

# **OFFICIAL RECORD OF PROCEEDINGS**

**Wednesday, 11 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 MARTIN LEE CHU-MING, Q.C., J.P.

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

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

THE HONOURABLE SZETO WAH

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

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHIM PUI-CHUNG

THE HONOURABLE FREDERICK FUNG KIN-KEE

THE HONOURABLE MICHAEL HO MUN-KA

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

THE HONOURABLE EMILY LAU WAI-HING

THE HONOURABLE LEE WING-TAT

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

THE HONOURABLE FRED LI WAH-MING

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

THE HONOURABLE JAMES TO KUN-SUN

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

DR THE HONOURABLE PHILIP WONG YU-HONG

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE HOWARD YOUNG, J.P.

THE HONOURABLE ZACHARY WONG WAI-YIN

THE HONOURABLE CHRISTINE LOH KUNG-WAI

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

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE CHAN KAM-LAM

THE HONOURABLE CHAN WING-CHAN

THE HONOURABLE CHAN YUEN-HAN

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE PAUL CHENG MING-FUN

THE HONOURABLE CHENG YIU-TONG

DR THE HONOURABLE ANTHONY CHEUNG BING-LEUNG

THE HONOURABLE CHEUNG HON-CHUNG

THE HONOURABLE CHOY KAN-PUI, J.P.

THE HONOURABLE DAVID CHU YU-LIN

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE IP KWOK-HIM

THE HONOURABLE LAU CHIN-SHEK

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

DR THE HONOURABLE LAW CHEUNG-KWOK

THE HONOURABLE LAW CHI-KWONG

THE HONOURABLE LEE KAI-MING

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE BRUCE LIU SING-LEE

THE HONOURABLE LO SUK-CHING

THE HONOURABLE MOK YING-FAN

THE HONOURABLE 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

## **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 GORDON SIU KWING-CHUE, J.P.  
SECRETARY FOR TRANSPORT

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

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 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

MR KWONG HON-SANG, J.P.  
SECRETARY FOR WORKS

## **CLERKS IN ATTENDANCE**

MR RICKY FUNG CHOI-CHEUNG, SECRETARY GENERAL

MR LAW KAM-SANG, DEPUTY SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY  
GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

**PAPERS**

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

*Subject*

Subsidiary Legislation	<i>L.N. No.</i>
Employment Agency (Amendment) (No. 2) Regulation 1996 .....	509/96
Official Languages (Alteration of Text) (Massage Establishments Ordinance) Order 1996 .....	510/96
Pilotage Ordinance (Amendment of Schedule 2) Notice 1996 .....	511/96
Specification of Public Office .....	512/96
The Hong Kong Association of Banks (Amendment) Ordinance 1995 (76 of 1995) (Commencement) Notice 1996 .....	513/96
Personal Data (Privacy) Ordinance (Cap. 486) (Commencement) (No. 2) Notice 1996.....	514/96
Land Registration (Amendment) (No. 2) Regulation 1996 (L.N. 445 of 1996) (Commencement) Notice 1996 .....	515/96
Official Languages (Authentic Chinese Text) (Massage Establishments Ordinance) Order.....	(C) 125/96
Official Languages (Authentic Chinese Text) (Ocean Park Corporation Ordinance) Order .....	(C) 126/96
Official Languages (Authentic Chinese Text) (Community Chest of Hong Kong Ordinance) Order.....	(C) 127/96

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Sessional Papers 1996-97

- No. 39 — Sir Edward Youde Memorial Fund  
Report of the Board of Trustees for the period 1 April 1995  
to 31 March 1996
- No. 40 — Report of the Chinese Temples Committee on the  
administration of the Chinese Temples Fund for the year  
ended 31 March 1996
- No. 41 — Report of the Chinese Temples Committee on the  
administration of the General Chinese Charities Fund for the  
year ended 31 March 1996
- No. 42 — Hong Kong Housing Authority  
Annual Report 1995/96
- No. 43 — Hong Kong Housing Authority  
Annual Accounts for the year ended 31 March 1996 and  
Balance Sheet as at that date

**PRESIDENT** (in Cantonese): I would like to make an announcement regarding my participation in the election to become a member of the provisional legislature of the future Hong Kong Special Administrative Region. In view of the concern expressed by some Members about my intention to become a member of the provisional legislature and their requests for assurance from me on the matter, I would like to advise Members that I handed in my nomination form for election as a member of the provisional legislature last Saturday. I wish to assure Members that during the period in which I stand in the election to become a member of the provisional legislature and, if I am to be elected, during the time I serve in the provisional legislature, I will continue to discharge my duty as President of this Council to the best of my ability, without fear or favour, as I have done before.

## ORAL ANSWERS TO QUESTIONS

### Other Categories of Hong Kong Identity Card

1. **MR HOWARD YOUNG** asked: *Mr President, at present, people living in the territory hold Hong Kong Permanent Identity Cards or Hong Kong Identity Cards. Will the Government inform this Council whether there are:*

- (a) *any categories of identity cards that are related to the residential status of the holder; and*
- (b) *any differences in eligibility for publicly-funded services such as public housing, medical and health, education and social welfare between different categories of identity card holders.*

**SECRETARY FOR SECURITY:** Mr President,

- (a) In addition to the Hong Kong Permanent Identity Card and the Hong Kong Identity Card, there is a third type of identity card which is issued to consuls, consular staff, their spouses and dependent children of the age of 11 years and above. The Consular Corps Identity Card is issued under the provisions of the Registration of Persons Ordinance (Cap. 177). It is different in form from the Hong Kong Permanent Identity Card and the Hong Kong Identity Card.
- (b) The eligibility in respect of the four types of public-funded services is as follows:

#### *Public Housing*

Holders of Hong Kong Permanent Identity Cards may apply for public rental housing and subsidized home ownership flats provided they satisfy the seven-year residence rule and other eligibility criteria relating to income and property ownership. Those who have not yet fulfilled the residence rule but satisfy other eligibility criteria may apply and be placed on the Waiting List for public rental housing. They will be allocated flats only when they have fulfilled the residence rule and when their turn comes.



Holders of Hong Kong Identity Cards with permission to stay unconditionally may apply for public rental housing, provided they satisfy the seven-year residence rule and other eligibility criteria relating to income and property ownership. Those who have not yet fulfilled the residence rule but satisfy other eligibility criteria may apply and be placed on the Waiting List.

They will be allocated flats only when they have fulfilled the residence rule and when their turn comes.

As regards the purchase of subsidized home ownership flats, holders of Hong Kong Identity Cards are excluded.

Exception applies if the holder is a member of a household, the majority of which are permanent residents of Hong Kong. In this case, he may join other household members in the allocation of a public rental flat, or he may join the others in the purchase of a subsidized home ownership flat in the usual way.

Holders of Hong Kong Identity Cards with conditional stay (such as persons on employment contract or overseas students) are not eligible for both types of public housing.

#### *Medical and Health Services and Welfare Services*

Holders of all categories of Hong Kong Identity Cards are entitled to receive the same public health care and welfare services, subject to their satisfying the eligibility criteria for different types of services.

Furthermore, assistance available under schemes to provide financial assistance to victims of road traffic accidents, crimes of violence or of natural and other disasters, is granted to the victims, including visitors, who are legally in Hong Kong.

#### *Education*

Children holding a Hong Kong Permanent Identity Card or a Hong Kong Identity Card which does not bear the symbol "C" (for

conditional stay) are eligible for admission to public sector schools. Children holding a Hong Kong Identity Card which bears the symbol "C" are also eligible for admission to public sector schools, provided that they have a valid travel document confirming that they are not subject to any condition of stay other than a limit of stay, and that the limit of stay has not expired.

**MR HOWARD YOUNG** (in Cantonese): *Mr President, in answering my question, the Secretary for Security clearly mentioned that holders of different categories of identity cards are entitled to receive the same public health care and welfare services. Will the Secretary inform this Council whether the charging criteria are the same though holders of different identity cards receive the same services?*

**SECRETARY FOR SECURITY:** Mr President, as far as I am aware, different charging schemes applied in respect of persons going to a public hospital or health care service who are defined as entitled persons or not. Entitled persons are eligible to receive public health care services at subsidized rates. Non-entitled persons such as visitors to Hong Kong are generally charged the full cost of the services provided. Patients falling into the following categories are eligible for the rates of charges applicable to entitled persons.

First of all, a holder of a Hong Kong Identity Card, that is to say, both Hong Kong Permanent ID Card or the Hong Kong ID Card issued under the Registration of Persons Ordinance or his or her children under 11 years of age; secondly, citizens of the United Kingdom holding a British Passport; and thirdly, other persons approved by the Chief Executive of the Hospital Authority. For other patients, the rates of charges applicable to non-entitled persons were applied.

### **Speeding in Tunnels**

2. **MR WONG WAI-YIN** asked (in Cantonese): *Will the Government inform this Council of:*

- (a) *the number of motorists who were prosecuted for speeding in various tunnels in each of the past three years; and*

(b) *the measures in place to prevent speeding in tunnels?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Mr President, the numbers of motorists prosecuted for speeding in all tunnels in 1994, 1995 and 1996 (up to the end of October 1996) are 740, 1 360 and 1 484 respectively.

The measures to prevent speeding in tunnels are as follows:

- (a) There are clear signs showing the speed limit within the tunnel area. During night time when single-tube-two-way traffic arrangement is in operation, signs and regular radio announcements are made to advise motorists that speed limit has been changed.
- (b) All tunnels are equipped with radar equipment to check the speed of vehicles. Drivers who are caught speeding will be prosecuted. The maximum penalty for speeding in tunnels varies from a fine of \$2,000 to a fine of \$5,000 and three months' imprisonment on first conviction and a maximum fine of \$10,000 and six months' imprisonment on second or subsequent convictions.
- (c) In order to further deter speeding in tunnels, the Administration is considering the inclusion of a speeding offence in tunnels as a scheduled offence under the Road Traffic (Driving-Offence Points) Ordinance. In that event, similar to a speeding offence on roads, a speeding offence in tunnels will incur driving offence points under the Ordinance.

**MR WONG WAI-YIN** (in Cantonese): *Mr President, before the Secretary for Transport answers my follow-up question, I would like to ask him to provide some information. It is because part (a) of my question is about the number of motorists who were prosecuted for speeding in various tunnels. Mr President, the number of motorists prosecuted for speeding in 1995 doubles the number in 1994, while the number this year is again higher than that of last year. We can thus see that the situation has not been improved. May I ask the Secretary whether he finds this situation very serious or not? Besides, when the new measure of punishment mentioned in paragraph (c) of the main reply comes into effect, will the Secretary expect that the situation could be improved greatly?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Mr President, here are the numbers of motorists prosecuted for speeding in various tunnels in 1996 up to the end of October: 28 for the Cross Harbour Tunnel, 965 for the Tate's Cairn Tunnel, 262 for the Eastern Harbour Crossing, 24 for the Lion Rock Tunnel, 25 for the Shing Mun Tunnel, 85 for the Airport Tunnel, 61 for the Tseung Kwan O Tunnel and 34 for the Aberdeen Tunnel. The total number of motorists is 1 484 as I said earlier.

In regard to the growing number of prosecutions, it is mainly because we are now encouraging the management of all tunnels to step up prosecution and monitoring on speeding motorists. We believe that this measure could certainly reduce speeding and hence the number of accidents caused by speeding. Achievement to a certain extent could also be seen. The following are the numbers of accidents caused by speeding in the tunnels in 1994, 1995 and 1996 up to the end of October: the number in 1994 is 60, it drops to 36 in 1995, and stands at 33 by the end of October 1996. Mr President, it is obvious that stepping up prosecution and monitoring will directly reduce the number of accidents.

**MRS MIRIAM LAU** (in Cantonese): *Mr President, will the Secretary for Transport inform this Council of the schedule for introducing the Driving-Offence Points System into the relevant tunnel areas? Before any amendment is made to the Ordinance, will flashing yellow light be used to remind motorists to reduce the driving speed where single-tube-two-way traffic arrangement is in operation?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Mr President, the Administration expects that an amendment bill can be submitted to the Legislative Council for deliberation within the first six months of 1997. Regarding the flashing yellow light, I have to study this proposal with the traffic engineers. It is because at least two kinds of measures are currently in use in various tunnels to remind the motorists. As a matter of fact, the motorists are not unaware of the need to reduce speed, they are just used to speeding most of the time. We will study with the traffic engineers and will mainly consider whether flashing light will bring in other complications.

**MR CHOY KAN-PUI** (in Cantonese): *Mr President, which kind of vehicles is mainly involved in speeding and when does speeding mostly occur?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Mr President, I do not have such detailed information on hand. Please allow me to provide Mr CHOY with the figures in respect of 1996 up to the end of October in writing. (Annex I)

**MR FRED LI** (in Cantonese): *Mr President, the Airport Tunnel is managed by a private company and is the only toll free tunnel we have. I use that tunnel very frequently and find that a lot of vehicles could escape from being prosecuted for speeding or even crossing double white line. How does the Administration prevent the commercial corporations responsible for tunnel management from not instituting prosecution against the many offenders in order to avoid troubles? How does the Administration prevent this from happening?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Mr President, whether the tunnel is privately managed or publicly managed, the principle is still the same, that is, speeding in tunnels is an offence. The persons who are responsible for law enforcement, be they staff members of the tunnel companies or civil servants, have to perform their duty.

Besides, I would like to read out three figures. They are the numbers of prosecutions for speeding in the Airport Tunnel in 1994, 1995 and 1996 up to the end of October. There are 72 prosecutions in 1994 and 177 in 1995. These figures serve to prove that law enforcement and prosecution have been greatly enhanced in that tunnel. In 1996 up to the end of October, the number has dropped sharply to 85. We still have to study whether this is the result of enforced prosecution or not. However, we will continue to urge the people concerned to enforce the law effectively.

**MR FRED LI** (in Cantonese): *Mr President, I think the Secretary for Transport has not answered my question. I am asking whether the commercial corporations will refrain from instituting prosecution against law offenders to avoid doing extra work, whether the Secretary has learnt about this and how can this be prevented?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Mr President, just now I have already clearly mentioned in my reply that we can prove that all the tunnel operators have enforced the law. When they perform this duty on behalf of the Government, they are subject to government supervision and we will not slacken our efforts.

**MR HOWARD YOUNG** (in Cantonese): *Mr President, the Secretary for Transport mentioned in the main reply that there are clear signs showing the speed limit within the tunnel area. According to my observation, it seems that there are two types of signs on the road: fixed and convertible. May I ask whether all the signs in tunnels showing the speed limit can really change at appropriate times to inform motorists of the speed limit then?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Mr President, first of all, I confirm that all the signs in tunnels can show different speed limits. Secondly, apart from the fixed signs, some tunnels will put up other signs when the speed limit is reduced to 50 km per hour.

**MR WONG WAI-YIN** (in Cantonese): *Mr President, the Secretary for Transport has mentioned earlier on that the numbers of prosecutions for speeding are 965 for the Tate's Cairn Tunnel, 265 for the Eastern Harbour Crossing, 26 for the Cross Harbour Tunnel, 24 for the Lion Rock Tunnel and 25 for the Shing Mun Tunnel. The differences among the figures are considerable and could amount to over 30 times. Why are there such considerable differences? Would that be attributable to any problem with the equipment?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Mr President, the equipment installed in all the tunnels is the same. The different numbers of prosecutions simply reflects the frequency of speeding. It is, to a certain extent, directly related to the length of the tunnel and the efforts put in law enforcement. This situation cannot be generalized.

**MR WONG WAI-YIN** (in Cantonese): *Mr President, it seems that the Secretary for Transport has not fully answered my question. He explained that this has something to do with the line of the tunnel and the attitude in law enforcement. However, take the Tate's Cairn Tunnel and the Shing Mun Tunnel as examples, I believe their lines are similar though the former is longer, yet their numbers of prosecutions for speeding were 965 and 25 respectively. Will the Secretary give a detailed explanation?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Mr President, this is related to the frequency in taking law enforcement actions and the traffic volume. It is obvious that the Tate's Cairn Tunnel has much more users than the Shing Mun Tunnel.

**DR JOHN TSE** (in Cantonese): *Mr President, for the radar equipment to be effective in deterring speeding, two conditions are essential: firstly, there should be radar equipment in every tunnel; and secondly, the radar equipment should be operating round the clock instead of during times of traffic congestion only. May I ask the Secretary whether radar equipment is installed in every tunnel and whether it is in operation 24 hours a day?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Mr President, all tunnels are equipped with radar equipment. It mostly operates as a deterring and prosecuting tool at such time when, as reckoned by the tunnel management, motorists are most likely to speed. On the contrary, during traffic congestion when the traffic volume is high, radar is not urgently needed. However, when the number of vehicles decreases and most motorists think that they can increase speed, or when single-tube-two-way traffic arrangement is in operation and the speed limit is reduced from 70 km or 80 km per hour to 50 km per hour, the number of prosecutions is at the highest level.

## **Housing Benefits for Employees of Subvented Welfare Agencies**

3. **MISS CHAN YUEN-HAN** asked (in Cantonese): *It is learnt that the Government currently does not provide housing allowance to employees of subvented welfare agencies, but individual agencies can use the financial resources at their disposal to provide housing allowance to their employees. This has given rise to public concern about the spending of funds in subvented welfare agencies. In this connection, will the Government inform this Council:*

- (a) *whether the Government has considered extending the housing benefits for civil servants to employees of subvented welfare agencies; if not, why not;*
- (b) *the number of subvented welfare agencies which provide housing allowance to their employees, together with the name of the agencies concerned, the number of employees receiving the allowance and the amount of allowance received by each employee; and the sources from which individual agencies have obtained financial resources to provide housing allowances to their employees; and*
- (c) *whether the Government agrees that subvented welfare agencies can use charitable donations to provide housing allowance to their employees; if so, of the mechanism put in place to monitor the expenses on the provision of housing allowance to employees by such agencies?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Mr President, at present, the Administration subvents 174 non-government organizations (NGOs) to provide various social welfare services. The amount of subvention is sufficient to cover staff salaries (including provident fund), and specified administrative expenses.

NGOs are independent organizations outside the government structure. Apart from subvented services, many of them run other non-subvented projects for the community, through their own sources of funds. NGOs have autonomy in determining the remuneration package which enable them to employ and retain personnel that they consider best suited for their organizations.

Against the above, my replies to the Honourable Member's question are as



follow:

- (a) Under the current system, the amount of subvention on staff cost is based on the level of staff salaries. However, the boards of directors and management of NGOs can decide whether or not to use their own sources of funding to pay their staff on other terms and conditions, including whether they can enjoy housing benefits. The Administration has no firm position on this matter.
- (b) Government subvention to NGOs in the welfare sector does not include housing allowance to their staff. If government funds were found to be used by NGOs for such purpose during audit inspection, the NGOs concerned will be demanded to reimburse the full sum to the Administration. The Administration does not monitor NGOs' use of their own resources for payment of housing allowance to their staff. There is no requirement for NGOs to report the use of their own resources. We therefore have no information to this part of the question.
- (c) The Administration mainly monitors the use of subvention by NGOs. Where NGOs raise their own funds, it would be a matter for the boards of directors of NGOs to be accountable to their donors for the appropriate and prudent use of donations, through publishing their annual audited accounts in their report for the information of their donors and the general public. The Administration does not impose a mechanism to monitor NGOs using its own funds to provide housing allowance to employees by NGOs.

