is a major regression in democracy; it is the reincarnation of colonialism.

Some Members believe they are helping China if they support the provisional legislature. In fact, they are wrong. They are not helping China,

they are just smearing and "cuckolding" China. Both China and Hong Kong will benefit if Hong Kong can have a smooth transition in 1997. It will help us to assert that some people are wrong, because whatever Britain can do, China can do as well. Under the flag of China, Hong Kong should be more prosperous and better. Hong Kong people should have the right to enjoy more democracy, freedom and human rights than the little they have under the colonial rule. However, in the past few weeks, we can clearly see the ludicrous performance of a small coterie — the Selection Committee. They even oppose the Prevention of Bribery Ordinance, which is a clear indication that they absolutely have no respect for the law. This will only impair the national dignity of China and its international image, and also deal a blow to Hong Kong people's confidence on the future of Hong Kong and China. Are they therefore doing China a favour? China will only be put in an unfavourable position by such behaviour.

Members who support the provisional legislature just mention the dispute between China and Britain, why do they not talk about the exploitation of Hong Kong people's right of democracy and interests by the provisional legislature? Mr President, the most successful achievement of the British colonies is to groom a group of people who have a colonial mentality. Having a servile mind and being under the control of the British Empire, they dare not to strive for democracy, they dare not mention that the Hong Kong Chinese have the right to rule themselves. Therefore, they never have the courage to strive for democracy for the people from Britain. For years they have assisted Britain to oppose Hong Kong people enjoying the democracy which foreigners can enjoy in their countries. Mr President, these people will always look down on their own people.

Some people say we should respect ourselves. It is correct to say that if you respect yourselves, you have to respect the Hong Kong Chinese as well. Just like other people in the world, for example, the Americans, the British and the Europeans, the people of Hong Kong should have the right to enjoy democracy. Why are Hong Kong people not entitled to democracy while Hong Kong has such a leading position in the world in respect of its economy, education and culture? Is it because we are less intelligent than other people, we are more stupid and our moral standards are lower than those of others, so much so that we are not entitled to enjoy democracy? Is it necessary to perpetuate the colonial political system? People who are in support of the provisional legislature never dare to discuss this question. They said the

Democratic Party supported Mr PATTEN's reform package. They are wrong because the Democratic Party all along only supports one thing—we support democracy among the Hong Kong people, and we support the right of Hong Kong Chinese to enjoy what every person is entitled to. It is just that simple. I hope the supporters of the provisional legislature can have the courage to stand up and say the same thing.

However, we all understand what their track records are over the past 10-odd years. For a long period of time, they have assisted the colonial rulers to suppress their own people. Today, on the other hand, they oppose democracy here and make use of China's flag to suppress their own people. These are their track records. If they support the provisional legislature, that will mean that the words of the Western colonialists are all correct. They are helping the Westerners to discredit their own people, saying that we Chinese people in fact should not be regarded highly, and we are only qualified to be slaves but not the masters on our own soil. This is the message which they will send to the world when they support the provisional legislature. I believe a person has his own dignity, and a nation also has its own dignity. The Hong Kong Chinese should be entitled to hold direct elections. There should be no regression in democracy. Will those who support the provisional legislature have the courage to say the same thing? I believe they lack such courage, both inside and outside the Chamber. Do they dare to say that Hong Kong people have democracy just like the Europeans, the British and the Americans? They dare not say so, but what is the reason then? They have such thinking because they are poisoned by colonialism, thinking that they are inferior to others. Those who have obtained interests and found favours under the colonial rule have gone to Beijing to present a false picture to the Chinese Government, making it believe that democracy is not good to China and Hong Kong people. As a result, wrong policies are implemented in Hong Kong by the Chinese Government, making both Hong Kong and China lose face and the whole world think that the Chinese people are inferior. Recently, a member of parliament in Australia remarked that since the Chinese people are inferior, why should they be allowed to immigrate to Australia? It is all because they have spread such messages that the whole world now looks down upon the Chinese people. They are therefore misleading China to implement erroneous policies in Hong Kong.

**PRESIDENT** (in Cantonese): Please speak to the President.



**DR HUANG CHEN-YA** (in Cantonese): Mr President, the result of supporting the provisional legislature is that China is thus misled. You have harmed China in order to secure personal interests. You are not helping China, but are just harming China and Hong Kong.