**MISS CHAN YUEN-HAN** (in Cantonese): *Mr President, the Administration mentions in its reply to part (b) of my question that these voluntary agencies are not subject to monitoring by the Administration. But the public are quite concerned about the housing allowance drawn by the staff of these agencies on top of their salaries. In view of this situation, does the Administration intend to introduce any reform or make any improvement?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Mr President, if these agencies raised their own funds, the Administration has no intention to

monitor, restrict or control their use of such funds. In regard to accountability, I think that it is a matter for the boards of directors of these agencies to be accountable to their donors or other people concerned.

**MR LAW CHI-KWONG** (in Cantonese): *Mr President, as far as I understand, there are many kinds of housing allowance. One of them is subsidy for loan interest in housing purchase. May I ask the Secretary for Health and Welfare why the subsidy for loan interest in housing purchase offered by the subvented welfare agencies is lower than that offered by other subvented organizations such as the Hospital Authority?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): *Mr President, for the non-government welfare agencies, they offer a kind of subsidy on mortgage loan interest on top of remuneration, which is different from the subsidy system on loan interest offered by the Hospital Authority. As we all know, there are some special arrangements during the establishment of the Hospital Authority, as at that time, we had to combine the staff of the former government hospitals with the staff of the former subvented hospitals. Therefore, their systems are totally different.*

### **Birth Asphyxia**

4. **MR LEUNG YIU-CHUNG** asked (in Cantonese): *In her reply to a question raised at the sitting on 20 November this year concerning cases involving babies lapsing into a "vegetative" state (this is a commonly-known term instead of a formal term) as a result of birth asphyxia, the Secretary for Health and Welfare stated that no such cases were reported by public hospitals in the past three years, and that advice would only be given to the patients by clinicians in public hospitals after the patients concerned had given consent to the delivery method to be adopted. In this connection, is the Government aware of:*

- (a) *in the light of the public statement made by the management of Princess Margaret Hospital on 26 November this year that the hospital's childbirth records and statistics confirmed that there were cases of birth asphyxia in the past three years and that some of the affected babies had subsequently died, why there is a difference between the Hospital's statement and the Secretary for Health and Welfare's reply; the number of babies born in public hospitals who*

*have lapsed into a "vegetative" state because of birth asphyxia and have remained in such a state since birth or have died over the past three years, and the causes leading to the occurrence of birth asphyxia to the babies concerned;*

- (b) how the Hospital Authority (HA) ensures that clinicians in public hospitals will only give advice to patients after the patients concerned have given consent to the delivery method to be adopted;*
- (c) whether the HA will consider requiring the clinician-in-charge to be ultimately responsible for the work of the medical staff of obstetric units in public hospitals in attending to women in labour and carrying out related medical procedures or treatment; and*
- (d) whether any mechanism is in place to monitor the operation of, and the system adopted in, obstetric units in public hospitals; and whether a comprehensive review of the operation of these units will be undertaken?*

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

- (a) I would like to thank the Honourable LEUNG Yiu-chung for raising this question today again. In order to clarify any misunderstanding the Honourable Member may have about my reply to him on 20 November 1996, allow me, Mr President, to recapitulate. In my reply, I explained that the term "vegetative stage" is often used to describe patients with sustained, complete loss of cognition while other autonomic functions such as sleeping and breathing remain relatively intact. This condition can follow acute, severe brain damage. I also explained that although birth asphyxia remains a major cause of brain damage leading to various degrees of mental disability, my understanding is that it is extremely rare for such cases to result in babies lapsing into what clinicians describe as "vegetative state", and no such cases had been reported by public hospitals in the past three years.

The public statement issued by Princess Margaret Hospital referred

to two new-borns who suffered severe brain damage as a result of birth asphyxia but had not lapsed into a "vegetative state" as described. Three independent experts are now investigating these cases.

My reply on 20 November 1996 and the statement issued by Princess Margaret Hospital were responding to requests for different information, and thus are not at variance with each other. My reply today to the Honourable Member's question on the number of babies born in public hospitals who have lapsed into a "vegetative state" because of birth asphyxia and remained in such a state since birth or have died over the past three years is still the same, that is, no such cases have been reported by public hospitals in the past three years. But if the Honourable Member is seeking information on the number of deaths of infants between birth and under one year old whose principal cause of death was birth asphyxia in public hospitals in the past three years, the answer is 26, 21 and 13 in 1993, 1994 and 1995 respectively.

Premature labour, multiple birth, prolapsed umbilical cord, severe maternal bleeding, and maternal hypertension are factors which may lead to high risk deliveries including birth asphyxia. Furthermore, congenital abnormalities is also a common cause of complications during the delivery process.

- (b) The HA advocates natural delivery as the preferred way of child birth, recognizing that caesarean section carries higher potential risks. If in the best interest of the patient based on prevailing clinical indications caesarean section is recommended, the patient will be advised and her consent has to be obtained.
- (c) The clinician-in-charge is responsible for supervising the provision of service in the obstetric units in public hospitals. In fact, all medical, nursing and allied health staff in the clinical team share a common goal of delivering the best possible quality of patient care. Furthermore, in the capacity of professionals, they are accountable to the respective professional bodies such as the Medical Council,

the Nursing Board and the Midwives Board for their conduct.

- (d) The HA has developed a framework to ensure professional standards of practice in public hospitals. Within this overall framework, mechanisms of professional accountability, such as clinical guidelines, protocols and procedures as well as regular monitoring, review and evaluation of patient cases and treatment in quality assurance programmes are in place. These mechanisms are applied across all public hospitals in all specialities, including obstetrics. The quality of obstetric service in Hong Kong is reflected in our infant mortality rate of about 4.5 per 1 000 live-births in recent years, a figure which is among the best in the world.

**MR LEUNG YIU-CHUNG** (in Cantonese): *Mr President, I would like to ask the Secretary for Health and Welfare through you to provide clarification again. At the sitting on 20 November, I clearly asked the Secretary for Health and Welfare to give me a reply concerning cases involving babies turning into "vegetables" as a result of birth asphyxia. Would the Secretary for Health and Welfare tell me why, in her reply, she replaced the wording I used in my question with a formal name and explained the term "lapsing into a vegetative state", without subsequently announcing the detailed information? I would like to ask the Secretary whether, during the questioning session last time, she intentionally played with words or juggled with formal terms with a view to concealing the facts from us by withholding detailed information?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Mr President, I can answer Mr LEUNG in definite terms that I have absolutely no such intention.

**DR LEONG CHE-HUNG** (in Cantonese): *Mr President, it is reported that in the wake of this incident, the Hospital Authority (HA) has set up an independent investigation team comprising of three people. Would the Government inform this Council of firstly, the terms of reference of the team; secondly, when the investigation will be completed; and thirdly, whether the investigation work will be made known to the public? I hope the Government could inform the public*

*as soon as possible to prevent them from holding a reserved attitude towards public medical institutions.*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Mr President, the HA has commissioned three independent experts to conduct medical reviews on the recent cases involving two babies in Princess Margaret Hospital and cases involving deaths caused by birth asphyxia, including whether treatment for patients and medical care are of acceptable standard. I hope the findings of the investigation will be published shortly.

**DR LEONG CHE-HUNG** (in Cantonese): *Mr President, will the Government inform this Council of whether the investigation report will be made public to prevent the public from holding a reserved attitude towards public medical institutions?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Mr President, as far as I know, the HA has decided that the findings of the investigation will be published as soon as the investigation is completed.

**MR MICHAEL HO** (in Cantonese): *Mr President, part (b) of the question asks about how the HA ensures that clinicians in public hospitals will only give advice to patients after the patients concerned have given consent to the delivery method to be adopted. In response to the question raised on 20 November, the Secretary for Health and Welfare replied that clinicians will only give advice to patients after the patients have given consent to the delivery method to be adopted. Mr President, will the Government clarify whether "the patients have given consent to the delivery method to be adopted" means that the patients have an absolute right to decide on the adoption of natural delivery or caesarean section?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Mr President, the adoption of caesarean section or natural delivery will have to be decided by the clinician on duty, basing on his expertise and experience, instead of by non-medical personnel.

**DR HUANG CHEN-YA** (in Cantonese): *Mr President, in fact the term "vegetable" is strictly defined, and the definition concerns mainly with cognition. As new-borns have literally limited responses, the concept of the so-called "vegetative baby" is basically not acceptable in the medical field. Therefore, it is meaningless to get entangled with this issue. Rather, the crux of the question lies in the number of deaths of new-borns within the first month after their birth or the number of infants who have developed the so-called cerebral spasm subsequently; how far these misfortunes can be avoided; and whether the HA has conducted any investigations?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Mr President, I will put these questions to the HA and give Dr HUANG a written reply. (Annex II)

**MR LAW CHI-KWONG** (in Cantonese): *Mr President, my follow-up question has been raised by my honourable colleague. Thank you.*

**MR ALBERT CHAN** (in Cantonese): *Mr President, in replying to the follow-up question raised by Dr the Honourable LEONG Che-hung just now, the Secretary for Health and Welfare said that the findings of the three-member investigation team would be published. Will the Secretary inform this Council of whether the whole investigation report will be made public? This is because making public the report and publishing the findings are two different things. Will the Secretary reply clearly?*

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

I think we should let the HA decide on which parts of the report should be made public. This is because if the report involves information relating to individuals or patients, we must respect the patients concerned and we cannot make it known to the public. Nevertheless, we would definitely try our best to make known to the public those information which can be made public.

**DR JOHN TSE** (in Cantonese): *Mr President, with respect to the term "vegetable", as far as I understand, a vegetable should strictly mean a vegetable and a human being should strictly mean a human being. Does the term "vegetable" refer to those human beings who only need air, water and earth to survive? In fact, the term "vegetable" definitely belittles a man's entitled dignity. I would like to ask if there is any term that can better describe such a state?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Mr President, this term is not invented by me. If Honourable Members wish to seek a correct medical explanation, I would be pleased to ask medical experts to provide information in this aspect and give Dr TSE a written reply afterwards. (Annex III)

**MR LEUNG YIU-CHUNG** (in Cantonese): *Mr President, just now the Secretary for Health and Welfare said that an investigation team would be responsible for investigating the cases. I would like to ask the Secretary whether it would be fair and objective if the investigation only seeks to inspect medical records and reports, without making inquiries with the patients concerned? At the same time, would the Secretary ask the experts of the investigation team to get in touch with the clients with a view to finding out about the actual situation and their complaints?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Mr President, I think we should let the HA and the experts to decide on by what means the investigation should be conducted. We can have discussion as to how the matter should be dealt with in the future. I know it has been planned that after the completion of the investigation, the experts will meet with the individual clients, with the attendance of the clinicians from Princess Margaret Hospital and representatives of the HA, to explain in detail the findings of the



investigation. I hope, in doing so, we can help the clients to better understand the whole process. But if there is a need to give further assistance to the clients to understand their situation, I am sure the HA would be pleased to do so.

**MR LEUNG YIU-CHUNG** (in Cantonese): *Mr President, I would like to ask the Secretary for Health and Welfare whether she would relay the message to the HA that the investigation team should inquire the clients about their cases as well as the detail of their complaints?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Mr President, I will relay Mr LEUNG's suggestion to the HA.

**MR ALBERT HO** (in Cantonese): *Mr President, for the time being, let us put aside such questions as to whether the unfortunate incident occurred in Princess Margaret Hospital this time involved professional negligence. But one question seems to have manifested itself and that is communication between clinicians and patients is not adequate. Would the Government review whether, should similar cases occur, communication between clinicians and family members of patients should be strengthened so as to minimize any unnecessary misunderstanding?*

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Mr President, I do agree with Mr HO that communication between clinicians or medical personnel and patients is extremely important. Over the past few years, the HA has paid special attention to training in this aspect and has gradually brought about substantial improvement, particularly concerning the counselling, communication and explanation given to women before as well as after their delivery, which are of paramount importance.

### **Disposal of Excavated Materials**

5. **MR ALBERT HO** asked (in Cantonese): *Mr President, it is learnt that on 11 November this year the Environmental Impact Assessment Subcommittee under the Advisory Council on the Environment discussed the option put forward by the Route 3 Consortium for the disposal of additional excavated materials. In this connection, will the Government inform this Council:*

- (a) *of the Subcommittee's views and suggestions on the option put forward by the Consortium;*
- (b) *of the number of other feasible options being studied by the Government and the up-to-date progress of such studies; and*
- (c) *whether the scheduled completion date of Route 3 will be affected as a result of the above situation?*

**SECRETARY FOR WORKS** (in Cantonese): Mr President, slope cutting works was required for forming the Route 3 - Country Park Section. It was found that some of the slopes had to be cut flatter than the designed gradient to achieve stability. The resulting additional soil requires additional effort and time for removal from the site. As a contingency measure to ensure that all the excess soil can be removed in good time, the contractor proposed to dispose of the soil by filling up a valley adjacent to the site if later found necessary.

- (a) The Environmental Assessment Sub-Group of the Advisory Council on the Environment (ACE) was not supportive of utilizing a natural wooded valley adjacent to the Route 3 project to accommodate the additional soil. They required the contractor to explore in greater detail all other options before they would give the proposal any further consideration.
- (b) We understand that the contractor for this Build, Operate and Transfer project employed by the Franchisee is studying the following alternative solutions:
  - (i) Improving the efficiency and performance of the conveyor system

This would involve 24-hour operation of the conveyor, and a reduction in the number of hours dedicated to preventive maintenance. It also entails carrying out mitigation measures to protect local residents from noise. Increased conveyor output has already recently been observed but the contractor is concerned that reduced preventive maintenance could result in more frequent conveyor breakdowns in the

future and eventually a loss in productivity.

(ii) Removing the excess soil by road

This will entail adding more traffic to Castle Peak Road during off peak hours. A traffic impact assessment is being conducted by the contractor and will be discussed and agreed with relevant government departments before such a method is employed.

- (c) At present, the contractor does not expect that the removal of additional soil would affect the opening of the Route 3 Expressway in July 1998. The proposals he is now considering are prudent contingency measures just in case that the present disposal arrangement would not be able to take care of the additional soil without causing serious delay.

**MR ALBERT HO** (in Cantonese): *Mr President, I want to ask the Secretary for Works a follow-up question. If the implementation of the method mentioned in (b)(ii) will produce serious impact on the traffic along Castle Peak Road, what position will the Government adopt? I so ask because we think that while there is a need to complete the construction of Route 3 as soon as possible, the outbound traffic of Tuen Mun must not be affected too seriously. In case we do not adopt the method mentioned in (b)(ii), will the completion date of the works concerned be delayed as a result of a reduction in the number of alternative contingency measures?*

**SECRETARY FOR WORKS** (in Cantonese): *Mr President, even if Castle Peak Road has to be used, I believe that the impact would not be too serious. As far as I know, if this method is adopted now, the increase in traffic volume will just be 40 vehicle trips per hour. That said, I still maintain that the contractor should first try to make use of the conveyor system, and he should consider other alternatives only when he deems that the operation of the conveyor system is adversely affected. However, as mentioned in my main reply, the contractor still has to conduct a traffic impact assessment before he can consider whether Castle Peak Road is to be used for soil removal. Thank you, Mr President.*

**MR ALBERT CHAN** (in Cantonese): *Mr President, the Government has, in principle, rejected the use of the valley to accommodate the additional soil. Regarding the two proposals made by the Government, namely, b(i) and b(ii), when the Government completes the process of consideration, will it consult the district board concerned and listen to its views before implementing any of the methods? I so ask because such a step is not mentioned in the main reply.*

**SECRETARY FOR WORKS** (in Cantonese): Mr President, let me first clarify that this particular works project is not under the direct management of the Government. It is mainly undertaken by the contractor employed by the Franchisee, and this contractor is responsible for all the building, operating and transfer works involved. That said, if any of the measures adopted by the contractor are to affect the neighbouring residents and areas, we will certainly consult the district board concerned.

**MR WONG WAI-YIN** (in Cantonese): *Mr President, 40 vehicle trips per hour is already a heavy traffic volume. Will the Secretary for Works tell us how many tonnes of soil the conveyor system is originally designed to handle? If the slopes have to be cut flatter than the designed gradient, how many tonnes of additional soil will have to be handled? Can the conveyor system alone handle the additional soil?*

**SECRETARY FOR WORKS** (in Cantonese): Mr President, I do not have such data on hand. But, I am prepared to give a reply to the Honourable WONG Wai-yin after this sitting. (Annex IV) In the meantime, as far as I know, the operation of the conveyor system is stopped for a few hours a day. That being the case, if the conveyor system can keep on operating during these few hours, I believe that it should be able to remove the additional soil. The main problem is that if the conveyor system works continuously for too long a time, say 24 hours, breakdowns may result.

**MR CHOY KAN-PUI** (in Cantonese): *Mr President, when can the Government decide on which method to adopt at the latest? And, what factors will be taken*

*into account when it makes such a decision?*

**SECRETARY FOR WORKS** (in Cantonese): Mr President, as mentioned in my main reply, at this stage, they think that the opening date in July 1998 will not be affected. That is why they have not decided when the measures proposed have to be taken as remedy. So, it can be said that they are just designing some contingency measures in advance, and would implement them only when necessary. Thank you, Mr President.

### **Control on Signboards**

6. **MR YUM SIN-LING** asked (in Cantonese): *Mr President, it is reported that in the recent catastrophic blaze that broke out in Garley Building, the neon signs and signboards erected on the external walls of the building and the vehicles parked nearby have caused obstruction to both rescue and fire-fighting operations. In this connection, will the Government inform this Council whether:*

- (a) *it will introduce regulations to regulate the dimension of signboards, the distance between signboards and other related issues; and whether such regulations will restrict the number of signboards and their dimensions in each building according to the floor area of the building and the width of the adjoining streets;*
- (b) *it will introduce a licensing system to tackle the problem of an increasing number of large signboards;*
- (c) *there is any plan to carry out inspections of the streets in the territory in the near future, with a view to identifying those streets having similar potential hazards; and*
- (d) *it will set up an inter-departmental task force responsible for the inspection, on a long term basis, of signboards erected on buildings and facilities on the ground floor and in the adjoining streets (including legal parking spaces), so as to ensure that no obstruction is caused to the operation of fire engines; if so, what the details are?*

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

- (a) as I explained in this Council on 31 January this year, there are a number of legislative and administrative measures to control the erection of overhanging signboards outside buildings. The primary concern of the Government as regards these signboards is public safety. The policy is to ensure that signboards which could pose a threat to public safety (including whether they obstruct rescue or fire-fighting operations) are removed either by the owners themselves or, if necessary, by the Buildings Department. The size of a signboard, including its positioning and its physical condition are factors to be taken into account;
- (b) in 1994, we carefully considered the possibility of introducing a licensing system for overhanging signboards, and concluded that such a system would be resource intensive and costly and would not offer any significant advantage over the existing enforcement arrangements. This conclusion is still valid;
- (c) at present, the Buildings Department focuses its efforts on removing signboards that are dangerous or liable to become dangerous, on a district-by-district basis and upon receipt of complaints. Moreover, if the Fire Services Department identifies any signs that obstruct their rescue and fire fighting operations during fire incidents/incidental drills at site, they will report to the Buildings Department for their removal. As regards the risk of vehicles parked on the roads, legal car parking spaces are designated at locations which do not obstruct fire rescue and fighting operations. We will consider whether the existing arrangements need to be improved; and
- (d) we would undertake a review of the existing arrangements and the issue of whether an inter-departmental task force should be set up to carry out street inspections on a long term basis will form part of our consideration.