**PRESIDENT** (in Cantonese): When Dr HUANG Chen-ya delivered his speech just now, he pointed to many seats. It seems that apart from one seat, he has accurately pointed to all the other seats. I would like to ask whether the word "slaves" refers to Members since you are pointing at these seats?

**DR HUANG CHEN-YA** (in Cantonese): Mr President, if there are slaves here, these people should know where their seats are.

**PRESIDENT** (in Cantonese): But you are pointing at Mr Martin LEE's seat.  
(*Laughter*)

**MR CHAN KAM-LAM** (in Cantonese): Mr President, after listening to the speeches of so many Members, I find out that those colleagues who are against the provisional legislature only have a few arguments, namely that the provisional legislature marks a regression in democracy, that the provisional legislature has inadequate representativeness, and that it is illegal since its establishment is not mentioned in the Basic Law. Besides, we have also heard some rude remarks of attack. Regrettably, we have not heard any useful and constructive views.

Mr President, the question is: If we are not going to set up the provisional legislature, what should we do? I think this is a rational question which the Legislative Council should discuss. Of course, some colleagues may say that since the existing Members have been democratically elected, they should all ride on the through train. This was what the Honourable Andrew CHENG meant but I think such remarks are just misleading the public. On 11 November 1992, Members of this Council cried out loudly that since the "through train" was a

"red truck for pigs", they did not want to ride on it. In other words, even there is a through train, they are not going to ride on it, so how can we all have the through train now? These Members are exactly those who are strongly objecting to the provisional legislature today, so how can we expect any rational proposals from them? I think today is certainly not the time to discuss how to establish the provisional legislature.

Regrettably, in 1993, Mr PATTEN and his followers did not care whether they could have any long-lasting arrangements, and they just wanted something that could satisfy them for the time being. They thought the Chinese Government would accept their proposal tactily after voicing serious objections for some time. Today, Mr PATTEN and his followers have eventually realized that the doomsday for his reform package is near and that everything is doomed. Those who are against the provisional legislature hysterically have expressed their opposition time and again. No matter how many reasons they have cited to distort the fact and how hard they have attacked the provisional legislature, their ultimate aim is to evade the responsibility of having no through train just because they supported Mr PATTEN's reform package at that time. They also want to smear all the arrangements concerning the establishment of the Hong Kong Special Administrative Region (SAR) Government, including the selection of the SAR Chief Executive. I am surprised that their attempts to distort the facts have reached such a crazy stage.

Dr the Honourable YEUNG Sum said that the provisional legislature has "three violations". I am very surprised that he has used this label and said that it should not be supported. Certainly, I do agree that if there are violations, we should not give our support. However, it is obvious that in 1993, Mr PATTEN's reform package was supported by Dr YEUNG Sum and the Democratic Party without any reservations. So does it mean that Dr YEUNG Sum is confused in his standard? The platform of the Democratic Party has stated clearly that they are in support of the Sino-British Joint Declaration, but now is it not very clear that they are "opposing everything from the Chinese side"? Mr Andrew CHENG also claimed that an injunction should be sought immediately from the British Hong Kong Government against the provisional legislature, but I think his dream will never be realized because the British Hong Kong Government knows that the reform package of Mr PATTEN will lapse together with the Letters Patent in 1997. The Honourable SZETO Wah even said that the electoral laws enacted by the provisional legislature after 1997 will

be similar to "AIDS virus passed from the mother to the baby". I hope the remarks of my colleagues will not go too far, or it will be very difficult for them to change their stance in future.

I think Dr the Honourable HUANG Chen-ya's vehement remarks are very suitable for the Democratic Party. It is undeniable that the result today was caused by the erroneous policy of the Democratic Party to support Mr PATTEN at that time.

Mr PATTEN once said that the establishment of the provisional legislature would lead to an unstable society, and his followers also engaged in wild talks that they would create trouble for the provisional legislature. I think when Mr PATTEN goes back to Britain after 1997, he can criticize the provisional legislature everyday and that is not for us to bother and is beyond our control. But we have to wait and see whether trouble will be created for the provisional legislature by his followers. Last Wednesday, I tried to persuade those who are willing to stay behind and serve Hong Kong to be co-operative and rational, contributing their effort to the formation of the SAR Government, only to be criticized as Red Guards. Actually, they all realize that they have acted today like local despots, evil gentry and reactionaries who have no popular support. They are afraid of the provisional legislature. They will not take part in it and will bar people from participating in the election as well. They have this strong reaction to my persuasion in order to demonstrate that they will insist upon going their own way, but at the same time they will obstruct their colleagues or associates who may participate in the election. However, Mr Dominic CHAN's rebellion has indicated there is strong dissatisfaction within the Democratic Party with the ossified wrong stance of opposing everything from the Chinese side. I therefore hope that the Democratic Party can readjust their position and be rational and co-operative again.