**MR YUM SIN-LING** (in Cantonese): *Mr President, in paragraph (a) of the*

*main reply, the Secretary for Planning, Environment and Lands says that "there are a number of legislative and administrative measures to control the erection of overhanging signboards outside buildings". In paragraph (b), he says that the introduction of a licensing system for overhanging signboards would not offer any significant advantage over the existing enforcement arrangements. This has given people a wrong impression that all signboards, whether new or old, are now effectively controlled. But as a matter of fact, we all know that it is only quite recently that the Administration starts to take actions against old and dilapidated signboards, and in regard to new signboards, it does not have any means to deal with them. I can quote a recent case in my constituency in which two huge signboards were erected outside the same floor of a post-war building. However, the people affected could find no channel to lodge their complaint. Although the Government says on the basis of the review in 1994 that introducing a licensing system for overhanging signboards would be costly, over the past two years, it has been emphasizing costs recovery .....*

**PRESIDENT** (in Cantonese): Mr YUM Sin-ling, please state your question.

**MR YUM SIN-LING** (in Cantonese): *Why is it impossible for the Government to adopt the cost-recovery approach, by considering levying high licence fees in order to curb the erection of new signboards?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Mr President, I hope that Members will not forget that these signboards have to be erected on the external walls of buildings. In fact, the external walls of a building are the property of its landlords or the common property of all the landlords listed on the Deed of Mutual Covenant. Therefore, the consent of landlords has to be sought if we are to control the erection or otherwise of signboards on the external walls of buildings. The landlords concerned can also take actions under the Deed of Mutual Covenant with respect to this matter. As I mentioned earlier, we conducted a very detailed review in 1994. It was concluded that one major reason against the introduction of a licensing system by the Government was that our main concern was not the sizes of signboards, but the degree of danger they pose instead. That is why we are now focusing our resources on removing those dangerous signboards. If we introduce a licensing system, the resources currently used for controlling or

removing dangerous signboards will have to be re-allocated to other kinds of work which may not be very urgent at all. Frankly and honestly, I can say that since we started to deploy staff to inspect and remove dangerous signboards on a district-by-district basis in 1994, we have made considerable progress. This will continue, and will, I believe, continue to yield some results.

**MR LAU CHIN-SHEK** (in Cantonese): *Mr President, will the Secretary for Planning, Environment and Lands inform us of the number of signboards, as at the present moment, which could pose a threat to public safety, including those which obstruct rescue or fire-fighting operations? When can they be all removed? Secondly, last year, how many signboards were found to have obstructed rescue or fire-fighting operations? Have any remedial measures been adopted afterwards?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Mr President, at present, there are about 100 000 to 200 000 signboards in the whole territory. However, this is only an estimation as we do not have a registration system for all signboards.

The inspection system of the Buildings Department is on a district-by-district basis. As at the present moment, the task force of the Department has already inspected nearly 20 000 signboards. The Buildings Department has also taken its own actions to remove more than 1 000 dangerous signboards. It has, at the same time, written to the landlords concerned, asking them to remove about 1 000 signboards. In regard to the Fire Services Department, if they identify any signboards that obstruct rescue or fire-fighting operations, or if they come across any objects hanging from buildings during their daily operations, such as incidental drills at site, they will notify the Buildings Department.

I can quote a few examples. This type removal works have been carried out in Tuen Mun, Whampoa Garden and Ngau Chi Wan Tsuen. However, we have no idea how many signboards actually fall into this category, as we do not classify signboards in this way. Usually, signboards are removed by the Buildings Department upon receipt of complaints from the Fire Services Department. Generally speaking, this also includes the 1 000-odd signboards that I mentioned earlier.



**MR TSANG KIN-SHING** (in Cantonese): *Mr President, just now the Secretary mentioned that there are about 100 000 to 200 000 signboards in the whole territory. Given its existing capacity, the Buildings Department can remove only a maximum of 10 000 signboards each year. So, how long will it take to remove all the signboards? Besides, the Secretary has also mentioned that the Buildings Department will be notified in case its assistance is required to remove a signboard. Once a signboard is identified to be obstructing fire escape or dangerous, how long will it take for the Buildings Department to remove it after notification?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Mr President, first of all, let me make one clarification here. It is not our policy to remove 10 000 signboards as a target each year, nor is it our policy to remove all signboards. Instead, we will take actions only when signboards which pose a threat to public safety are identified during our district-by-district inspections. The most I can say is that the Buildings Department will conduct district-by-district inspections in priority districts. So far, they have already inspected more than 10 000 signboards and have dismantled nearly 2 000 of them. In regard to other signboards which are quite secured or which do not pose a threat to public safety, it is our policy to allow their existence.

Therefore, I cannot answer the Honourable TSANG Kin-shing as to when all the signboards can be removed, because we have never considered doing so. However, if we receive a complaint against any signboard which affects rescue and fire-fighting operations, the Buildings Department will regard it as a dangerous signboard and will accord priority in removing it. The action will usually be very quick. In regard to the first part .....

**PRESIDENT** (in Cantonese): I think what Mr TSANG means is: When can all the signboards be inspected?

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Mr President, as far as progress is concerned, our currently available

resources will at most allow us to conduct inspections on a district-by-district basis. For some signboards which are quite secured and in good conditions, we do not have to take any special actions. In regard to inspection work, we hope that this can be fully accomplished in the next few years.

**MR TSANG KIN-SHING** (in Cantonese): *Mr President, the second part of my question has not been answered. After the Administration has notified the Buildings Department of the existence of a dangerous signboard, how long will it take to remove that signboard? Besides, the Secretary has mentioned that there are some priority districts. Can he inform us in detail which areas have been classified as priority districts for inspections?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): *Mr President, these priority districts are mainly found in the older parts of the Kowloon Peninsular such as Sham Shui Po, Mong Kok and Hung Hom. In regard to when the signboard concerned will be removed after a complaint has been received, normally the Buildings Department will, upon the receipt of a complaint, first of all seek to ascertain whether the condition of the signboard is the same as that alleged in the complaint. Generally speaking, however, the signboard concerned can usually be removed within one month.*

**MR JAMES TO** (in Cantonese): *Mr President, that priority districts are called as such is definitely because they have the greatest number of dangerous signboards, and the Government has said that it is most concerned about the effects of these signboards on public safety. In paragraph (c) of the main reply, it is said that efforts have been focused on removing signboards that are dangerous or liable to become dangerous. However, will we in fact be "subscribing to a dead chit-fund"? What I mean is that since we have carried out removal works, or, better say, since we carry out removal works only when the danger posed by those signboards has reached a certain degree, we may well be unable to recover the expenses we have paid on behalf of the owners, thus leading to bad debts. Will the Government review this policy seriously? Is it a good social policy to use public money in such a way? Will a new system be established so that the owners who are liable to remove those signboards shall also bear certain responsibilities?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Mr President, I do not agree that we are "subscribing to a dead chit-fund". Why? This is because once the Buildings Department identifies some dangerous signboards, it will usually ask the owners concerned to remove them on their own. Therefore, the owners will be responsible for the expenses. Even when the signboards have to be removed by the Buildings Department, if the owners of the signboards concerned can be tracked down afterwards, notices will still be sent to these owners to ask them to pay the expenses incurred. Past experience reveals that our work in this respect has been quite successful. However, the biggest problem is that in some cases, it is impossible to identify the owners because they may have already left Hong Kong, disappeared or wound up their business. In such cases, public money has to be used to pay for the expenses. On the other hand, the Administration has also been co-operating closely with the district boards. When cleaning-up campaigns are being carried out in various districts, the district boards concerned will also take special actions to remove abandoned signboards.

**MR JAMES TO** (in Cantonese): *Mr President, will the Secretary please provide a written reply specifying the number of cases with records of successful or unsuccessful recovery of expenses after removals, and the ratio concerned?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Mr President, I will provide a written reply. (Annex V)

**MR LEE WING-TAT** (in Cantonese): *Mr President, as regards whether or not signboards will obstruct rescue or fire-fighting operations, does the Secretary agree with the following three facts: firstly, as a department responsible for monitoring and regulating signboards, the Buildings Department, when conducting inspections, will only check whether the structure of signboards is in compliance with the Buildings Ordinance and will not concern itself with rescue or fire-fighting considerations; secondly, the Fire Services Department does not conduct any regular checks on all signboards to see whether they obstruct rescue and fire-fighting operations; and thirdly, it is only when firemen are fighting fire that they realize which signboards are obstructing their operations?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Mr President, some of these three points are correct and some are not. When the Buildings Department inspects signboards, its primary concern is, of course, their structural safety and effects on public safety. The staff of the Buildings Department are not fire-fighting experts and thus cannot confirm whether any signboards will obstruct rescue and fire-fighting operations. Besides, they simply do not know the requirements of the Fire Services Department. In regard to the second point, it is not true to say that the Fire Services Department does not carry out any inspections. As I have mentioned in the main reply, when they are not carrying out fire-fighting operations, they will conduct some operations known as incidental drills at site. For instance, they may operate fire engines through narrow streets, or firemen may be deployed to carry out inspections in streets. If any signboards which may obstruct rescue or fire-fighting operations are identified, the Buildings Department will be informed. The districts that I quoted earlier as examples were brought to our attention in this way by the Fire Services Department. Finally, when there is a fire, what should we do with signboards which obstruct rescue or fire-fighting operations? Of course, the most important thing is to rescue people and to put out the fire. Such signboards will only be dealt with afterwards.

**MR LEE WING-TAT** (in Cantonese): *When the Secretary answered the second point a moment ago, he said that during incidental drills in alleys or narrow streets, firemen may come across signboards which violate fire services regulations. Will he briefly explain whether the total number of signboards thus identified is so small in comparison with the total number of signboards in the whole territory that this type of inspections is considered to be of little significance? He may answer now if he is able to do so; if not, he can provide a written reply later.*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Mr President, I can contact the Fire Services Department to obtain the information required. (Annex VI)

However, I would like to clarify one point concerning incidental drills at site. As I have said, the main purpose of such drills is to check the passage for

fire engines. If it is found that a signboard is obstructing the passage of fire engines or scaling ladders, the Fire Services Department will refer the case to us. The consideration is not whether firemen can climb over the signboard to enter or to leave the site of fire during fire-fighting operations.

**DR JOHN TSE** (in Cantonese): *Mr President, at present, the problem of signboards occupying public space has already exceeded tolerance limits. Some huge signboards are even stretching over half of the width of Nathan Road. They appear like flyovers but are actually signboards. In regard to paragraph (c) of the main reply, I must say that it is indeed terrifying. It says that if the Fire Services Department identifies any signs that obstruct their rescue and fire-fighting operations during fire incidents, they will notify the Buildings Department for their removal. However, the Secretary has just told us that it would take about one month to remove a signboard. My question is: Have there been any cases in which the firemen could not proceed with fire-fighting operations owing to the obstruction caused by signboards? In such cases, are we going to wait for one month, and let the fire burn in the meantime? Have there been any cases in which signboards have to be removed on the spot during fire-fighting operations? What is the number of such cases?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Mr President, I do not have any information concerning the rescue and fire-fighting operations of firemen. However, as far as I can observe, there has never been any case in which signboards have to be removed on the spot during fire-fighting operations. This is because fire-fighting operations are not necessarily conducted outdoors. In many cases, they are carried out at the site of a fire or inside building premises. I could not hear the first part of Dr the Honourable John TSE's question clearly. It seemed to be about his views on signboards.

**PRESIDENT** (in Cantonese): It was only a preamble.

**MR YUM SIN-LING** (in Cantonese): *Mr President, the Secretary has just said that there are 200 000 signboards in the whole territory. If \$5,000 is charged for each signboard every year, there will be an annual revenue of \$1 billion. Is*

*\$1 billion enough to pay for what the Secretary called high costs?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Mr President, I think this is related to the operation of the entire system. It is because these signboards have already been erected for quite some time. So, the problem is: how can we track down the owners of all the 200 000 signboards and ask them to obtain licences and observe licensing conditions such as the dimensions of signboards? And, even after we have identified all existing signboards, can we guarantee that new signboards without licences will not be erected? In 1994, we did study this issue carefully. As a matter of fact, such a licensing system will only work if we can remove all existing signboards at the same time and then issue licences for new ones. If we introduce such a system right now without doing this, the administrative costs will be exorbitant, and too exorbitant to estimate, as the number of signboards is indeed far from small, not to mention the fact that new signboards are erected everyday. Just now, I also mentioned one point. At present, it is not the Government which approves the erection of these signboards. It is, most of the time, the owners of buildings and the persons in control of the external walls and common areas of buildings who allow the erection of signboards. Therefore, I very much encourage owners' corporations to exercise their rights under the Deeds of Mutual Covenant.

**MR JAMES TO** (in Cantonese): *Mr President, I would like to ask a follow-up question on this answer. Since there must be a fixing point for each signboard and that such a fixing point is on the outside of a building, if the Government thinks that the best method is to encourage owners' corporations to exercise their powers under the Deeds of Mutual Covenant, has the Government done anything to enable them to exercise control? Has the Government provided any assistance to them?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Mr President, the Buildings Department has published some leaflets for owners' corporations of buildings about external walls and other illegal structures. Such leaflets explain to them what constitutes an offence, and the conditions under which applications should be made and so on. Besides, the Home Affairs Department also encourages and assists in the setting up of owners'

corporations. After an owners' corporation has been set up and where necessary, the staff of the Buildings Department will also explain to the owners that they can enforce the Deeds of Mutual Covenant under the Buildings Ordinance to assist in or implement the work related to the control of signboards. This is what our staff have been doing all along.

## WRITTEN ANSWERS TO QUESTIONS

### Rates and Rent Reimbursements for Non-profit-making Kindergartens

7. **MR CHEUNG MAN-KWONG** asked (in Chinese): *Regarding the applications from non-profit-making kindergartens for reimbursement of rates and rent, will the Government inform this Council:*

- (a) *of the criteria adopted for determining whether such applications should be approved;*
- (b) *the number of kindergartens whose applications for reimbursement of rates and rent were rejected in the past two years, together with the amount of reimbursement requested by each of the kindergartens concerned; and whether the authority concerned has explained clearly the reasons for rejection to these kindergartens; and*
- (c) *whether the Government will consider improving the existing system for processing such applications, such as introducing a point reckoner or waiting list system to enable the kindergartens to know when their applications will be accepted?*

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

- (a) All non-profit-making schools including kindergartens are entitled to reimbursement of rates subject to their being granted exemption as charitable bodies by the Commissioner of Inland Revenue under section 88 of the Inland Revenue Ordinance.

As for rent reimbursement, the criteria for assessing applications are:

- (i) the demand for kindergarten places in the district on the basis of the Hong Kong Planning Standards and Guidelines;
  - (ii) compliance with the Education Ordinance and Regulations;
  - (iii) operating standards in both management and professional aspects; and
  - (iv) reasonable rate of rent per pupil per annum.
- (b) All applications for rates reimbursement are approved once the applicants produce proof of exemption under section 88 of the Inland Revenue Ordinance.

In the past two school years, there were 34 new applications for rent reimbursement. 10 cases were unsuccessful. Reasons for rejection were clearly explained to individual kindergartens. The respective amounts of reimbursement requested in these cases are listed in the Annex.

- (c) Under the existing system, applicants meeting all the criteria in (a) above are given rent reimbursement. Unsuccessful kindergartens may apply again after they have taken appropriate measures in accordance with the advice of the Education Department as appropriate. As the present system is operating satisfactorily, we do not intend to introduce a point reckoner or waiting list system at this stage. The scheme is reviewed from time to time for improvement.

Annex

*Amount of monthly rent applied for  
Unsuccessful cases 1994-95 school year*

- |    |          |
|----|----------|
| 1. | \$6,000  |
| 2. | \$10,000 |



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3.	\$16,000
4.	\$70,000

<i>Unsuccessful cases</i>	<i>Amount of monthly rent applied for 1995-96 school year</i>
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1.	\$20,000
2.	\$25,000
3.	\$32,000
4.	\$58,720
5.	\$60,000
6.	\$115,000

### **Accounting and Financial Reporting by Listed Companies**

8. **MR ERIC LI** asked: *Under clause 8.17 of the Listing Rules of the Stock Exchange of Hong Kong Limited, all listed companies are required to have a named secretary who is either a professional accountant, lawyer or Chartered Secretary who has the requisite knowledge and experience in discharging the complex statutory and regulatory functions of the post. Will the Government inform this Council whether it will request the Stock Exchange and the Securities and Futures Commission to consider introducing regulations requiring all listed companies to engage professional accountants at the senior management level with designated responsibilities for overseeing the accounting and financial reporting functions of listed companies, including:*

- (a) ensuring that the increasingly complex financial reporting requirements under both the Listing Rules and the generally accepted accounting principles are complied with;*
- (b) ensuring that information of a high quality is provided; and*
- (c) accessing the audit committee of listed companies;*

*if so, what the details are; if not, why not?*

**SECRETARY FOR FINANCIAL SERVICES:** Mr President, the Stock Exchange of Hong Kong Limited (SEHK) has studied earlier this year a similar proposal in a report of the Working Group on Corporate Governance set up by the Hong Kong Society of Accountants. The proposal is one amongst many in the report and would require all listed companies to appoint a chief finance officer who is a professional accountant to the board of directors. The SEHK has concluded that there is no immediate need to implement the proposal because:

- (a) under the Companies Ordinance, every company is required to cause to be kept proper books of account as are necessary to give a true and fair view of the state of the company's affairs. It is the directors' responsibility to ensure that the financial statements give a true and fair view and that competent and sufficient personnel or other resources are devoted for this purpose; and
- (b) under the Companies Ordinance and the SEHK Listing Rules, every listed company must appoint independent professional accountants as auditors who must verify, in accordance with auditing standards, whether the financial statements of the company are in compliance with accounting standards and give a true and fair view. Therefore, the audit requirement has already provided a check on a company's compliance with the accounting standards.

In addition, the SEHK has also reviewed the listing rules of many other exchanges for similar requirements and has learnt that these exchanges also do not have any mandatory requirement for the appointment of an accountant as finance officer of a listed company.

The Administration is of the view that from a public interest angle, it is the external audit requirement (and the separation of duties) which would assure the quality of financial statements prepared by the company, rather than the qualification of the persons responsible for the finance function within the company. Having regard to this and against the background of the SEHK's study mentioned above, the Administration has no plans at this stage to request the SEHK and the Securities and Futures Commission to consider introducing regulations requiring all listed companies to engage professional accountants at

the senior management level.

Finally, the SEHK Listing Rules do not require that the secretary of a listed company must be either a professional accountant, lawyer or Chartered Secretary. Instead, it also allows the secretary to be an individual who, by virtue of his academic or professional qualification or relevant experience, is, in the opinion of the SEHK, capable of discharging the functions. There is at present also no requirement for a listed company to have an audit committee.

### **Vehicle Emissions**

9. **DR JOHN TSE** asked (in Chinese): *Will the Government inform this Council whether it has considered introducing legislation requiring motorists to switch off the engines of vehicles while waiting so as to reduce vehicle emissions, thus causing less air pollution; if not, why not?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Chinese): Mr President, we are considering the practicability of legislation to require motorists to switch off the engines of their vehicles during waiting time. To this end we are gathering information about regulatory controls elsewhere and shall examine the likely impact of such control measures on the operating practice of various transport modes. In the meantime, we are also planning to launch a publicity campaign to encourage drivers to switch off their vehicles while waiting.

### **Hong Kong Permanent Identity Cards for Non-BDTCs**

10. **MR HENRY TANG** asked (in Chinese): *Will the Government inform this Council whether any non-British Dependent Territories citizen with less than seven years' residency in the territory was issued with a Hong Kong Permanent Identity Card in the past; if so, what the reasons for this were, and the number of cases in which Hong Kong Permanent Identity Cards were issued to such persons in each of the past five years?*

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

Permanent Identity Cards are issued to persons who have the right of abode in Hong Kong. The categories of persons who are Hong Kong permanent residents are defined in Schedule 1 to the Immigration Ordinance (Cap. 115).

Category 3 in Schedule 1 comprises Commonwealth citizens who immediately before 1 January 1983 was a British subject married or had been married to, or was a child of, a person who immediately before 1 January 1983 was:

- (i) a British subject who was born in Hong Kong;
- (ii) a British subject by naturalization in Hong Kong; or
- (iii) a British subject by registration in Hong Kong under section 7(2) of the British Nationality Act 1948.

These persons may not be able to acquire the Hong Kong British Dependent Territories citizen status under the current British Nationality Act which came into force on 1 January 1983 but they are Hong Kong permanent residents as defined in Schedule 1. Thus they are issued with Hong Kong Permanent Identity Cards regardless of how long they have resided in Hong Kong.

The number of Hong Kong Permanent Identity Cards issued in each of the past five years is as follows:

1992	421 571
1993	458 979
1994	500 961
1995	503 702
1996 (January-October)	517 607

The Immigration Department does not keep a separate record of the number of Hong Kong Permanent Identity Cards issued to Hong Kong permanent residents who are non-British Dependent Territories citizens and who have resided in Hong Kong for less than seven years.

**Ex-gratia Payment for Lam Tin Shop Tenants Affected by Redevelopment**

11. **MR FRED LI** (in Chinese): *As group of Lam Tin Grade B shop tenants affected by the Housing Authority (HA)'s Comprehensive Redevelopment Programme have recently lodged a complaint with the Office of the Commissioner for Administrative Complaints to express their discontent with the method of calculating the ex-gratia payment adopted by the Housing Department (HD). The shop tenants pointed out that the tenancy cards signed between the former Resettlement Department (RD) and the tenants did not specify the areas of the shops premises concerned, and that the areas of the shop premises specified in the Light Refreshment Restaurant Licences issued to these shop tenants by the Urban Council were determined by reference to the floor areas of the shop premises in accordance with the Food Business (Urban Council) By-laws (Cap. 132, sub.leg.). However, when calculating the ex-gratia payment for these shop tenants, the HD has not included the area of the frontal section of the shop premises. According to the HD, this was because rent had not been charged in respect of the area of the frontal section of the shop premises in the past. In this connection, is the Government aware of:*

- (a) *the reasons for the HA not issuing another type of tenancy cards to the shop tenants to clarify the floor areas and the grading of the shops when the HA took over the public housing estates from the former RD;*
- (b) *whether the HD keeps copies of the business licences or related documents obtained by the shop tenants, so that the floor areas of the shop premises can be obtained from such documents;*
- (c) *the reasons for the HD and the Urban Council having different criteria for determining the size of the same shop premises, and which of the sizes determined should be regarded as accurate if a discrepancy occurs;*
- (d) *the justification for not charging rent in respect of the frontal section of the shop premises in the past, and whether rates have been charged in respect of the frontal section of these shop premises; and*

- (e) *the number of appeal cases lodged by Grade B shop tenants who were dissatisfied with the method of calculation of the ex-gratia payment since the implementation of the Comprehensive Redevelopment Programme in 1988, and the outcome of such appeals?*

**SECRETARY FOR HOUSING** (in Chinese): Mr President, after the merger of the former Resettlement Department (RD) with the Housing Authority in 1973, there was a proposal to replace the tenancy cards used by the RD by a new form of tenancy agreement. The proposal was dropped owing to strong protests from tenants to maintain the *status quo*.

It has been the practice of the Housing Department (HD) in calculating the area of shops in Group B estates not to include the frontal section. As a result, rent is charged only on the lettable area of the shop, and *ex-gratia* allowance is also calculated on the same basis.

Government departments and independent organizations are responsible for drawing up their own operational guidelines, and for implementing them through appropriate statutory and administrative arrangements. Thus separate rules, regulations and statutory requirements may be adopted. It is therefore not meaningful to say that a particular method of determining the size of shop premises is more "accurate" than another method.

The HD does not keep copies of business licences or related documents issued by other Departments.

The Rating and Valuation Department charges rates for the use of the fronted section of a shop as rates are normally based on the actual area of occupation.

Since the Comprehensive Redevelopment Programme began in 1988, no shop tenant has appealed against the HD's method of calculating *ex-gratia* allowances, particularly as the allowance is not a statutory form of compensation.

## **Psychiatric Service in Public Hospitals**

12. **DR HUANG CHEN-YA** asked (in Chinese): *Is the Government aware:*

- (a) *the current numbers of psychiatric outpatients and community psychiatric nurses respectively in each of the hospital clusters of the Hospital Authority (HA);*
- (b) *the average daily number of cases handled by each community psychiatric nurse in public hospitals, together with a breakdown of the categories of such cases; and*
- (c) *whether the HA will provide more resources so as to improve the psychiatric service in public hospitals; if so, what the details are?*

**SECRETARY FOR HEALTH AND WELFARE** (in Chinese): Mr President, since workload statistics are kept by the Hospital Authority (HA) on the basis of attendance rate rather than the number of patients, a breakdown showing the total number of psychiatric outpatient attendance and community psychiatric nurses in each of the hospital clusters is provided below:

<i>Hospital cluster</i>	<i>Psychiatric outpatient attendance in 1996-97</i>	<i>No. of community psychiatric nurses</i>
Hong Kong East	33 853	6
Hong Kong West	37 522	4
Kowloon East	24 090	4.5
Kowloon Central	34 603	
Kowloon West	750	20*
New Territories South	111 784	
New Territories North	56 679	11*
New Territories East	21 088	

\* Community psychiatric nurses share the caseload within these hospital clusters.

The average daily number of home visits made by each community psychiatric nurse was 2.4 in 1995-96. The frequency of home visits will tend to vary according to individual circumstances but in general, each patient will be visited once every three to four weeks. Apart from home visits, community psychiatric nurses also provide direct assistance or advice to patients, their families and other community carers through telephone consultation. About 80% of the patients involved are suffering from schizophrenia, while the other 20% are related to depression, anxiety neurosis and substance abuse. Home visits may sometimes be carried out jointly by two community psychiatric nurses to provide quality management, particularly for initial visits, crises intervention or patients with relapsing symptoms, and to reduce potential risks associated with remote locations.

The HA has identified the need to improve medical services for psychiatric patients as a priority area. To this end, new initiatives are being considered in its annual plan for 1997-98 to enhance community psychiatric service, to develop psychiatric rehabilitation service and forensic psychiatric service, to improve psychiatric coverage to general hospitals as well as to establish comprehensive child and adolescent psychiatric services.

### **Legal Aid Administration**

13. **DR DAVID LI** asked: *It is learnt that the Legal Aid Department will issue formal warnings to lawyers practising in the private sector who do not handle legal aid cases in a professional manner. In this connection, will the Government inform this Council:*

- (a) *how the Legal Aid Department determines whether or not a lawyer in the private sector handles legal aid cases in a professional manner;*
- (b) *of the proportion of legal aid cases assigned to lawyers in the private sector to the total number of legal aid cases in each of the past three years;*
- (c) *of the total expenditure on fees paid to lawyers in the private sector handling legal aid cases in each of the past three years; and*



- (d) *of the number of complaints received by the Legal Aid Department regarding the professional misconduct of private sector lawyers in each of the past three years; and of the findings of the investigation into these complaints?*

**CHIEF SECRETARY:** Mr President,

- (a) Lawyers in the private sector handling legal aid cases are expected to observe the rules governing their conduct as set out in the codes of conduct issued by the professional legal bodies and in the relevant legislation, and to exercise professional skill, care and diligence in the discharge of their duties and obligations towards their clients. All cases assigned out to lawyers in the private sector are monitored by the Legal Aid Department and the lawyers concerned also have to make regular reports to the Department.
- (b) In the past three years, about 75% of civil legal aid cases were assigned to lawyers in private practice. The details are as follows:

<i>Year</i>	<i>Percentage</i>
1994	79%
1995	70%
1996 (January - October)	75%

As regards criminal legal aid cases in the same period, on average 37% of such cases were assigned out to solicitors in the private sector to act as instructing solicitors. The details are as follows:

<i>Year</i>	<i>Percentage</i>
1994	36%
1995	41%
1996 (January - October)	37%

In the past three years, on average 83% of criminal cases were also assigned to barristers in the private sector to act as advocates in Courts. The details are as follows:

<i>Year</i>	<i>Percentage</i>
1994	70%
1995	91%
1996 (January - October)	87%

- (c) In the past three years, on average about \$210 million a year has been spent on legal costs on cases assigned to lawyers in the private sector. The details are as follows:

<i>Financial Year</i>	<i>Legal costs</i>
1993-94	\$180.8 million
1994-95	\$212.5 million
1995-96	\$238.3 million

- (d) Hitherto, the Legal Aid Department has not kept statistics on the number or the nature of complaints against assigned lawyers. However, no assigned lawyer has been removed from the Legal Aid Panel for professional misconduct. The Legal Aid Department now intends to keep and analyze such information systematically as part of its computerization programme. This plan is currently being considered in the context of the Feasibility Study of the Legal Aid Department's Information Systems Strategy.

### **Distribution of Printed Materials on Legislative Council Members**

14. **MISS EMILY LAU** asked (in Chinese): *It is learnt that any person (including a Legislative Council Member) or organization wishing to deliver printed materials into the letter boxes of residents in Home Ownership Scheme estates, or to mount publicity boards in these estates, has to obtain the prior*

*consent of the mutual aid committees (MACs) of the estates concerned. In this connection, will the Government inform this Council whether these MACs, which are non-statutory bodies, have the right to prevent Legislative Council Members from distributing printed materials such as their work reports to the residents in these estates?*

**SECRETARY FOR HOME AFFAIRS** (in Chinese): Mr President, MACs are residents' organizations formed by owners and tenants of the same buildings. They have responsibility, among other things, for the proper management of the buildings concerned.

There are no provisions in the law and in the MACs' constitutions for MACs to restrain distribution to residents of information material from Legislative Council Members or, for that matter, from any other persons and organizations. However, MACs may do so at the request of the owners and tenants of the building or if they had consulted and obtained prior authorization from them.

### **Hang Seng London Reference Index**

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

- (a) *which organization is responsible for compiling the Hang Seng London Reference Index (the Index) which reflects the price movements of Hong Kong stocks traded in London;*
- (b) *whether the authorities concerned will consider asking the organization concerned to publish daily the movement of the Index and transaction details of Hong Kong stocks traded in London for public reference; if not, why not; and*
- (c) *whether the authorities concerned has considered the possibility of the Index being exploited as a tool for market manipulation?*

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

- (a) The Hang Seng London Reference Index (the Index) is compiled by the HSI Services Limited (the company), a subsidiary of the Hang Seng Bank Limited, which is also the publisher of the Hang Seng Index.
- (b) Neither the Administration nor the Securities and Futures Commission (SFC) have plans to ask the company to publish daily the movement of the Index and transaction details of Hong Kong stocks traded in London, not only because the SFC has no regulatory authority over the company, but also because many other service providers are already publishing a variety of transaction information including the ones mentioned in the question.
- (c) A financial index, such as the Hang Seng London Reference Index, primarily reflects the performance of its constituent stocks in a particular market and would have no greater influence over the market than the trading activities of its constituent stocks. There are a variety of factors affecting the performance of Hong Kong stocks and the level of related indices, including the state of our economy and the world's leading economies, movements in interest rates, and trading activities of Hong Kong stocks in other overseas markets. The possibility of the Index being exploited as a tool for market manipulation is no higher than that inherent in the actual trading of its constituent stocks.

### **Police Cooks**

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

- (a) *of the number of police officers deployed to work as cooks in police stations, and the average monthly salary of these officers;*

- (b) *of the qualifications for the post of cook in police stations and whether, in the recruitment advertisement for police officers mention is made that police officers may be deployed to work as cook in police stations; and*
- (c) *whether the posts of cook in police stations can be filled by non-police officers; if not, why not?*

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

- (a) There are a total of 139 police officers consisting of two Station Sergeants, 14 Sergeants and 123 Police Constables working as cooks. Their mid-point monthly salary for 1996-97 are \$27,415 for Station Sergeants, \$22,010 for Sergeants, and \$15,980 for Police Constables.
- (b) It is not mentioned in the recruitment advertisement that police officers recruited may be deployed to work as cooks. Cooking skill is not an entry requirement for police officers.
- (c) The police plan to civilianize or contract out catering services including cook duties at all police stations in phases. However, a number of police cooks will be retained to perform catering services for Field Patrol Detachment units which operate on a 24-hour basis and inside restricted areas as well as to provide emergency catering services in internal security situations.

### **Housing Society Rental Flats**

17. **MISS CHAN YUEN-HAN** asked (in Chinese): *Does the Government know:*

- (a) *of the total number of rental flats provided by the Hong Kong Housing Society (the Society) to the Hong Kong Housing Authority for allocation to the applicants on the Public Housing Waiting List*

*in the past five years;*

- (b) whether the Society will continue to make rental flats available for rehousing people affected by the Urban Renewal Scheme; if so, how the Society will determine the number of such flats; and*
- (c) whether the Society will reduce the number of rental flats to be produced in its development plan for the next five years; if so, what the reasons are and whether this will aggravate the problem of an inadequate supply of public rental flats?*

**SECRETARY FOR HOUSING** (in Chinese): Mr President, in the past five years (1991-92 to 1995-96), the Hong Kong Housing Society provided about 3 100 rental flats for allocation to applicants on the Waiting List maintained by the Housing Authority (HA).

In the next five years (1996-97 to 2000-01), the Hong Kong Housing Society will build 3 200 rental flats, with 2 000 earmarked for rehousing people affected by urban renewal projects of the Land Development Corporation.

Subject to the provision of suitable land by the Government, the Hong Kong Housing Society will continue to produce rental flats. The combined production of public rental flats planned by the HA and the Housing Society over the six-year period up to March 2001 will enable us to meet the target of producing 141 000 public rental flats.

### **Public Transport to Chek Lap Kok Airport**

18. **MR HOWARD YOUNG** asked: *Will the Government inform this Council whether it has drawn up plans regarding the provision of public transport facilities during the period between the opening of the new airport at Chek Lap Kok in April 1998 and the commissioning of the Airport Railway in June 1998?*

**SECRETARY FOR TRANSPORT:** Mr President, the consultants for the

Transport Study for the New Airport have put forward a number of proposals regarding the provision of public transport facilities if the new airport were opened in advance of the commissioning of the Airport Railway. However, the Mass Transit Railway Corporation has a good track record of completing projects ahead of schedule and within budget. It is liaising with the Airport Authority with a view to, if necessary, accelerating the works of the Airport Railway to match the opening of the new airport. We will closely monitor progress on the Airport Railway project and acceleration measures and will continue to keep the need for contingency public transport plans under review.

### **Hospital Authority Staff Establishment**

19. **MR MICHAEL HO** asked (in Chinese): *The Hospital Authority (HA)'s plan to reduce the number of staff in various ranks in the HA Head Office has been implemented for several years. Is the Government aware of:*

- (a) *the respective numbers of directorate staff (equivalent to level 1 or above of the Directorate pay scale in the Civil Service) and non-directorate staff in the HA Head Office in each of the four financial years from 1992-93 to 1995-96; and*
- (b) *the target of the reduction in the establishment of the HA Head office, and the date when this target will be achieved?*

**SECRETARY FOR HEALTH AND WELFARE** (in Chinese): Mr President, a breakdown showing the number of directorate staff and non-directorate staff in the HA Head Office in the past four years is provided below:

<i>Number of Staff (as at September)</i>			
<i>Year</i>	<i>Directorate</i>	<i>Non-directorate</i>	<i>Total</i>
1993	31	509	540
1994	34	490	524

1995	34	453	487
1996	32	420	452

HA's target is to reduce the total number of staff in the Head office to 400 by the first quarter of 1998.

## **GOVERNMENT BILLS**

### **First Reading of Bill**

#### **SECURITIES AND FUTURES COMMISSION (AMENDMENT) (NO. 3) BILL 1996**

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

### **Second Reading of Bills**

#### **SECURITIES AND FUTURES COMMISSION (AMENDMENT) (NO. 3) BILL 1996**

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

He said: Mr President, I move that the Securities and Futures Commission (Amendment) (No. 3) Bill 1996 be read a Second time.

The Bill seeks to provide statutory protection to auditors of listed companies who report in good faith to the Securities and Futures Commission (Commission) or the Stock Exchange of Hong Kong (Stock Exchange) any suspected fraud or misconduct discovered in their capacity as auditors. The Bill



does not seek to impose any duty on an auditor to communicate any such information or opinion to the Commission or the Stock Exchange, nor does the Bill seek to confer any power on the Commission or the Stock Exchange to require an auditor to communicate such information or opinion to either of them. The Bill does not have any regulatory objective. No additional regulation will be introduced. But without the statutory protection, auditors making reports could face possible civil liabilities for breach of auditor-client confidentiality.