Mr President, these are my remarks.

**MR LEE WING-TAT** (in Cantonese): Mr President, originally I did not intend to speak today because there are not many heated arguments. However, I would like to stand up and say a few words after listening to the Honourable CHAN Kam-lam's speech.

First of all, I would like to clarify the question on logic as raised by a few colleagues. The logic is that since you are against the provisional legislature, will you take part in the 1998 election, as the laws and the electoral rules are formulated by the provisional legislature? Actually, not only do we have to face this logic, the Democratic Alliance for the Betterment of Hong Kong (DAB) and many other political parties also have to face this question as well. How many colleagues from the Liberal Party were against the reform package? How many political parties, including the DAB, which our colleagues belonged to, were against the 1995 reform package? In fact, how did they manage to join the Legislative Council? The Honourable IP Kwok-him joined this Council through the election committee, members of which are all District Board Members, and this kind of election is supposed to be in violation of the Basic Law. He therefore is the product of such violation and Mr CHAN Kam-lam's case is just the same in violation of the Basic Law. I am different from them because I was directly elected to this Council. We had direct election in 1991 and 1995 and we may also have it in the 1998 elections. I am the most untainted one on this question. For those who are elected through the expanded functional constituencies, for example, the Honourable Mrs Miriam LAU, what is the logic that they took part in the election since they were against Governor PATTEN's reform? Why do they only attack others but remain silent on their shameless behaviour in the 1995 election? Why do they not talk about this question?

The logic of the Democratic Party is very simple: the 1998 election must be held in accordance with the Basic Law. The Basic Law has stipulated that the legislature of the Hong Kong Special Administrative Region (SAR) should be an elected one. That means it should be composed of 20 seats from direct election, 30 seats from functional constituency election and 10 seats returned by the election committee. Therefore, we can take part in a legislature election which is in accordance with the Basic Law in 1998. It is our respect for the law and the rule of law. We would not attack others on the one hand while joined this Council shamelessly in 1995 on the other.

Secondly, I also cannot understand Mr CHAN Kam-lam's logic. He said that Mr Dominic CHAN's rebellion represented the views of the majority in the Democratic Party. I really do not understand why only one person can be regarded as the majority. No wonder that the Communist Party can claim that they have mass support when actually there are only a few supporters, and one million or two million voters are only the minority. Mr President, I really cannot understand. What is the logic behind such a calculation? Since he

raises his hand, I will give way.

**PRESIDENT** (in Cantonese): Mr CHAN Kam-lam, is it a point of order?

**MR CHAN KAM-LAM** (in Cantonese): He said I was saying that one person could be regarded as the majority, but actually what I said was one person's action could already reflect there are strong dissenting voices within the Democratic Party.

**PRESIDENT** (in Cantonese): Mr CHAN Kam-lam, you cannot just stand up and refute this on the excuse of a point of order. Do you think what he said just now has misinterpreted you in some aspects? He is willing to let you ask a question. And would you like to clarify something which you have been misunderstood? Which is it?

**MR CHAN KAM-LAM** (in Cantonese): Mr President, I have already explained that. He was not paying attention when he listened to my speech, and he has quoted me wrongly.

**PRESIDENT** (in Cantonese): Mr LEE Wing-tat, please continue.

**MR LEE WING-TAT** (in Cantonese): Mr President, I forgive Mr CHAN for not knowing what is meant by point of order. According to my understanding, there are many ways for "one person" to represent a powerful voice. One of which is that this person is very important, for example, the party leader can reflect his views strongly. The second one is the person is perceived as a powerful person. This is the usual tactic of the Communist Party, selecting a handful of people's views to represent the majority, turning the minority into the majority and the majority into the minority. All along, the Communist Party has used this logic to denounce the views of the public.

Some people believe that if we do not take part in the provisional legislature, we will lose public support. I always emphasize that this will not happen. You can compete with me again in the 1998 election! I am not afraid

of direct election. The Democratic Party has nothing to fear ever since the introduction of democratic elections. What are those people relying on now? Some of them were former appointees, they were brought up with the British milk but they are now denouncing the British people. Some people are elected by a small group of appointed people, but they still claim shamelessly they are the representatives of public opinion. I really do not understand why they can be so impudent and shameless. How can they claim they are the representatives of public opinion? They have insulted the people's intelligence utterly. Do they not know that every person's intelligence is as good? Why only the 400 persons are the best? If your Party is so sincere in serving Hong Kong and has such great confidence, why do you not take part in the election again in 1998? Why are they afraid? And by that time, the most popular members will be reflected in the result of elections with universal suffrage. The Democratic Party never has anything to fear about elections, we will run for every general election and every election that have the support of the public.

Some colleagues just now said it is regrettable that the Democratic Party will not take part in the provisional legislature, but we have never pitied ourselves. It is because the Democratic Party always believes that politics is a long-term business; only those who sit on the fence and those who seek selfish interests will care for a short-term seat, thinking that this will secure for them political power. If you believe, and we do believe, politics is a long-term business, what is the importance of a seat that will only have a term of a year or two? Many members of the Democratic Party, including many people from the former United Democrats of Hong Kong and the Meeting Point were not Members in the past. Most of them were street-fighters. So can we say that they will not be able to do anything? People who indulge in power, and those who do not have any principles and betray themselves will go down in politics and history as someone to be despised upon. The Democratic Party upholds this principle because we will not sacrifice our long-term stance for short-term interests. The Democratic Party will continue to serve the public under the SAR Government.

Our principle is simple: if the provisional legislature is doing good deeds for the people of Hong Kong, the Democratic Party will not obstruct it. If the provisional legislature will amend the Basic Law to introduce universal suffrage in 1998, I and even the Honourable Miss Emily LAU will stand up and give our applause. We only aim at the fact. If you have the courage, you can

recommend the provisional legislature to amend the Basic Law, so that there will be universal suffrage in 1998 and both the Standing Committee of the National People's Congress and the Chief Executive will accept this proposal. We can do this together, and I do not see there is any problem there. The people's interests will always be given the highest priority in the Democratic Party and it is not a question of whether the provisional legislature will or will not do anything. If you are doing good deeds, we will welcome you with our applause. If you do something bad, we will condemn you, criticize you, or even struggle against you. What is so surprising about a struggle? Hong Kong has always been a diversified society and, it is very common to have peaceful demonstrations and assemblies. Only those who always emphasize that the executive-led power is too strong, and that the provisional legislature is the representative of public opinion will be afraid of the public. On behalf of the Democratic Party, I declare that we will take part in the election again in 1998, and we will participate in all direct elections which have a wide popular basis. Thank you, Mr President.

**PRESIDENT** (in Cantonese): Since Mr David CHU has not had the opportunity to speak on Mr MOK's amendment to his amendment, I now invite Mr CHU to speak for the second time on the amendment moved by Mr MOK Ying-fan only. He will have five minutes. This is in keeping with the spirit in which the House Committee recommends the speaking time for Members.

**MR DAVID CHU:** I have no further comments, Mr President.

**PRESIDENT** (in Cantonese): Now I would like to invite Mr Andrew CHENG to speak on the two amendments. Mr CHENG, just now I said that you could speak on a wider scope, but that is not because Mr David CHU has chosen not to speak. He was, in fact, also subject to the same restriction of speaking on the two amendments only. So would you please be more tactful in a way that you are not giving a general reply. But I would give you one more minute to comment on Mr Allen LEE's remarks on what you said on the radio this morning.

**MR ANDREW CHENG** (in Cantonese): Mr President, do you mean that I am now given six minutes to speak?

**PRESIDENT** (in Cantonese): Yes, you are given six minutes.

**MR ANDREW CHENG** (in Cantonese): Mr President, in regard to the Honourable Allen LEE's remarks, I just want to say that what I said on the radio this morning was that the group of Members from the Democratic Party would hold a meeting to discuss an issue concerning you, Mr President. We do not rule out the possibility that we would ask you to clarify whether you would join the provisional legislature or not. We did not say that we were going to challenge the status of the President. This is just like a situation when a conflict of interests occurs to a Member, we must ask the Member to clarify his position. Even though you openly say that you would support, recognize and join the provisional legislature, I believe we and many Members in this Chamber have made our stance clear that only you can continue to be the President.

Mr President, in the speeches of other Members .....