Under section 61 of the Banking Ordinance (Cap. 155), section 53D of the Insurance Companies Ordinance (Cap. 41), section 89A of the Securities Ordinance (Cap. 333) and section 51A of the Commodities Trading Ordinance (Cap. 250), an auditor is granted statutory protection and immunity when reporting in good faith to the appropriate regulatory authority reasonable suspicion of fraud or wrongdoing which he comes across in his capacity as an auditor of a company in the regulated sector. Our aim is to introduce amendments to the law which mirror these provisions to enable auditors of listed companies to report reasonable suspicions to the Commission or the Stock Exchange. However, whereas auditors of companies in the regulated sectors are required to report suspicions of fraud to the authorities under certain circumstances, we are not seeking the same treatment for auditors of listed companies. There will be no mandatory requirements to report.

The Bill is the result of a very long consultation between the Government, the regulators and the Hong Kong Society of Accountants (HKSA). We are grateful to the various parties for their advice, and in particular for their participation in a working group set up in May this year to study how best to refine our proposal, and to try to address the concerns and reservations on the part of those who did not support the proposed legislation. The working group comprises representatives from HKSA, the Hong Kong General Chamber of Commerce, the Chinese General Chamber of Commerce, the Institute of Directors, the Hong Kong Institute of Company Secretaries and the Law Society of Hong Kong, the Commission, the Stock Exchange, the Commercial Crime Bureau of the police, the Independent Commission Against Corruption, the Attorney General's Chambers and the Financial Services Branch.

As a result, we have now taken on board some of HKSA's suggestions and have introduced a number of changes to the Bill. I would mention briefly perhaps just two. One is the inclusion of a commencement clause. The idea is

to allow sufficient time to enable professional guidelines to be drawn up before the Bill comes into operation. This may be contrasted with the regulated sectors, where the statutory protection provision became effective immediately after the law was passed and that guidelines were only developed afterwards. Another suggestion we have taken on board is in relation to the definition of "associated company". We have now effectively adopted HKSA's definition, based on the equity method of accounting.

Mr President, the Bill of course is not a single, complete solution to corporate fraud, but we have never set out to do so in one single amendment bill. Rather, we believe that the Bill is one more step towards the goal of combating corporate fraud in an ongoing, continuing, and incremental process towards better corporate governance.

Thank you, Mr President.

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

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

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

### **WHALING INDUSTRY (REGULATION) BILL**

#### **Resumption of debate on Second Reading which was moved on 30 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).*

## **Committee Stage of Bill**

Council went into Committee.

## **WHALING INDUSTRY (REGULATION) BILL**

Clauses 1 to 14 were agreed to.

Schedule was agreed to.

Council then resumed.

### **Third Reading of Bill**

THE SECRETARY FOR ECONOMIC SERVICES reported that the

## **WHALING INDUSTRY (REGULATION) BILL**

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

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

Bill read the Third time and passed.

## **MEMBERS' MOTIONS**

### **LANDLORD AND TENANT (CONSOLIDATION) ORDINANCE**

**MR JAMES TO** to move the following motion:

"That section 48(1) of the Landlord and Tenant (Consolidation) Ordinance be amended by repealing "31 December 1996" and substituting "31 December 1998"."

**MR JAMES TO** (in Cantonese): Mr President, I move the first motion standing

in my name on the Order Paper.

Mr President and honourable colleagues, although technically the two motions I am going to move today would be dealt with in two separate debates, they are both related to the Landlord and Tenant (Consolidation) Ordinance. I therefore would like to state here my arguments for the two motions together. The motions I move today are in response to the Government's failure to tackle the housing problem. The background analysis and rationale of the motions are set out in my explanatory notes distributed to Members.

The crux of the housing problem today is that while land supply is held firmly in the hands of the Government, the supply of private housing is monopolized by major property developers. In addition, to increase revenue, the Government has adopted a high land price policy and a private housing oriented strategy which suppresses people's demand for public rental housing. At present, the problem is so serious that it is on the point of "explosion" — the supply of public and private housing has dropped to a record low level. As a result, eligible applicants have to remain on the Waiting List for eight to 10 years and stay in old buildings the rent of which are not the least cheap even though the environment and the structure are wretched. Moreover, at least more than 400 000 people are currently living in very unsuitable accommodations such as temporary housing, squatter huts, roof-top structures, cocklofts, partitioned rooms, obsolete buildings, caged homes, and so on. What is more, they have to spend as much as 30% to 40% of their income on housing. To a large extent, housing expenditure has become a major cause of poverty. Among the households living in old buildings, many who are of the low-expenditure groups have to scrimp on their living expenses. Once the rent control is abolished, they certainly will have to change their daily meals from "bean sprouts and bean curd" to plain rice only. Inadequate supply of both public and private housing is the very cause of these problems.

When the Government first introduced rent control, it sought to stabilize the society by preventing the excessively high rent and the acute shortage in housing supply from rendering people homeless. The situation now is more or less the same. It is now the most difficult time for those people who are yet to be allocated public housing and are still living in private housing with soaring rent. When some \$2,000 is only enough to rent a room of less than a hundred square feet, can the Government still deny that this is the housing problem it has to face squarely?

As to the impact on the low-income people, a study report published by the Hong Kong Council of Social Service and the Oxfam Hong Kong earlier on points out that rent not only constitutes a very large proportion of the expenditure of the low-income people, but also has a direct impact on their living standard. For the lowest 10% of the low-expenditure groups living in private housing, rent constitutes 47% of the total expenditure of one-person households and 34% of that of two-person households. As rent has taken up 30% to 40% of their total expenditure, they have to scrimp and save to pay the rent. If rent control is abolished, people will have to spend an even greater part of their income on rent.

In fact, over the past few years, as rent control has to be relaxed according to the pace set down in 1993, many tenants have already downgraded their quality of housing simply because they could not afford the increase in rent. They have to move from large rooms to small rooms, from small rooms to cocklofts, from cocklofts to bed-spaces, and from bed-spaces to caged homes. Where else could they move to now? On the other hand, many Comprehensive Social Security Assistance (CSSA) recipients living in the old districts can only pay their rent with the help of CSSA rent allowance. As pointed out in the Legislative Council paper, the rent generated from buildings under rent control constitutes 72% of the market rent. If the Government really abolish rent control in December this year as scheduled, many of the CSSA recipients will be forced to use the rest of their CSSA payments to cover the rent as the actual rent then would exceed the ceiling of the CSSA rent allowance. As a result, the expenditure on other basic needs will have to be reduced.

Recently, speculation has heated up again and the prices of small to medium-size flats have risen by 15% to 20%. Soaring property prices and heated speculation have made a comeback as headlines of newspapers everyday. Alongside with the rise in property prices, the pressure of rising rent has also been increasing. At present, households of three to four persons living in private housing are already spending 30% to 40% of their income on rent payment. With the rise in rent, would these households not have to spend 50% to 60% of their income on rent payment? To abolish rent control at this juncture when the rents of most properties are rising, the demand for rental units in old buildings among the lower strata will become even greater; this, in turn, would cause the prevailing market rent of old buildings to rise. Once rent control is abolished, tenants may have to pay 40% more. However, the Government has no policy to provide them with assistance such as rent assistance or rent allowance to overcome the hardship caused by high rent.

This is the most difficult time for the public as they are facing high property prices and high rent. The Government should not proceed to abolish

rent control matter-of-factly just because "the time has come". Instead, it should understand the situation of the people and formulate policies according to the actual needs. Only in so doing can the work be carried out in a forward-looking way.

Even the *Hong Kong Economic Journal*, which fervently champions free market economy and fully supports the abolition of rent control, has pointed out in its editorial that under such social circumstances, "responsible officials should tackle it with flexibility as the situation requires". The Democratic Party is of the view that in order to solve the most difficult issue among the existing housing problems in the long run, it is necessary to increase land supply and the supply of public housing. Only by providing the lower strata with suitable and affordable accommodations can the crux of the matter be resolved.

However, "one cannot put out a fire by getting water from the yonder". It is not possible for the Government to increase the supply of both public and private housing within a short period of time to alleviate the pressure caused by high rent and high property prices that members of the public have to bear. In order to help the public to overcome this, certain short-term measures have to be implemented. Deferring the abolition of rent control is one of the effective short-term measures. We agree that rent control is only an interim measure. If the Government can provide the people with sufficient accommodations that are suitable for and affordable by them, thus making it possible for the low-income groups and those living in unsuitable accommodations to enjoy public rental housing, I believe Members will vote against rent control then. Therefore, I now move my motion to defer the expiry date for the abolition of rent control in Part I and Part II to 31 December 1998, as well as to reduce the 30% increase every two years in Part II to 20%. Should the rent still be below 80% of the prevailing market rent after the increase is made, then the rent may be increased to 80% of the prevailing market rent instead of 90% as set out in the existing legislation. Regarding the rent in Part I, we propose that the date for the abolition of rent control be deferred to 31 December 1998.

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

*Question on the motion proposed.*

**MR RONALD ARCULLI:** Mr President, when this Council debated a Bill to amend the Landlord and Tenant Consolidation Ordinance in 1993, my colleague, the Honourable Mrs Miriam LAU, set out succinctly the Liberal Party's position

in supporting that bill. For those colleagues who were not Members of this Council at that time our principal reasons were as follows.

First, it is reasonable for any investor to expect a reasonable return on his or her investment irrespective of whether they invest in shares, bonds, property or indeed any other investment. For the tenants, it must be accepted that not everyone living in Hong Kong would want to buy their own home, so investors do have an important role to play.

Second, when rent control was first introduced in 1973, it was supposed to be an interim measure. Like some other things in Hong Kong, interim measures have a nasty habit of turning to be long-term measures. This Council agreed that rent control should come to an end at the end of this year. I have not heard any fair or indeed cogent reasons why it should be extended or indeed varied.

Third, I understand the sympathy which some of us have for the less fortunate members of our community. To help them would be a community, and therefore a government, responsibility, not, Mr President, and I repeat not, the responsibility of a handful of investors who are the landlords.

For these reasons, the Liberal Party will not support the two resolutions.

**MISS CHAN YUEN-HAN** (in Cantonese): Mr President, the property market is becoming active again in recent months. Speculation is rampant and the rise in property prices has affected those who want to purchase their own homes. It has also affected the tenants of private premises and put a heavy burden on them because their landlords may ask for rent increases as a result of the rise in value of the premises. Nevertheless, the Government has decided to abolish rent control by the end of this month. This decision will certainly make it even harder for tenants to shoulder the rent.

Mr President, years ago, in view of the short supply of housing which had constantly resulted in large increases in rent, the Government decided to impose rent control on pre-war and post-war premises. It was not until 1993 that the Government decided to abolish rent control in phases. Mr President, from some government reports, we can see that tenants of private flats, partitioned rooms or even bed spaces may need to spend 40% or more of their incomes each month on

rent. As a large part of their incomes has to be spent on rent, they have no alternative but to live frugally and subsequently there is a fall in their living standard. I have witnessed a real-life example myself: On Monday, I met a resident in San Po Kong who complained that the original rent for his bed space was \$500 a month. But probably because of the recent rise in property prices, the rent would be increased to \$600 a month. The residential buildings in San Po Kong are protected by tenancy legislation. If rent control is relaxed at this juncture, the impact on the residents in this district will be enormous.

Mr President, I want to stress that the monthly rent for bed spaces in many districts is actually higher than the San Po Kong example I have just quoted. It is predicted that the situation will become even worse should the Government relax rent control. If the Government makes its obstinate decision in the absence of any policy that helps people to address the problem of exorbitant rent, it would be inappropriate for the Government to relax rent control at this time.

Maybe some people will say that the freezing of rent control will be unfair to flat owners and their rental incomes may suffer as a result. I think it is understandable for flat owners to think this way. However, I would like to point out that the premises under rent control are mostly aged buildings and the tenants are mostly single elderly people, newly arrived immigrant families, poverty-stricken people and singletons. A great majority of them are low-income people. Otherwise, they would not be living in these dilapidated premises. They are still willing to live there simply because the rent is cheaper. Of course, this is relative speaking. If we relax rent control at this juncture, we will only make it difficult for them to pay the rent, and they will have to move out eventually. It should be noted that those who can afford would not want to rent these places, whereas those who can ill afford would be unable to pay the rent. If the tenants cannot afford to live in these buildings any longer as a result of the Government's abolition of rent control, it will actually do no good to the flat owners.

Besides, the requirements for application for public housing in Hong Kong are stringent, and those who can meet the requirements are invariably low-income people. However, as the Government has made serious mistakes in its housing policies in recent years, public housing applicants have to wait for a long time. Some of them have been waiting for more than 10 years but to no avail. On the other hand, because of the Government's high land price policy, tenants of private buildings have to shoulder exorbitant rent. But the



Government has no comprehensive rent assistance policy to help those people who are on the Waiting List for public housing, thus making life even more difficult for them. The existing public housing rent assistance scheme only offers short-term assistance to public housing tenants who are in difficulty. Moreover, the tenants concerned will be asked to move to public housing units where the living condition is poorer. Tenants of private buildings can only apply for the Comprehensive Social Security Assistance (CSSA). However, recipients of CSSA payments are only restricted to those who are extremely poor in our society. Those who do not meet the criteria can only continue to bear the huge housing expenses on their own.

Therefore, Mr President, we are of the view that in order to solve these problems, the Government has to build rental public housing in large quantity. Only through this means can the problems be thoroughly solved. Before this goal is achieved, the Government should take into account the predicament of the tenants. I propose that the Government may provide rent assistance to help those low-income people living in private buildings. The Government should also thoroughly solve the problem pertaining to the long waiting time for public housing and alleviate some of the burdens of the tenants who are paying high rents. Mr President, as long as a sound housing assistance scheme is in place, the rent can be adjusted according to a reasonable level, and the difficulties we are facing today will no longer exist. I think the Government should also play its role in this matter. Mr President, as a rent assistance scheme is not in place yet, I agree with the Honourable James TO's proposal that the relaxation of rent control be postponed for two years until 1998. I hope that the Government will have sufficient time to consider setting up and implementing a rent assistance scheme for the low-income people who are now living in private buildings and are unable to enjoy the benefit of public housing. Moreover, I hope the Chief Executive for the Hong Kong Special Administration Region, who is elected today, will be able to face the current situation and formulate a sound housing policy in the days to come, so that the grassroots of Hong Kong will be able to live and work in peace and contentment.

Mr President, the Government has not only failed to provide sufficient rental public housing, but also failed to provide financial support to the low-income households who are living in private buildings. Therefore, I demand that in considering the abolition of rent control, the Government should, at the same time, formulate a rent assistance policy to help all tenants of private buildings who are in financial difficulty to prevent their quality of life from

deteriorating.

For this reason, the Hong Kong Federation of Trade Unions supports Mr James TO's motion. Thank you, Mr President.

**MR FREDERICK FUNG** (in Cantonese): Mr President, the law provides that rent control for private buildings will cease to be effective on 31 December. In other words, the landlords may increase rent to the level of market rent according to the forces of the market.

The Government is of the view that rent control is a kind of "latent subsidy" for which the landlords have to be responsible. Therefore, it should be abolished. If practical circumstances are set aside and rent control is handled as a separate issue, then the argument certainly will be justified. However, as rent control is part of the overall housing policy, I think we must estimate the chain reactions that would be triggered by its abolition, and whether or not it will place people in certain strata in an even more unfavourable position. As the policy maker, the Government must set out whether the policy should be abolished, or reinstated in another form, or replaced by another policy should such a situation arise. The Government should also look for ways to help people who have been protected by rent control in the past pull through. I have a feeling that the Housing Branch is now at its wits' end. Once it has made a move, it tells people to wait. However, the long-term housing strategy is still not announced now that people have waited for a year. It then states that those who are in difficulties may apply for the Comprehensive Social Security Assistance (CSSA). I think this is not the way to solve problems. The CSSA can only help those in abject poverty. But those who are relatively poor cannot enjoy this benefit. I think the Government is irresponsible and apathetic in making the decision to abolish rent control before it has found other solutions.

In recent years, the Government's intervention in the property market has been waning and low-income households can get less and less protection. The low rents of old buildings have virtually become the last bulwark of low-income households in housing. Should rent control be abolished completely, these people's expenditure on housing will further increase, and it will trim away their expenditure on other items, which will directly affect their living standard.

At present, the number of tenants to whom rent control is applicable are in

fact decreasing by about 15% a year as a result of the demolition of buildings and possession by landlords and so on. The number has dropped from 32 414 in 1992 to 18 997 at present. Even if rent control continues to be implemented, the number will shrink gradually as a result of natural degeneration. Such being the case, I wonder if it is necessary for the Government to abolish the policy at this juncture, suddenly leaving the low-income households with nothing to rely on?

We should not ignore that the annual supply of rental public housing units is very limited, and even less units have been produced in 1995 and 1996 — only a little more than 10 000 new units. However, only about 20% of the households on the Waiting List have been allocated units this year, that is, 9 000 households. Units available for allocation simply do not meet the demand of the applicants. As a result, these families are forced to live in private buildings with high rents for a long period of time. Once rent control is abolished, the rents will climb to the level of market rents. How can these people afford that?

A survey conducted by the Rating and Valuation Department in 1993 revealed that amongst those living in buildings protected by Part II of the legislation, over 40% were elderly people aged 60 or above; and amongst all the tenants, 70% had not applied for public housing. In other words, even when the rents rise to the level of market rents, it will not be possible for these tenants to get the Government's help in respect of housing, and they can only continue to look for cheaper flats in private buildings.

On the other hand, we should not overlook the psychological effects brought about by the abolition of rent control. Once rent control is abolished, many property owners will have a misconception that the rents can be increased infinitely. If that is the case, people in the lower strata will be in a very disadvantageous position as housing is one of the basic needs of people. Low-income people have the right to choose not to buy their own homes, but not the right to choose not to rent a place to live. Clearly, when the level of rents keeps rising, they have no choice but to live under worsening conditions.

At present, the expenditures of tenants of private buildings on housing have far exceeded those of public housing tenants. According to the Research on the Expenditure Pattern of Low-expenditure Households in Hong Kong recently completed by the Hong Kong Council of Social Service, for the lowest

10% of the expenditure group of one-person households, the expenditures on housing of the tenants of private building account for about 48% of their total expenditures, 14% more than those of the tenants of public housing of a similar category. The same happens to the households of two, three, four and five persons or more. It can be seen that once rent control is abolished, low-income families living in private buildings will become even poorer.

Both the Hong Kong Association for Democracy and People's Livelihood and myself are of the opinion that the Government should look for other policies as replacement before completely abolishing rent control. For example, the Government can use rent allowance to help people with low income to overcome their difficulties in housing. Otherwise, the Government will only be using market mechanism to drive those who are relatively poor into abject poverty. Therefore, we support the Honourable James TO's motion.

**MR CHAN KAM-LAM** (in Cantonese): Mr President, on 3 June 1992, the Administration moved an amendment in this Council to delete the protection clauses in the Ordinance, or in other words, to abolish rent control. Subsequently, this Council spent over a year on examining the amendment, and it was not until 30 June 1993 that it was finally passed. It can thus be seen that Members at that time did have a lot of arguments about the Ordinance, and I believe our discussion today will involve these same old arguments.