**PRESIDENT** (in Cantonese): Mr CHENG, what do you mean by your last sentence?

**MR ANDREW CHENG** (in Cantonese): Which last sentence? I have just spoken so many sentences.

**PRESIDENT** (in Cantonese): Do you want me to remind you?

**MR ANDREW CHENG** (in Cantonese): I mean we have not challenged you. I have absolutely not said a word on the radio that we wanted to challenge the status of the President. I did not say that the status of the President was called into question.

The Honourable CHIM Pui-chung said that we members of the Democratic Party seemed to associate ourselves with the political package implemented by the British Hong Kong colonial government. He even told us to look in the



mirror. He was almost implying that we seemed to have betrayed the people of Hong Kong and were like traitors. We would like to emphasize that we the Democratic Party as well as many Honourable Members have clarified that we just support democracy. We wonder why the democratically elected Legislative Council has to be dismantled simply because the British side and the Chinese side could not reach a consensus. We just want to devote our efforts in upholding democracy.

The Honourable Ambrose LAU said that opposition is useless. I can boldly say that if we members of the Democratic Party do not voice our opposition strongly, in the future, the provisional legislature would become even worse in ignoring the interests of the people of Hong Kong.

The Honourable James TIEN said that the Democratic Party would have to pay the price. I would give a word of advice to Mr TIEN, although he is not in the Chamber now, that the people who have to pay the price will be those who have assisted China in breaching the Sino-British Joint Declaration and the Basic Law. They will have to pay the price in history that they have betrayed the people of Hong Kong.

The Honourable CHAN Kam-lam asked: What else can we do if we do not set up the provisional legislature? And what is the consequence if we do not set up the provisional legislature? The answer to these questions is election! I recall that when I asked Mr TAM Yiu-chung on a television forum how long it would take to prepare for a democratic election, he told me that it would take nine months. I would like to ask a question: As 1 July 1997 was still in the future now or even when the idea of setting up an illegal provisional legislature was conceived by the Preliminary Working Committee which functioned more than one year ago, they should have got plenty of time to prepare for an election. Then why did they not prepare for the election of the first legislature at that time if the Chinese side disliked a through train and opined that all Legislative Council Members elected in 1995 under Governor Chris PATTEN's political reform package had to depart from the legislature and the pro-China politicians really supported democracy and felt that only a democratically elected legislature would serve the interests of Hong Kong? Frankly speaking, they all wanted to have "free lunches" and thought that by licking somebody's boots they could be appointed legislators without much efforts. The Honourable CHEUNG Hon-chung said that Mr TAM Yiu-chung, Mr CHENG Kai-nam and Mr TSANG

Yok-sing would not be appointed Members of the provisional legislature. I would like to ask him a question: Is it not an appointment system having the provisional legislature constituted by members who are elected by the 400 Selection Committee members who were hand-picked by the pre-ordained 150 members of the Preparatory Committee? If someone dare answer this question in the negative, I would admire their audacity to do so.

The last part of the amendment of the Honourable David CHU calls on the candidates for the election of the provisional legislature are called on to fulfil the principles of "one country, two systems; Hong Kong people ruling Hong Kong; and a high degree of autonomy" as the target of their participation in political affairs. It is extremely ridiculous to me. I would like to quote a remark by DENG Xiaoping: "Under a good system, people with evil intentions will not be able to do evil deeds; but under a bad system, even good people are unable to do good deeds and they will sometimes be forced to do evil deeds not of their own volition". Under a system which is free from the monitoring of a democratic mechanism and the powers originate from an autocracy, even a person who cherishes a lofty ideal and political goal may be forced to commit evil deeds. The principles of "one country, two systems"; "Hong Kong people ruling Hong Kong"; and "a high degree of autonomy" cited in the amendment of Mr CHU are merely lies.

The Honourable MOK Ying-fan's amendment says that "the setting up of the provisional legislature at this stage is inevitable". I would point out that "inevitable" is merely an excuse for the Chinese side to set up this illegal organization. I would further point out that the Association for Democracy and People's Livelihood (ADPL), to which Mr MOK belongs, once indicated that it was not necessary to set up a provisional legislature. But now it has changed its stance and participated in the election of the provisional legislature on the pretext that it is inevitable at this stage. I would like to ask the ADPL a question: Does it mean that there are some other stages where it is not necessary to set up a provisional legislature? Would it oppose the setting up of a provisional legislature only when it sees that it has no chance to have a share of the pie in the provisional legislature? I am highly dissatisfied with and extremely disappointed at the ADPL's amendment and the vacillating stance on the provisional legislature of the ADPL which wavers as it tries to have its bread buttered on both sides.

Mr President, with these remarks, I oppose the two amendments.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS:** Mr President, the corporate position of the British Government and the Hong Kong Government on the continuity of the legislature is well known and consistent. The Prime Minister has restated the position at his recent meeting with the Chinese Vice Premier, LI Lanqing. The Secretary of State has also done so at a debate in the House of Commons last month.

A number of Members of this Council have, of course, attended that debate and so they will be familiar with the comprehensive and unambiguous statement made by the Secretary of State. The pertinent points are worth repeating here. On the elections held in 1994 and 1995, the Secretary of State said, and I quote: "Those elections attracted turnouts unmatched in the history of Hong Kong. The representative bodies that they have produced have performed their different roles with exemplary diligence and notable moderation. They have shown that no one has anything to fear from the measured development of democratic government that we have set in train well within the parameters of the Joint Declaration and the Basic Law."

The Secretary of State made clear that we see here no justification for the establishment of a provisional legislature. Neither the Joint Declaration nor the Basic Law make any mention of such a body. China will have to explain to Hong Kong and the world why it chose to replace a body for which more than a million Hong Kong people voted with one chosen by a hand-picked electorate of 400.

The Secretary of State also pointed out, and I quote: "We continue to make it clear to the Chinese side in public and in private at every level that their planned provisional legislature is neither necessary nor desirable. It is not necessary because there is nothing that it can do that should not more properly be done by others before the handover. It is not desirable because Hong Kong already has a duly elected Legislative Council which should be allowed to continue its work. And because a provisional legislature running in parallel with the constitutional Legislative Council risks creating confusion and uncertainty when they are least needed. Its establishment and operation as a

parallel legislature before the handover would seriously call into question China's commitment to its obligations under the Joint Declaration."

But this will be more than a legal debating point. It raises much more fundamental political questions about China's willingness to follow its own principles, enshrined in the Joint Declaration and the Basic Law, of Hong Kong people ruling Hong Kong.

Mr President, the position of the British Government and the Hong Kong Government is therefore a matter of public record and that will remain our firm and unshakeable position.

*Question on Mr MOK Ying-fan's amendment to Mr David CHU's amendment put.*

*Voice vote taken.*

Mr MOK Ying-fan and Mr Frederick FUNG claimed a division.

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

**PRESIDENT** (in Cantonese): I would like to remind Members that they are now called upon to vote on the question that the amendment moved by Mr MOK Ying-fan be made to Mr David CHU's amendment.

Will Members please register their presence by pressing the top button and then proceed to vote by pressing one of the three buttons below?

**PRESIDENT** (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 Allen LEE, Mrs Selina CHOW, Mr NGAI Shiu-kit, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Dr LEONG Che-hung, Mr CHIM Pui-chung, Mr Frederick FUNG, Mr Henry TANG, Dr Samuel WONG, Dr Philip WONG, Mr Howard YOUNG, Mr James TIEN, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr CHENG Yiu-tong, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr David CHU, Mr IP Kwok-him, Mr Ambrose LAU, Dr LAW Cheung-kwok, Mr LEE Kai-ming, Mr Bruce LIU, Mr LO Suk-ching, Mr MOK Ying-fan and Mr NGAN Kam-chuen voted for the amendment.

Mr SZETO Wah, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Michael HO, Dr HUANG Chen-ya, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-Yin, Miss Christine LOH, Mr LEE Cheuk-Yan, Mr Andrew CHENG, Dr Anthony CHEUNG, Mr Albert HO, Mr LAU Chin-shek, Mr LAW Chi-kwong, Mr LEUNG Yiu-chung, Miss Margaret NG, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE, Mrs Elizabeth WONG and Mr YUM Sin-ling voted against the amendment.

THE PRESIDENT announced that there were 30 votes in favour of Mr MOK ying-fan's amendment and 25 against it. He therefore declared that the amendment was carried.

*Question on Mr David CHU's amendment, as amended by Mr MOK Ying-fan, to Mr Andrew CHENG's motion put.*

*Voice vote taken.*

Mr MOK Ying-fan claimed a division

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

**PRESIDENT** (in Cantonese): I would like to remind Members that they are now called upon to vote on the question that Mr David CHU's amendment, as amended by Mr MOK Ying-fan, be made to Mr Andrew CHENG's motion.