Mr President, the main cause of these arguments is that the Government has failed to fulfil its commitment on housing construction. As originally scheduled under this commitment, the demand of our community for public housing would be met by 1997. But the fact is that there are still as many as 150 000 households on the General Waiting List. What is more, a survey has indicated that less than 40% of the tenants concerned have applied for public housing. Such a low rate of application may have led the Administration to underestimate the housing demand of these tenants. Therefore, we think that it is necessary to extent rent control and the protection measures for a longer period of time. This should give the Government more time to take effective measures, and enable it to wait until more housing resources are available before abolishing rent control.

The aim of implementing rent control is to stabilize society and to protect

the right of low-income people to rent their own accommodation. It must be noted that these people are now facing varying degrees of financial hardship, and that the existing maximum level of rent allowance under the Comprehensive Social Security Assistance (CSSA) Scheme is not entirely able to help them pay their rents.

Although substantial adjustments have been made in recent years, and although the CSSA Report released early this year has recommended that the rent allowance should be reviewed once a year to take account of the effects of rents on CSSA recipients, the Administration has so far failed to make any further commitments openly. Therefore, when the Administration abolishes rent control, the proportion spent on rent in the expenditure of CSSA recipients will further increase, and the quality of life of these people will further deteriorate. I believe that we must look at this matter with concern and take action in response.

Mr President, although the Bills Committee concerned endorsed a relaxation of rent control, most Members were of the view that "..... Most of the affected tenants are of the low-income strata who have been suffering from financial hardship. Therefore, unless and until there is hope that the social security net of Hong Kong is improved, so that the financial hardship of tenants can be relieved, otherwise rental control should not be relaxed further ..... Therefore, the Government should draw up measures to assist tenants who are in need."

Mr President, the Democratic Alliance for the Betterment of Hong Kong (DAB) is fully aware that controlling rent in the form of legislation is no doubt unfair to those landlords who are affected. However, since the existing rents of private buildings under rent control are already quite close to market rents, we believe that the continuation of limited rent control will have limited effects on the landlords concerned.

In view of the practical circumstances and needs, and having studied the side-effects and negative impacts of rent control, we believe that although rent control is not a desirable social policy, it should still be continued for a short period of time because of the hardship of the low-income people. The Administration should not turn a blind eye to the problem. Instead, it must work out a solution immediately. If not, we will probably have to face the same problem in two years' time, and we will have to start the debate again. Mr President, the DAB supports this motion.

**MR LEE WING-TAT** (in Cantonese): Mr President, the Honourable James TO has already stated clearly on behalf of the Democratic Party the position of the party. However, there are several points I would like to add in respect of the motion. First, I want to respond to the view of the Honourable Ronald ARCULLI that rent control is unfair to the flat owners. In fact, the Democratic Party is not ignorant of the problem. We feel that the Government should take up the responsibility of providing assistance to those needy low-income tenants living in private housing. The Government, however, is stubborn enough to fail to understand the present position and fail to conduct any policy review on this issue.

In fact, I have made a proposal for the Government to give certain medium-range assistance to those on the Waiting List who meet the income requirement and who have been waiting for quite some time and have passed the means test. If so, flat owners will incur less loss when they collect rents. Basically we do understand the situation. The problem is that if the Government fails to conduct a policy review on the question of rent assistance, these people will not be able to face the extra burden of rent brought about by the abolition of rent control.

Here I would like to raise another point. When discussing the issue of whether private housing tenants need rent assistance, staff of the Housing Branch should not muddle it up with the low-income people who are on the Comprehensive Social Security Assistance (CSSA) Scheme. We all know that for those low-income people who are on the CSSA Scheme living in private housing, their rents are basically covered by the Social Welfare Department. Whenever we raised the issue of rent assistance at meetings of the Panel on Housing, representatives from the Housing Branch would muddle it up with the CSSA Scheme. If they do not understand, I hope Mr Dominic WONG, Secretary for Housing, can enlighten them on the difference between the CSSA and rent assistance that we are talking about.

The second point I would like to make is about the responsibility of public bodies. A Member queried whether the Housing Authority (HA) and the Housing Society (HS) have built sufficient units for the low-income people to apply. There are simple data showing that no progress has been made with regard to the building of rental units in recent years. Why? When we read the annual reports of the HA, we will note that the total stock of rental units since

1991 has been 650 000. This figure has remained unchanged. Why then each year we are told that the HA has built 15 000 or 20 000 new rental units? It is because the number of new units is offset by the ten thousand plus units demolished. This situation has occurred for quite a number of years. Indeed, the total stock of rental units of the HA will not exceed 660 000 by the year 1998-99, three years from now. There can only be an annual increase of one or two thousand units, which represents a snail's pace with minimal progress. However, 15 000 to 20 000 new units are being built for the Home Ownership Scheme each year. Is our policy out of balance? Is such a policy capable of meeting the needs of the low-income people for rental units?

Just now, I spoke to Mr Dominic WONG in the sitting room about the reasons why those tenants living in private housing in the old districts do not apply for public housing. Mr WONG told me many of those people did not apply. He was hinting that perhaps they might not have the need to do so. There are in fact two reasons for this, but Mr WONG just did not spell them out. First, the HA has, since several years ago, prohibited residents from applying for rental units in the urban areas. So residents in Mongkok, Tai Kok Tsui or Hung Hom are not allowed to apply for public housing in the urban areas such as Sham Shui Po or Wong Tai Sin. As the Government does not allow them to apply, they would simply refrain from doing so. It is because they do not want to move to Tin Shui Wai. Second, for those who want to apply, they will naturally have to wait in the queue. If they prefer places such as Tsuen Wan, Tsing Yi or Tsuen Kwan O which are not too far away from the urban areas, they will have to wait for about seven years. Can they afford to wait for such a long time? Given their present earnings, can those men and women, who are single and are working in the old districts afford the new rent as they move to Tsuen Wan, Tsing Yi or Tsuen Kwan O? This is questionable.

Lastly, I want to speak on the surplus situation of the two public bodies in the past two years. The HA has a running surplus of over \$30 billion this year. The HS also has a good year and enjoys a surplus of \$3 billion. We do not know what other organizations in Hong Kong can have such surpluses, over \$30 billion for one and \$3 billion for the other. How are they going to use these surpluses? They are not going to use them to provide rent assistance. They only want to expand the Home Purchase Scheme and offer more loan for people to buy units in the Sandwich Class Housing Scheme. Of course, I will not object to this. To a certain extent, I have no objection to assisting residents who are already living in their own properties to buy flats again. But why do these two statutory bodies not care about people in abject poverty as well as those people on the Waiting List who, though not in abject poverty, are not eligible for

the CSSA? These people have already waited for four to five years and have been spending 40% to 50% of their family income on rent payment. Do these people not deserve any government assistance deriving from such surpluses of more than \$30 billion or \$3 billion? Why would only property buyers or buyers of sandwich class housing be assisted? Why is the Government so mean and so reluctant to help those in genuine need? I really do not understand.

Mr President, I feel that the community is increasingly encouraging those people already living in their own flats to purchase flats and has lost sight of those living in abject poverty or near abject poverty. We can see from survey reports that the problem of "polarization between the rich and the poor" will be aggravated as those living in poverty have to spend more on rent. Mr President, in my opinion, rent control could be regarded as a remedial measure in social policy since it could relieve people from the burden of paying extra rent in time of hardship. Although rent would still be increased even if Mr James TO's motion is passed, the amount increased should be less. The problem will not be fully solved either even if the Government grant rent assistance to those households on the Waiting List. I think some people still have to scrimp and save to pay high rent over a long period of time, unless, as some say, the waiting time can be reduced from seven years to five years or, as some have hoped, two to three years. If what is said or hoped for is true, those people paying high rent could have something to look forward to. If not, I think it will be inappropriate to suggest extending rent control or to rule out completely the concept of rent assistance now.

Thank you, Mr President.

**MR YUM SIN-LING** (in Cantonese): Mr President, I would like to respond briefly to the argument that it is unfair to the landlords of old buildings. Let me quote a simple but extreme case. For example, some old buildings were purchased at only a few thousand dollars 40-odd years ago. Although there is the factor of inflation, their prices could not have appreciated that much. The fact that the prices of old buildings have increased hundreds or even thousands of times is mainly attributable to the high land price policy of the Government and an inadequate supply of land. The losses incurred by the landlords are in fact very small. It is just that they have not been able to benefit from the high land price policy of the Government. Thank you, Mr President.



**SECRETARY FOR HOUSING:** Mr President, the motion moved by the Honourable James TO, if passed, will be a retrograde step and will set back the final process of abolishing rent control for pre-war residential premises. I wish to highlight some of the bad effects of this resolution, if passed, and in so doing, correct a few misconceptions.

The existing rent control provisions were introduced for pre-war premises in 1947 as a short-term measure to counter the unusually high rent increases at a time when there was an acute shortage of rental accommodation in Hong Kong. But the reasons for this measure have disappeared in recent years.

Private or general housing stock in Hong Kong has increased manyfolds and market rents have also stabilized. Rent increases averaged about 7.5% a year in the past five years, and 5% per year in the past three years. Hence in June 1993, this Council passed an amendment to the Ordinance to abolish rent control three years later, and that is on 31 December this year. Average rent now ranges from 80% to 90% of the market level. It is surprising, therefore, that some Members of this Council are now trying to overturn the Council's previous decision and to put the clock back by extending rent control for another two years for a small group of residents.

Rent control is against our free market economy policy and is a hidden subsidy to tenants at the expense of landlords. Rent control is introduced only on exceptional grounds, those grounds that I have already outlined. The effect of rent control is that even those tenants who can afford to pay more for better housing hold onto the controlled premises so as to take advantage of the low rent. On the other hand, as some Members have mentioned, landlords are deprived of their right to charge market rent and this is not fair to them. Hence they are also reluctant to spend money on maintaining and refurbishing the buildings. The outcome is building deterioration, slums and social immobility. In the end, it will benefit neither tenants nor landlords.

Mr President, I think we must not mix up rent control with social welfare subsidy which is means tested. Rent control is not a means tested scheme and is not devised to help the poor. It is applied regardless of tenants' financial position. In other words, the poor and the rich all get it. Those in genuine financial hardship should turn to the Comprehensive Social Security Assistance Scheme which gives a rent allowance of up to about \$4,600 a month for those in need. Where is the argument for rent protection of a small group of residents

whose financial position is similar to the rest of the community?

Some Members have argued that rent control should be extended for two years because of the shortage of public rental housing in Hong Kong. I am afraid this is not a good argument because only a small proportion or roughly 24% of protected tenants in Hong Kong have actually applied for public rental housing. The rest are families which are either not eligible for public rental housing or simply prefer the existing low-rent accommodation.

Again some Members have suggested that a rent subsidy should be given to eligible tenants on the Housing Authority's Waiting List for public rental housing. I must point out that public housing is not a social welfare provision. Those in need of public housing should wait for their turn. If people really face financial hardship, as I have said, they may apply for Comprehensive Social Security Assistance, and receive the appropriate amount of rent assistance.

The extra amount of rent which an affected tenant will have to pay upon de-control of rents is, compared with a situation if rent control continues, likely to be small. In dollar terms our estimate is that the additional rent increases are \$15 a month for cocklofts, \$47 per month for bed spaces, \$93 per month for bedrooms, and about \$570 a month for those people who rent a whole flat. This is a figure which assumes that landlords will increase rent to the full market level but this may not be the case. But in any case, the projected increases are still generally affordable. It is difficult, therefore, to claim hardship after de-control.

Some people have again misunderstood that upon de-control landlords can immediately charge market rents. This is not true. There are transitional provisions in the Ordinance which cushion tenants from the impact of de-control for another two years from the dates when their rents were last increased.

I think that some Members have again missed another important point. Even after de-control, all former tenants will continue to enjoy security of tenure. Landlords still cannot charge exorbitant rents, and if the two parties cannot agree on the level of rent, they may apply to the Lands Tribunal for adjudication. This mechanism in itself effectively protects tenants from being asked to pay unreasonably high rents. There is no need, therefore, to extend rent control arrangements.

In conclusion, Mr President, rent control was introduced as a temporary measure many years ago to deal with a particular situation of serious shortage of rented accommodation and the unreasonably high rent. I have already explained that this situation has completely changed now in Hong Kong and the grounds for extending rent control no longer exist. I appeal to Members to keep and remember the basic principles and should not be guided by populist and generally pleasant sentiments in Hong Kong.

With these remarks, Mr President, I urge Honourable Members to vote against the resolution. Thank you.

**MR JAMES TO** (in Cantonese): Mr President, I want to correct the views of some Members because they may have been misled by what the Secretary for Housing has said. Let me now refute those views one by one.

Just now, the Secretary said that we might be trying to turn the clock forcibly back while it is functioning normally. I believe that the assistants of independent Members and Members with party affiliations have already sketched a graphical representation of my motion. Such a graphical representation, for example, may show that rent control has already been relaxed to 80% or 90% of the market level, but if my motion is adopted, the rents received by landlords may be reduced. A landlord who used to collect a rent of \$1,500 may be able to collect \$1,300 only because of this motion. In reality, this is not the case. We only want to slow down the rate of rent increases. So, we can at most admit that we are trying to make the clock tick a little slower, but we are not attempting to turn it back.

Secondly, the Secretary said that if we lifted rent control, both the rich and the poor might benefit. I can tell the Secretary this: If his suggestion to relax rent control is followed, I trust both the rich and the poor will suffer. Actually, whether we follow the original plan or the amended plan proposed by me, to a certain extent, the case will still be that only some people will benefit. I dare not say that all the 19 000 households can be given assistance because some of them indeed do not deserve any assistance. Hence, the Government should try to help those who deserve assistance by implementing a rent allowance scheme. If the Housing Branch is prepared to consider my proposal, it can conduct a means test to identify those who deserve help and those who do not. However, the Government simply ignores my proposal altogether. Some may think that fairness is not done to the landlords, but, rent allowance can serve to solve the

problem of unfairness.

Another point I want to raise is that the Honourable LEE Wing-tat and the Honourable Mrs Selina CHOW once inquired in the Panel on Housing whether it was possible to speed up the provision of public rental housing to households affected by rent control. Although the Secretary said that only 24% of such households had applied for public housing, if the Secretary can give an undertaking, he will be able to indirectly convince the landlords and tenants that what he said is justifiable, and he can even make them believe that rent control should be withdrawn as soon as possible. The Government, nevertheless, has chosen to completely ignore such a proposal. While lobbying support for my motion, I noticed that some Members who would otherwise remain neutral were virtually forced by the Government's inaction to support my motion. The Government has completely refused to help the poor. What kind of attitude is this?

In addition, on the question of unfairness to landlords, the Honourable YUM Sin-ling has raised a point. He said that since rent control was implemented in the 1970s, numerous changes in ownership have occurred. As I understand it, many landlords of the buildings under rent control are actually people engaging in buying aged property for the specific purpose of waiting for urban renewal which is aimed at improving the living environment of a neighbourhood.

These landlords bought these buildings while rent control was in force. For this reason, they managed to buy them at lower prices. So, we should not argue that these big property owners or developers may be treated unfairly. In fact, when they bought these buildings, as pointed out by Mr YUM Sin-ling, they paid a price of several thousand dollars only. Even if they had to pay several hundred thousand dollars, the price could still be regarded as small now because a few decades ago, they could already buy an old flat with an area of more than 1 000 square feet with this sum of money. So, in effect, rent control enabled the landlords concerned to buy their property at reduced prices. And, it must be remembered that cases of unchanged ownership of these buildings since the 1970s are indeed rare.

Regarding Mr Dominic WONG's claim that only a small number of households can benefit, I want to tell Members that the 19 000 households affected by rent control in fact means some 100 000 people. Even if half of these people need help, or, even if 25% of them have applied for public rental housing (as noted by the Secretary for Housing), the number of people involved

will still amount to tens of thousands. This is not a small number. Everyday, these people have to endure heavy pressure resulting from accommodation problems and earning a living, and this can never be appreciated by people who own or live as tenants in private sector buildings.

Then, there is the question of whether or not my motion contains any illogical proposition. Some Members told me that while a principal tenant may still be protected by the rent control provisions under Schedule 2, the sub-tenants under him may have to pay market rents to him owing to the relaxation of rent control under Schedule 4. This will in effect enable principal tenants to get benefit by collecting more rents from sub-tenants. I admit that this is possible but figures show that this is not common. In fact, we can help several thousand to ten thousand households, that means tens of thousands of people.

Furthermore, quite a number of Members have asked me why I have waited until now before I move this motion. This question really upsets me. In 1993, I was the chairman of a committee on the relaxation of rent control. At that time, the government official involved in rent control was not the Secretary for Housing because the re-organization had not yet commenced. At that time, the relevant ordinance was under the charge of the Home Affairs Branch. The then Secretary for Home Affairs said that in principle, rent control would be relaxed gradually. In the following three years, the Branch conducted sample surveys each year to find out whether the people could afford the prevailing rents and whether the withdrawal of rent control would affect their livelihood. For several years, the Government produced no detailed report. At the beginning of this year, we started to press the Government again and again for a report. But, it was not until November this year that the Government finally released one.

When we in the Panel on Housing read the report, we were very surprised to find out that of the 19 000 households affected by rent control, over 40% to 50% of them were paying monthly rents at levels which amount to over 30% of their income. It has never been our intention to wait until now before we move the amendment, and the sole reason for the delay is that the authorities concerned simply failed to give us the data and respond to supervision. Mr President, is this what a government with a sense of responsibility should do? Of course, this may not be the fault of the Secretary for Housing because at that time the Secretary for Home Affairs was in charge. The Home Affairs Branch did not deal with the matter and the Housing Branch might have overlooked it due to heavy workload.

Some Members also said that the motion could not help new immigrants. This is not the case. We can help some of them. In the case of a woman coming from China with her children, for example, her husband may be a tenant protected by rent control for more than ten years already. So, in fact, the motion can ease the burden on new immigrants. Since they have to endure the pressure resulting from unemployment, failure to complete retraining, and raising their children, the assistance provided to them through this motion has the effect of stabilizing society. We must note that these households may not be eligible for public housing because both the husband and the wife are new immigrants and only the former is a permanent resident. Over half of these families need to wait until the wife has stayed in Hong Kong for seven years before they can become eligible for public housing. This shows that rent control actually involves many other issues.

Lastly, I want to respond to the queries made by some Members. They asked why I always proposed nothing but "remedial" measures. For instance, they said, increases in demolition compensation as proposed by me could not help the rehousing of the people affected. This time, they added, my proposal on rent control is just another "remedial" measure. Let me make this clear. I am not the Government. If I were the Government, I would have long completed all the work. As a Member, all I can do is propose Members' Bills and move motions. I have already done all that I can do. Other than proposing "remedial" measures, what else can we do? We have moved a lot of motion debates, but the Government has all along turned a deaf ear to them.