Will Members please register their presence by pressing the top button and then proceed to vote by pressing one of the three buttons below?

**PRESIDENT** (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 Allen LEE, Mrs Selina CHOW, Mr NGAI Shiu-kit, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Dr LEONG Che-hung, Mr CHIM Pui-chung, Mr Frederick FUNG, Mr Henry TANG, Dr Samuel WONG, Dr Philip WONG, Mr Howard YOUNG, Mr James TIEN, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr CHENG Yiu-tong, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr David CHU, Mr IP Kwok-him, Mr Ambrose LAU, Dr LAW Cheung-kwok, Mr LEE Kai-ming, Mr Bruce LIU, Mr LO Suk-ching, Mr MOK Ying-fan and Mr NGAN Kam-chuen voted for the amendment.

Mr SZETO Wah, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Michael HO, Dr HUANG Chen-ya, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-Yin, Miss Christine LOH, Mr LEE Cheuk-Yan, Mr Andrew CHENG, Dr Anthony CHEUNG, Mr Albert HO, Mr LAU Chin-shek, Mr LAW Chi-kwong, Mr LEUNG Yiu-chung, Miss Margaret NG, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE, Mrs Elizabeth WONG and Mr YUM Sin-ling voted against the amendment.

THE PRESIDENT announced that there were 30 votes in favour of the amendment and 25 against it. He therefore declared that the amendment was carried.

**PRESIDENT** (in Cantonese): As Mr David CHU's amendment as amended by Mr MOK Ying-fan has been agreed, I declare that the motion moved by Mr Andrew CHENG as amended by Mr David CHU's amendment, which has been further amended by Mr MOK Ying-fan, has been approved.

## **MEMBERS' BILLS**

### **First Reading of Bills**

#### **PROTECTION OF THE HARBOUR BILL**

#### **THE METHODIST CHURCH, HONG KONG, INCORPORATION (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**

#### **PROTECTION OF THE HARBOUR BILL**

**MISS CHRISTINE LOH** to move the Second Reading of: *"A Bill to protect and preserve the harbour by establishing a presumption against reclamation in the harbour and by requiring that such reclamation be approved by the Legislative Council, and to make consequential amendments to other Ordinances."*

**MISS CHRISTINE LOH:** Mr President, I should begin by declaring an interest. I am the Deputy Chair of the Society for Protection of the Harbour.

In a nutshell, Mr President, the Protection of the Harbour Bill gives this Council a veto over reclamation in the harbour.



The Bill enacts the principle that Victoria Harbour is a special public asset and a natural heritage of Hong Kong people. It directs public officers to take account of the harbour's special status, and to avoid reclamation in the harbour. Most importantly, the Bill prohibits reclamation in the harbour unless it is first approved by this Council.

Mr President, unless this Bill is enacted, there can be little doubt that the Administration will go ahead with the reclamation projects it has planned. We have already heard a good deal about those plans earlier in this sitting. Cumulatively, the planned reclamation will exceed all reclamation previously done in the harbour over the past 150 years.

Such reclamation will finally and permanently reduce the Victoria Harbour to the "Victoria River". I doubt that any other great city has ever deliberately erased its own physical identity in this way.

The Administration's plans to destroy the harbour have drawn strong and sustained public condemnation. Environmental groups, merchant seamen and other harbour-users, many prominent professionals and nearly every relevant professional association have expressed their dismay. In an unanimous vote of 31 to nil on 13 March, this Council also urged the Administration to withdraw and reconsider its plans. And as I mentioned earlier this afternoon, the Society for the Protection of the Harbour has to date collected 61 500 signatures from individual members of the public who oppose further harbour reclamation.

Despite the public outcry, however, there is no reason to believe the Administration will reconsider its plans unless it is forced to do so. Until this Bill is enacted, the Administration has no legal obligation to take account of community opinion. Government planners long ago made their fundamental decisions and commitments, and it is clear that they now regard their plans as being as irreversible as reclamation itself.

The Protection of the Harbour Bill will enable this Council to serve as the harbour's last line of defence. Unlike government planners, this Council is genuinely accountable to the public. In the long run, we need to improve the accountability of the planning system overall, but for the time being, I am confident that the public can rely on this Council to check the Administration's

reckless enthusiasm for reclamation.