In January next year, I will move a debate on rent assistance. I hope the Government will consider it carefully and seek to identify the needy through a means test. But, judging from what the Secretary for Housing has just said, I can tell that he is not prepared to do anything. He views that public housing is not a social welfare provision. Dealing out rental assistance is equivalent to granting social welfare, and social welfare should be restricted to the Comprehensive Social Security Assistance Scheme. I hope that by the time the debate takes place, more Members will put forward their arguments to persuade the Government to help solve the problems of housing, accommodation, and the pressure of livelihood on people in the lower strata.

*Question on the motion put.*

*Voice vote taken.*

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

**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 section 48(1) of the Landlord and Tenant (Consolidation) Ordinance be amended by repealing "31 December 1996" and substituting "31 December 1998".

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 SZETO Wah, Dr LEONG Che-hung, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, 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 CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Andrew CHENG, Mr Paul CHENG, Mr CHENG Yiu-tong, Dr Anthony CHEUNG, Mr CHEUNG Hon-chung, Mr Albert HO, Mr IP Kwok-him, Mr LAU Chin-shek, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr LEE Kai-ming, Mr LEUNG Yiu-chung, Mr Bruce LIU, Mr LO Suk-ching, Mr MOK Ying-fan, Mr NGAN Kam-chuen, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE, Mrs Elizabeth WONG and Mr YUM Sin-ling voted for the motion.

Mr Allen LEE, Mrs Selina CHOW, Mr NGAI Shiu-kit, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr Eric LI, Mr Henry TANG, Dr Samuel

WONG, Dr Philip WONG, Mr Howard YOUNG, Mr James TIEN, Mr David CHU and Miss Margaret NG voted against the motion.

THE PRESIDENT announced that there were 38 votes in favour of the motion and 14 votes against it. He therefore declared that the motion was carried.

## **LANDLORD AND TENANT (CONSOLIDATION) ORDINANCE**

***MR JAMES TO to move the following motion:***

"That the Landlord and Tenant (Consolidation) Ordinance be amended -

(a) in section 58(2) -

(i) in paragraph (b) by repealing "30%" and substituting "20%";

(ii) in the proviso -

(A) by repealing "After 30 June 1996" and substituting "After 30 June 1996 and before 13 December 1996";

(B) by adding "After 12 December 1996" and "80" at the end of the columns headed "Period" and "Percentage of prevailing market rent" respectively;

(b) in section 74B(1) by repealing "31 December 1996" and substituting "31 December 1998".

**MR JAMES TO** (in Cantonese): Mr President, I move the second motion standing in my name on the Order Paper. Mr President, just now we have fully debated the first motion. As the relevant principles, stance, and details have in fact been mentioned, I am not going to repeat them. I hope Members can support the motion.

*Question on the motion proposed.*



**SECRETARY FOR HOUSING:** I have already pointed out in my first speech some of the bad effects of extending rent control for two years and some of the misconceptions supporting an extension. I have to repeat that this resolution, together with the last, are unjustified. This second resolution in particular seeks to reduce the permitted rent increases now provided for in the law to what was allowed two years ago. This is clearly a retrograde step and a major setback in the whole process of de-control.

I have to reiterate that this second resolution, which seeks to lower rent increase levels, will widen the gap between controlled rent and the market rent and will therefore be financially more painful for affected tenants when the extended period comes to an end two years later.

Mr President, I do not wish to repeat all the other arguments, but I would like to urge Honourable Members to vote against this second resolution and not to be guided by popular sentiments. Thank you.

**MR JAMES TO** (in Cantonese): Mr President, I would like to respond to the argument put forward by the Secretary for Housing. The Secretary seemed to have put forward a new viewpoint just now. He said if the motion was passed, then in future (that is two years later) when rent control was relaxed, the gap would become wider and it would be more painful. Whether it is going to be more painful depends on a lot of factors. Firstly, if a large number of people have moved to public housing by then, less people will feel the pain. Secondly, if old buildings are demolished in large numbers and tenants can buy their own flats as a result of increased compensation or even improve their livelihood, then again there will not be any more pain.

Why do people feel the pain in recent years? This is because prices for luxury flats have started to soar. A team headed by the Secretary for Housing is now studying whether the rising prices of luxury flats will affect small to medium-sized flats. If this is really the case, the prices of small to medium-sized flats will rise and so will their rents. By that time, people will feel painful indeed.

Nevertheless, the extent of pain will depend on the situation of society. If rents really climb steeply over the next few years, the Secretary would, by that time, probably suggest new ways to alleviate the situation and to stabilize the

society even without my call for action. Failing that, people may be left homeless and lead a miserable life. I think the Chief Executive, Mr TUNG Chee-hwa, may not like to see such things happen.

*Question on the motion put.*

*Voice vote taken.*

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

**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 second motion moved by Mr James TO to amend sections 58(2) and 47B(1) of the Landlord and Tenant (Consolidation) Ordinance be approved.

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 Martin LEE, Mr SZETO Wah, Dr LEONG Che-hung, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Mr LEE Wing-tat, Mr Mr Fred LI, Mr James TO, 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 CHENG Yiu-tong, Dr Anthony CHEUNG, Mr CHEUNG Hon-chung, Mr Albert HO, Mr IP Kwok-him, Mr LAU Chin-shek, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr LEE Kai-ming, Mr LEUNG Yiu-chung, Mr Bruce LIU, Mr MOK Ying-fan, Mr NGAN Kam-chuen, Mr SIN Chung-kai, Mr TSANG

Kin-shing, Dr John TSE, Mrs Elizabeth WONG and Mr YUM Sin-ling voted for the motion.

Mr Allen LEE, Mrs Selina CHOW, Mr NGAI Shiu-kit, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr Eric LI, Mr Henry TANG, Dr Samuel WONG, Dr Philip WONG, Mr Howard YOUNG, Mr James TIEN, Mr Paul CHENG, Mr David CHU and Mr LO Suk-ching voted against the motion.

THE PRESIDENT announced that there were 37 votes in favour of the motion and 16 against it. He therefore declared that the motion was carried.

**PRESIDENT** (in Cantonese): Two motions with no 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 10 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.

## **MAINTENANCE OF HONG KONG - TAIWAN RELATIONS BY THE CHIEF EXECUTIVE OF THE SPECIAL ADMINISTRATIVE REGION**

***MR YUM SIN-LING to move the following motion:***

"That the Chief Executive of the Special Administrative Region should not change the existing Hong Kong Government policy and way of handling Hong Kong-Taiwan relations, so as not to affect the current social and cultural exchanges between people of the two territories, and not to jeopardize the bilateral trade which amounts to HK\$200 billion annually as

well as the HK\$15 billion annual income which the Hong Kong's tourist industry earns from visitors from Taiwan."

**MR YUM SIN-LING** (in Cantonese): Mr President, today is the day of election of the Chief Executive of the Special Administrative Region and Mr TUNG Chee-hwa has won the election by a wide margin. Among the three candidates, Mr TUNG is particularly familiar with the Taiwan situation and Hong Kong-Taiwan relations and we believe this is one of the reasons why he was hand-picked as one of the candidates for the post at the very beginning. We would like to urge Mr TUNG to put into practice the pledge of "Hong Kong people ruling Hong Kong with a high degree of autonomy", and to maintain Hong Kong-Taiwan relations under a high degree of autonomy. This should be one of the tasks of the Chief Executive in respect of safeguarding the interests of Hong Kong people. Hong Kong-Taiwan relations are important in the following three respects:

- (1) Taiwan is one of the four major trading partners of Hong Kong. In terms of total trade volume, it amounts to around HK\$200 billion a year, which is just less than the trade volumes with mainland China, the United States and Japan and is more than that with the United Kingdom. Therefore, the economy of Taiwan is closely related to that of Hong Kong. Direct business links with Taiwan and indirect links in respect of insurance, shipping and bank financing have contributed much to the development of Hong Kong into a financial and regional service hub. It is estimated that such links have created 30 000 job opportunities. Many industries in Hong Kong have to rely on Taiwan for the supply of raw materials and spare parts, so as to reduce the reliance of Hong Kong manufacturers on other more expensive sources. There are over 20 000 Taiwan companies in Hong Kong, 90% of which are set up for investments in China while the remaining 10% are directly investing in Hong Kong. The total investments amount to around HK\$35 billion, including investments in the manufacturing, tourism, shipping and financial industries. It is estimated that the total number of directly employed staff together with the local staff employed through joint venture companies are around 60 000. Moreover, it is estimated that the Taiwanese businessmen making investments in the Mainland will retain 70% of their profits in Hong Kong, and the accumulated total amounts are estimated at around HK\$100 billion, which include the purchase of

real estates and stocks in Hong Kong and investments in local businesses. Taiwanese businessmen have made considerable contributions to the economy and job market of Hong Kong.

- (2) In respect of tourism, in recent years, an average of 1.7 million visitors from Taiwan have visited Hong Kong every year and they have brought an annual income of around HK\$16 billion to the industry, far exceeding that brought by tourists from other countries or regions. Around 40 000 jobs in Hong Kong are directly or indirectly relying on the consumption expenditure of visitors from Taiwan in Hong Kong.
- (3) In addition to trade and tourism, the exchanges between Hong Kong and Taiwan certainly outnumber those between Hong Kong and other countries and regions. These include visits paid by people to their relatives, commercial dealings, co-operation between performing artists, exchanges among labour organizations, cultural exchanges, mutual visits between religious personalities and representatives of public opinion, academic exchanges, technological exchanges, mutual support of charities and co-operation in combating crimes. The Hong Kong-Taiwan relations are related to people from all walks of life and various sectors of our community.

To sum up the three aspects above, there are over 100 000 relevant jobs created and these exchanges have values which can hardly be measured. In the academic circles, among the professors and lecturers teaching in various universities in Hong Kong, around 10% of them obtained their first degrees in Taiwan. However, since the Chinese Government has been reluctant to state clearly its stance on the mode of existence of Taiwan representative offices in Hong Kong after 1997, and as their various "leftist" behaviours in Hong Kong in these two years have made some Taiwanese businessmen worried, these businessmen have started to take such action as relocating to Singapore and other Southeast Asian countries. Moreover, some people in the academic sector want to leave Hong Kong for other places as well. On the other hand, as far as we know, when Mr Lawrence LEUNG was the Director of Immigration, he imposed some unreasonable restrictions on a Taiwanese dance troupe invited to perform in Hong Kong by the Urban Council, and he also refused to allow Taiwanese labour representatives to visit Hong Kong in the capacity of responsible persons of trade unions, insisting that they could only visit Hong Kong on personal grounds.

Some representatives of the Taiwanese people can visit China but not Hong Kong just because they spoke to reporters the last time they visited Hong Kong and this ran counter to the purposes of their personal visits. Certain restrictions imposed on some Taiwan officials are well-known among the press. After Mr LEUNG's resignation, the Immigration Department seemed to be subject to even greater pressure from China and it has tightened its restriction on Taiwan officials visiting Hong Kong. All these have caused many people to worry that Hong Kong-Taiwan relations are beginning to regress. Both Hong Kong and Taiwan uphold the principle of a free economy and they are enjoying a high degree of freedom in politics. Before the transfer of sovereignty in 1997, it is worth considering how Hong Kong-Taiwan relations can be maintained in the light of the interests and rights of Hong Kong people in the economic, social and cultural aspects.

At a meeting of the Preliminary Working Committee last year, Mr QIAN Qichen announced the Basic Principles and Policies of the Central Authorities on the Handling of Taiwan-related Issues in Hong Kong after 1997. It was stated that various non-governmental organizations in the Hong Kong Special Administrative Region can maintain and develop links with the relevant non-governmental organizations and bodies in Taiwan. Mr QIAN reiterated that Taiwan organizations and personnel may continue to remain in Hong Kong so long as their actions strictly abide by the Basic Law, do not contravene the principle of one China and they do not hamper the stability and prosperity of Hong Kong or engage in activities that do not conform to their registered nature. On the other hand, in September this year, when Mr LU Ping answered questions raised by delegates to the China International Economic Forum in Beijing, he said, "After 1 July next year, Taiwanese people can travel to and out of Hong Kong freely and the investments from Taiwan can also flow into and out of Hong Kong freely." So, the Chief Executive should have been given some basic guidelines as to how to handle Hong Kong-Taiwan relations and he should not shift his responsibilities to the Central Government by adopting a conservative position and shy away from handling the matter. He should not mistakenly think that such matters should only be handled after July next year. In the coming six months, the Chief Executive should acquaint himself with the various issues related to the exchanges between Hong Kong and Taiwan and the reasons why people are caused to worry about the regression of Hong Kong-Taiwan relations. He should lose no time in tackling these matters as some problems cannot be tackled only when they arise. As we have an uncertain future, some Taiwanese businessmen have already withdrawn. Not only have they taken away their investments in Hong Kong, but they have also transferred their investment in mainland China to other

regions in Southeast Asia. By the same token, from a wider perspective, retrogression in Hong Kong-Taiwan relations means retrogression in the relations between the two sides of the Taiwan Strait. On the other hand, good Hong Kong-China relations are beneficial to mainland China, Hong Kong and Taiwan, as well as to the reunification of China in the future. The Chief Executive should be far-sighted and give play to his sense of mission so as to make contributions to the Chinese people in the 21st century.

Thank you, Mr President.

*Question on the motion proposed.*

**MR HOWARD YOUNG** (in Cantonese): Mr President, in 1995, the total number of visitors from Taiwan to Hong Kong was 1.76 million, representing an increase of 6% when compared with over 1.65 million in 1994, and Taiwan has thus become the largest source of visitors to Hong Kong. Spending by visitors from Taiwan amounts to HK\$15.1 billion, which accounts for 20% of the total tourism earnings of \$72.9 billion. In 1995, visitors from Taiwan ranked first in terms of both per capita spending (HK\$8,586) and per capita spending per day (HK\$2,940).

Two weeks ago, in answering my question, the Secretary for Economic Services mentioned about the impact on the number of visitors from Taiwan to Hong Kong after the commissioning of the Macau International Airport in November 1995. Providing simple, convenient and speedy transit procedures, Macau is highly attractive indeed to visitors from Taiwan. As a result, during the 11 months from November 1995 to September 1996, the total number of visitors from Taiwan transitting Hong Kong was 791 200, representing a decrease of 2.4% when compared with the corresponding period from November 1994 to September 1995.

On the contrary, during the 12 months of the corresponding period, the number of visitors coming here from Japan, South Korea and Singapore has increased by 37%, 18% and 25% respectively.

Some of the measures available in the Macau International Airport can facilitate Taiwanese visitors to endorse their entry permits, that is, the documents

needed for Taiwanese visitors to travel to mainland China. Yet Hong Kong is unable to provide this kind of documents. From this, we can see that the commissioning of the Macau International Airport and the positive support given by the Macau authorities have indeed "pulled away" some Taiwanese visitors who would have come to Hong Kong.

All along, there has been no formal exchange between Hong Kong and Taiwan. Two excuses have been given by the Government for this. The first excuse, which is also a publicly known excuse, is that there is no diplomatic relations between Britain and Taiwan. The second excuse, which can be said to be not publicly known but known to everybody, is that this is a very sensitive topic as political activities in Hong Kong are always treated like this.

Nevertheless, the first excuse, that is, an absence of diplomatic relations, will no longer be valid in the near future as Hong Kong and Taiwan will belong to one family when Hong Kong reverts to China next year. By that time, this will no longer be a matter between Britain and Taiwan or a matter between Britain and China.

In view of the frequent exchanges between Hong Kong and Taiwan at the non-governmental level, the Government should try its best to provide facilitating measures to enable commercial and cultural exchanges between the two places to continue.

This morning, 400 Selection Committee members selected Mr TUNG Chee-hwa as the First Chief Executive of the Special Administrative Region (SAR). As we all know, when Mr TUNG was in charge of his shipping company, he has dealings with Taiwan. Exchanges of all kinds between Hong Kong and Taiwan will enable economic, cultural and commercial activities in these two places to continue. This will be beneficial to the people of Hong Kong as well as the economies of Hong Kong and Taiwan.

To facilitate visitors from Taiwan to visit Hong Kong, I suggest that after the establishment of the SAR in 1997, as long as a Taiwanese visitor holds a valid entry permit to visit China and an air ticket, he can come to Hong Kong in a simpler way, without the need to apply for a visa for transit purpose.

I hope that economic, cultural, sports and tourism activities between Hong



Kong and Taiwan at the non-governmental level will not come to an end after the return of Hong Kong to China. I hope, on the contrary, Hong Kong and Taiwan will even be able to foster a closer link when the two places become members of "one family" after 1 July 1997.

These are my remarks.

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

**DR ANTHONY CHEUNG** (in Cantonese): Mr Deputy, over a long period of time, Hong Kong, as a British colony, did not have any policy towards Taiwan. Hong Kong has in fact been pursuing the British policy towards Taiwan. The so-called Hong Kong's policy towards Taiwan has all along been toeing the line of the national policy of Britain which, in brief, has three main features as follows: (1). recognizes the People's Republic of China; (2). restricts visits by people of Taiwan to Hong Kong; and (3). keeps in line with Britain's policy towards Asia.

However, as Hong Kong will be returned to China in 1997, the policy of Hong Kong towards Taiwan with the British policy as the main axis will become history. Some people opine that after Hong Kong is returned to China, Hong Kong will become a Special Administrative Region (SAR) and the government will only be a local government. The issue of Taiwan will then become the affairs of the Central Government. Therefore, the Taiwan issue should be dealt with from the perspective of the Central Government and it would be unnecessary for the SAR Government to formulate any special policy towards Taiwan.

As a matter of fact, does the SAR Government have any powers to formulate its own policy towards Taiwan? Vice Premier QIAN Qichen said in his opening address at the fifth meeting of the Preliminary Working Committee on 22 June 1995 (the so-called "QIAN's seven remarks"), "After 1997, any issues of Hong Kong relating to Taiwan which involve the sovereignty of the state and affairs concerning the relations between mainland China and Taiwan should be arranged and dealt with by the Central People's Government." In other words, Mr QIAN was only saying that the SAR Government would not have the dominant power to decide on matters which involve "the sovereignty of the state"

and "affairs concerning the relations between mainland China and Taiwan". However, the SAR Government should be autonomous and have the power to formulate policies on how to deal with affairs of the SAR relating to Taiwan which do not pertain to "the sovereignty of the state" and "affairs concerning the relations between mainland China and Taiwan".

From the speech of Mr QIAN Qichen, we can see that the autonomy of the future SAR Government in respect of its policy towards Taiwan should at least include the following:

1. Maintaining the existing non-governmental contacts between Hong Kong and Taiwan;
2. Formulating legislation and policies to encourage the people and capital of Taiwan to invest in Hong Kong;
3. Developing aviation and sea transport between Hong Kong and Taiwan from the perspective of reciprocal mutual benefits;
4. non-governmental organizations can continue to maintain and develop ties in various respects;
5. "QIAN's seven remarks" noted that the Central Government will make arrangements for matters concerning the travel documents of the people of Taiwan. Regarding this, we are of the opinion that the SAR Government should proactively make recommendations and enact corresponding legislation to ensure that the people of Taiwan can enter and leave Hong Kong; and
6. "QIAN's seven remarks" indicated that official contacts and agreements for the setting up of organizations would require either the approval of the Central Government or the approval of the SAR Chief Executive authorized by the Central Government. We are of the opinion that the SAR Government should at least have full autonomy in respect of setting up semi-official organizations.