It has been said that planning is a job best left to the professionals. I say that it is irresponsible to leave planning exclusively to the professionals when fundamental community assets are at stake — when the harbour, the very heart of our landscape, is under threat.

In any case, the Bill pays due deference to professional expertise by giving this Council only a limited role, namely, to approve or reject plans that are proposed by the Administration. Legislators will not be able to propose their own reclamation plans, or tinker with the details of the Administration's plans.

Finally, I wish to add that my earlier draft of this Bill made a further concession to professional expertise, by requiring harbour reclamation to be approved by the Town Planning Board as well as this Council. You will remember, Mr President, that you concluded that the earlier draft's references to the Town Planning Board had a charging effect. I therefore asked the Governor months ago for permission to introduce the earlier draft despite its charging effect. Just this morning, I received a terse refusal from the Governor's private secretary.

I encourage the Governor to change his mind and allow me to amend this Bill to bring the Town Planning Board back in. In the meantime, however, I wish to place it clearly on record that the Administration is responsible for blocking any reference to the Town Planning Board. I trust they will not hypocritically attack the Bill for an omission that they themselves have deliberately caused and could have easily remedied.

Mr President, I move the Second Reading of the Protection of the Harbour Bill.

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

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

**THE METHODIST CHURCH, HONG KONG, INCORPORATION  
(AMENDMENT) BILL 1996**

***MR LAU CHIN-SHEK to move the Second Reading of: "A Bill to amend the Methodist Church, Hong Kong, Incorporation Ordinance."***

**MR LAU CHIN-SHEK** (in Cantonese): Mr President, I move the Second Reading of the Methodist Church, Hong Kong, Incorporation (Amendment) Bill 1996.

The Bill aims to confirm and in so far as may be necessary effect the vesting of the property, rights, privileges, obligations and liabilities in Hong Kong of The Hong Kong English District of the Methodist Church, United Kingdom to The Methodist Church, Hong Kong into which the former was merged on 1 September 1988; and to amend the manner in which documents requiring the seal of The Methodist Church, Hong Kong are to be executed.

The Methodist Church, Hong Kong was established on 23 December 1983.

On that day, The Methodist Church, Hong Kong was incorporated by law, that is, The Methodist Church, Hong Kong, Incorporation Ordinance.

The establishment of The Methodist Church, Hong Kong was to merge all Methodist churches and organizations in Hong Kong under The Methodist Church, Hong Kong, with the exception of The Hong Kong English District of the Methodist Church, United Kingdom (also known as English Speaking Methodist Church). Under the Ordinance, premises of the English Speaking Methodist Church at 271, Queen's Road East are under the trust of The Methodist Church, Hong Kong.

On 1 September 1988, the English Speaking Methodist Church merged with The Methodist Church, Hong Kong, which was endorsed by the Methodist Church, United Kingdom in its 1987 conference and by The Methodist Church, Hong Kong in its conference in the same year and the merge came into effect on 1 September 1988. From that day onwards, the English Speaking Methodist Church has become a member of The Methodist Church, Hong Kong. The Ordinance is amended to confirm and effect the vesting of the property, rights and liabilities of the English Speaking Methodist Church in The Methodist

Church, Hong Kong.

This amendment also amends the manner in which documents requiring the seal of The Methodist Church, Hong Kong are to be executed. At present, the documents have to be signed by any two of the President, the Vice President, the Treasurer, and the three members of the Standing Committee, and the seal has to be affixed at the presence of the signatories. After the amendment, the Secretary will be added to the list and the presence of the signatories are no longer required for the seal.

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

#### **ADJOURNMENT AND NEXT SITTING**

**PRESIDENT** (in Cantonese): In accordance with Standing Orders, I now adjourn the Council until 5.30 pm on Wednesday, 5 December 1996.

*Adjourned accordingly at nine minutes to 11 pm.*

*Note:* The short titles of the Bills/motions listed in the Hansard, with the exception of the Law Reform (Miscellaneous Provisions and Minor Amendments) Bill 1996, Occupational Safety and Health Bill, Crimes (Amendment) (No. 2) Bill 1996, Carriage By Air Bill, Occupational Deafness (Compensation) (Amendment) Bill 1996, New Territories Land Exchange Entitlements (Redemption) Bill, Protection of the Harbour Bill and The Methodist Church, Hong Kong, Incorporation (Amendment) Bill 1996, have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.