If Hong Kong can grasp every opportunity to exercise its full autonomy in these aspects, it will be able to make more room for developing Hong Kong-Taiwan relations and to create new opportunities for enhancing communication between Hong Kong and Taiwan within the scope of "one

country" after 1997.

Mr Deputy, how can the future SAR Government grasp this opportunity? The Democratic Party is of the opinion that Hong Kong should adopt a proactive and non-regressive approach towards Hong Kong-Taiwan relations. "Being proactive" means that the SAR Government should fully exercise its autonomy and take the initiative to create new room for developing Hong Kong-Taiwan relations. In the past, under British rule, Hong Kong was basically passive and negative in its relations with Taiwan. In regard to the governments of mainland China and Taiwan, the Chinese Government determined the position of Hong Kong in line with the general direction of unifying China and Taiwan while the Taiwan Government considered the role of Hong Kong from the perspective of "how to face Mainland China". Such being the case, the role of Hong Kong was merely subordinate to the pace of development of the relations between mainland China and Taiwan. As a result, Hong Kong could only act passively as an intermediary between mainland China and Taiwan and has failed to play the active role it should be playing.

Objectively, Hong Kong has been successfully playing its role as a "passive middleman". However, the SAR Government, in an entirely new situation in the future, should not stay at the position of taking a passive role as what it has done in the past, it should not belittle itself but it should make good use of its new role and take the initiative to promote positive interaction and stimulate exchanges and contacts among the people of the three territories.

Hong Kong-Taiwan relations should at least not be regressive and the established relations should not be allowed to recede simply because of Hong Kong's return to China in 1997. On the contrary, the ties between the two territories should be further fostered precisely because of Hong Kong's return to China. "Being non-regressive" comprises four points:

1. The entry and exit of people between the two territories should not become more difficult;
2. The current economic and trading ties should be maintained;
3. The existing non-governmental exchanges in aspects such as culture, education, sports and science should be maintained; and

4. Hong Kong should accept the continued presence of Taiwan organizations in Hong Kong and allow them to maintain their ties in Hong Kong.

In the short term, the arrangements for travel documents to facilitate visits by the people of Taiwan to Hong Kong should be made as soon as possible. As Mr QIAN Qichen has promised that the Chinese authorities would make such arrangements as soon as possible, Hong Kong should also take complementary actions to ensure that the people of Taiwan can travel to Hong Kong very conveniently under the principle of mutual benefits. At the same time, more formal exchange channels should be developed as soon as possible. In respect of trade and commerce, the Hong Kong Trade Development Council has already set up its office in Taiwan. We are of the opinion that, under such circumstances, the SAR Government can take a further step to set up an economic and trade office of the SAR Government in Taiwan. In fact, the Hong Kong Government has already set up official representative trade offices in North America, Japan, Europe and the United Kingdom. We do not know why such an organization is not established in Taiwan.

In addition, economic co-operation among the three territories should be developed. Three areas can be covered in this respect: Firstly, regional co-operation among mainland China, Hong Kong and Taiwan as the three territories are members of the Asia-Pacific Economic Co-operation (APEC). In this area, the three territories can help one another and stimulate one another to make concerted efforts to promote economic integration of the region.

Secondly, among the three territories, only Hong Kong is now a member of the World Trade Organization (WTO). We hope that China and Taiwan will eventually join the WTO and that closer economic co-operation among these three territories can be fostered.

Thirdly, acting as an intermediary in economic matters. As a major financial centre in the world, Hong Kong has all along been an intermediary by way of which Taiwan businessmen invest in mainland China. These businessmen rely on the competitive edge of Hong Kong in finance and services when investing in mainland China. This role of Hong Kong will be fortified as regional co-operation is strengthened and international trade developed.

Mr Deputy, the Democratic Party has always supported the peaceful unification of mainland China and Taiwan and opposed the independence of Taiwan. To realize the unification of the country, we should create more opportunities for and strengthen communication and exchanges between the

people and governments of mainland China and Taiwan. At the same time, the unique historic status of Hong Kong can also promote the positive interaction among China, Taiwan and Hong Kong and this will eventually help to realize the peaceful unification of Taiwan and mainland China. This is also the aspiration of all Chinese people. The Democratic Party hopes that the future SAR Government can take the initiative and give up its former passivity and its inclination towards belittling itself. Hong Kong should stop being narrow-minded, it should not only be concerned with its internal affairs but also be concerned about the affairs of our country. Furthermore, it should grasp every new opportunity of taking an overview of the unification of mainland China and Taiwan when determining the direction of its future policy towards Hong Kong-Taiwan relations.

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

**MR NGAN KAM-CHUEN** (in Cantonese): Mr Deputy, as the Chinese saying goes, "The real intention of XIANG Zhuang in brandishing his sword is to kill LIU Bang." The motive behind today's motion speaks for itself. However, as a prospective resident of the future Hong Kong Special Administrative Region (SAR) of the People's Republic of China (PRC), the Honourable YUM Sin-ling really needs to study intensively the concept of Chinese sovereignty.

"One country, two system" is the long-established national policy of China to realize the grand objective of reunification. The establishment of the SAR in accordance with the Constitution of the People's Republic of China for upholding national unity and territorial integrity is a successful example of the realization of the "one country, two systems" concept. It is stated in the introduction to the Constitution of the PRC, "Taiwan is part of the sacred territory of the People's Republic of China. It is the inviolable duty of all Chinese people, including our compatriots in Taiwan, to accomplish the great task of reunifying the motherland." As such, the handling of Taiwan relations has always been a national policy. In view of this, the handling of Taiwan relations after the establishment of the SAR must adhere strictly to the sovereignty principle of "one China" and be consistent with the long-standing policy of peaceful pragmatism adopted by the Central Government in dealing with Taiwan.

Mr Deputy, let us look back and see how the policy towards Taiwan has been developing since the Third Plenary Session of the Eleventh Central Committee of the Communist Party of China. On 1 January 1979, the National

People's Congress (NPC) published "A letter to the Taiwan Compatriots" and formally declared the principle of reunification of the motherland by peaceful means. On the eve of the National Day on 1 October 1981, the Chairman of the Standing Committee of the NPC, YE Jianying, announced the nine principles of peaceful reunification of mainland China and Taiwan. The main points are that after the reunification, Taiwan could become a Special Administrative Region and enjoy a high degree of autonomy; it could retain its own armed forces and the Central Government would not interfere with the local affairs in Taiwan; the existing economic system and way of life in Taiwan would remain unchanged and its economic and cultural relations with foreign countries would remain unchanged. In 1984, DENG Xiaoping formally announced the concept of "one country, two systems" as the mode of peaceful reunification for China. On New Year's eve in 1995, the President of the PRC, JIANG Zemin, announced the "eight proposals" for the promotion of national unity and reiterated that while insisting on the principle of one China, the Chinese Government would exert all efforts in promoting economic and cultural co-operation with Taiwan and protect all legitimate interests of the Taiwan compatriots.

As the concept of "one country, two systems" becomes more substantiated, the mode of relations between the SAR and Taiwan after 1997 has also become more concrete. In 1984, just before the signing of the Sino-British Joint Declaration, the then Director of the Hong Kong and Macau Affairs Office, JI Pengfei, made a policy announcement which was often referred to as "JI's three main principles". According to the announcement, after China has resumed its sovereignty over Hong Kong in 1997 under the principles of "one country, two system" and "things remain unchanged for 50 years" the personnel and organizations of the Kuomintang in Hong Kong could enjoy the same rights as other residents and organizations in Hong Kong as long as they abide by the laws of Hong Kong. In addition, marine and air transport, economic and cultural exchanges, as well as the entry and exit of people between Hong Kong and Taiwan would remain unchanged. In June 1995, Vice Premier QIAN Qichen further announced seven basic principles and policies regarding Hong Kong-Taiwan relations after 1997. On the basis of "JI's three main principles", Mr QIAN's announcement further allayed the worries of the people of Taiwan. Various kinds of non-governmental activities in the fields of education, commerce and trade, science and even religion could continue and develop after 1997 on the basis of mutual respect that the two territories would not be subordinate to or interfering with each other. Further, the legitimate rights of the people of Taiwan and Taiwanese investments in Hong Kong would be

protected. Mr Deputy, from the development of the policy over the past decade or so, we can see that Hong Kong-Taiwan relations in the future will certainly be an integral part of the policy of the Chinese Central Government. In handling its relations with Taiwan, the SAR will follow the established laws and rules. There is no question of the Chief Executive changing Hong Kong's policy and way of handling Hong Kong-Taiwan relations.

On the other hand, observing the long-standing policy concerning state sovereignty is not in breach of the spirit of "a high degree of autonomy" to be enjoyed by the Hong Kong people as stipulated in the Basic Law. Some people deliberately bring the handling of Hong Kong-Taiwan relations and the autonomy of the SAR together for discussion, ignoring completely the supremacy of state sovereignty and the sacred cause of reunification. As the Chinese saying goes, "Without the skin, where can the hair adhere to?" Without a solemn concept of state sovereignty, how can normal Hong Kong-Taiwan relations be established?

Mr Deputy, Hong Kong is not only benefiting from the entrepot trade between both sides of the strait, but is also enjoying an inflow of capital from Taiwan. The total value of investments Taiwan has in Hong Kong amounts to US\$4 billion. Besides, it is estimated that about 70% of the Taiwanese businessmen investing in China will keep their profit in Hong Kong and the total amount of such is about US\$12 billion. As such, in order to maintain the prosperity and stability of Hong Kong and to realize the concept of "one country, two systems", the relations between the SAR and Taiwan will certainly become much closer and the SAR Government will strive to maintain the harmonious relations between mainland China and Taiwan after 1997. In fact, the seven principles of Mr QIAN not only emphasized that the commercial, cultural and non-governmental ties between Hong Kong and Taiwan would basically remain unchanged but also put specific issues such as air routes and marine transport routes on the agenda. All these reflect that the Chinese Government is holding a positive attitude in handling Hong Kong-Taiwan relations.

On the contrary, we are worried that some people might deliberately create political dissidence that would eventually damage Hong Kong-Taiwan relations. In October this year, some people of Hong Kong landed the Diaoyutai Islands and put up a flag of the PRC to demonstrate Chinese sovereignty; some people, however, went to Taiwan to protest. Here I would like to give these people an advice: Thoughts and actions that advocate "two Chinas" or "independence of

Taiwan" will eventually bring damage to Hong Kong and force Hong Kong-Taiwan relations to retrogress.

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

**MR PAUL CHENG:** Mr President, as Chairman of the Hong Kong-Taipei Business Cooperation Committee within the Hong Kong General Chamber of Commerce, I certainly agree that the current business, social and cultural exchanges between the people of Hong Kong and Taiwan should be maintained. There is no question that Hong Kong will continue to play an important middleman role in commercial activities between Taiwan and China well beyond Hong Kong's reversion to Chinese sovereignty.

However, with the impending change of Hong Kong's official status to that of a Special Administrative Region within Chinese sovereignty, there will naturally be areas within the existing policy which will need to be reviewed. I feel a sweeping request to maintain the existing Hong Kong Government policy and the way of handling Hong Kong-Taiwan relations is not realistic. And even though I support the continued expansion of trade and investment between the territories, I find it difficult to support the motion as it is worded.

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

THE PRESIDENT resumed the Chair.

**MR ALLEN LEE** (in Cantonese): Mr President, I fully understand the intention of the Honourable YUM Sin-ling. He hopes to see the maintenance of good relations between Hong Kong and Taiwan. At the outset, I want to take exception to Mr YUM's assertion that the three candidates, in particular Mr TUNG Chee-hwa, were "hard-picked" for candidature. I believe that Mr YUM did not observe the 10-week election campaign, and thus did not know how hard the candidates had worked to get more votes. As far as I know, late last night, they were still contacting other people by telephone. So, this shows that they were not "hand-picked". I hope the word "hand-picked" used by Mr YUM will not mislead the Hong Kong people.

Mr President, I think that the maintenance of a working relationship between Hong Kong and Taiwan is of great importance. Hong Kong's relations



with Taiwan in terms of tourism, trade and investments have been very close. I strongly agree to Mr YUM's opinions in this aspect. However, upon the transfer of sovereignty, Hong Kong will become a part of China and a Special Administration Region. The Taiwan issue and Hong Kong-Taiwan relations will thus become important issues, which, however, cannot be handled by Hong Kong on its own. As we are all Chinese, we should contribute towards the reunification of mainland China, Hong Kong and Taiwan, as Mr YUM has said. But, I think this task should not be handled by the Hong Kong Government. It should be handled by the future SAR Government. So, I hope Mr YUM can consider one point: Do not cause any confrontation on this issue in the future, because this is the wish of the Hong Kong people. For the motion today, as I have explained, we do not agree to Mr YUM's opinions in certain aspects and find it difficult to support his motion. However, we agree that freedom of communication, freedom of bilateral trade and freedom of travel between Hong Kong and Taiwan should be upheld and protected. Mr President, I so submit.

**PRESIDENT** (in Cantonese): Mr YUM Sin-ling, you are now entitled to reply and you have seven minutes 57 seconds out of your original 15 minutes.

**MR YUM SIN-LING** (in Cantonese): Thank you, Mr President. I would like to thank the Honourable Howard YOUNG for citing the example of the simplified visa free entry procedure introduced by the Macau authorities. This measure has indeed taken away from the tourist industry of Hong Kong a lot of business. Although the Administration did not acknowledge this fact at the meeting of the Panel on Security and pointed out that there has been a slight growth in our tourist industry, the growth is actually only less than 1%. If it is not because of the competition from Macau, the growth rate could be as high as 20% or 30% as in the case of Japan and Korea.

We still hope that the Hong Kong Government will review the visa application procedures. Although it is said that five working days are needed to process a visa application, and basically visas can be issued within this time period, many cases still take several weeks or even more than one month for processing. We hope the Immigration Department will seriously conduct a review in this respect.

I admire the in-depth study conducted by Dr the Honourable Anthony CHEUNG on Hong Kong-Taiwan relations and the objective viewpoints raised

by him. I hope other Members can consider his viewpoints instead of purely repeating the propaganda statements of the Chinese Government. In fact, the Honourable NGAN Kam-chuen's points of view are more or less the same as mine and the figures he quoted were the same as those quoted by me. Just like what I did, he also quoted what Mr QIAN Qichen said.

In fact, the speeches of Mr QIAN Qichen and Mr LU Ping have already given the Chief Executive very clear guidelines. If the Chief Executive still does not know how to perform his duties given such clear guidelines, I am afraid that he would be acting like a puppet. We do not know what instructions he would need before he could perform his duties and we would regret this very much.

The Honourable Allen LEE said that I have wrongly used the word "hand-picked". I hope Mr LEE can get a clear idea of what I have said. I said that some people were "hand-picked" as candidates but not as the elected person. I believe the candidates were "hand-picked" and I am sure I am right on this point because everybody knows that President JIANG Zemin shook hands with one of them. I only said that he was "hand-picked" as a candidate but I did not say that the election process itself was "hand-picked". Therefore, I hope that Mr LEE can get a clear idea of my point.

I also understand that we have different views on the Chief Executive. This is because we hope that the Chief Executive could enjoy a high degree of autonomy and this is different from Mr LEE's point of view. However, I regret that he would not support my motion.

Nevertheless, I hope that other Members can analyze in a more realistic way how much autonomy should the Chief Executive enjoy. We have to observe the autonomy enjoyed by the Chief Executive in respect of Hong Kong-Taiwan relations and also various other aspects in the future. I know that the Honourable Mrs Elizabeth WONG will be speaking on this topic later today or on other occasions in the future. How much autonomy should the Chief Executive actually enjoy? I hope that our discussion on Hong Kong-Taiwan relations today is only a starting point and that we can still test how much autonomy the Chief Executive can enjoy in respect of many issues in the future.

Thank you, Mr President.

*Question on the motion put.*

*Voice vote taken.*

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

**PRESIDENT** (in Cantonese): Members may wish to be reminded that they are now called upon to vote on the question that the Chief Executive of the Special Administrative Region should not change the existing Hong Kong Government policy and way of handling Hong Kong-Taiwan relations, so as not to affect the current social and cultural exchanges between people of the two territories, and not to jeopardize the bilateral trade which amounts to HK\$200 billion annually as well as the HK\$15 billion annual income which the Hong Kong's tourist industry earns from visitors from Taiwan.

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

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

Mr SZETO Wah, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Michael HO, 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 SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE, Mrs Elizabeth WONG and Mr YUM Sin-ling voted for the motion.

Mr Allen LEE, Mrs Selina CHOW, Mr NGAI Shiu-kit, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr CHIM Pui-chung, 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 Paul CHENG, Mr CHEUNG Hon-chung, Mr David CHU, Mr IP

Kwok-him, Mr LO Suk-ching and Mr NGAN Kam-chuen voted against the motion.

Mr LEE Kai-ming abstained.

THE PRESIDENT announced that there were 22 votes in favour of the motion and 22 against it.

**PRESIDENT** (in Cantonese): As the motion is supported by not more than half of the Members, I would veto the motion in accordance with my previous ruling made on the basis of the decision made by Speaker DENISON in 1867.

**PRESIDENT** (in Cantonese): I declare that the motion is negated.

## **FIRST CHIEF EXECUTIVE OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION**

**MISS EMILY LAU** *to move the following motion:*

"That this Council does not believe that the first Chief Executive of the Hong Kong Special Administrative Region (HKSAR), who is selected today not through universal franchise, will have the determination to safeguard a high degree of autonomy and resist the Chinese Government's interference with the HKSAR."

**MISS EMILY LAU** (in Cantonese): Mr President, today is a historic day because the first Chief Executive (CE) of the Hong Kong Special Administrative Region (HKSAR) has just been selected. Regrettably, this CE is hand-picked by the Chinese communist authorities, and the people of Hong Kong are not allowed to participate in the selection process. Today, I want to move this motion on behalf of the Frontier because I want to point out that a CE hand-picked by the Chinese communist authorities will certainly act according to the dictates of Beijing, in very much the same way as the Governor would obey the wishes of the British Government. Although TUNG Chee-hwa has not yet

assumed office, the opinions he has recently expressed can already enable us to foresee how he may govern Hong Kong.

Over the past few months, largely as a result of intensive media publicity, TUNG Chee-hwa, who used to be a little known figure, has started to attract soaring public attention. The press and the electronic media have "packaged" him as a well-exposed, pragmatic and stable person, saying that at this time of drastic changes, he is just the kind of person who is most suitable to lead Hong Kong. Some institutions have even conducted many so-called opinion polls to give a false impression that TUNG Chee-hwa is considered the ideal choice by all the Hong Kong people. However, such propaganda can never cloak the sense of helplessness among the Hong Kong people because most of them know only too well that the CE is hand-picked by the Chinese communist authorities and that the whole selection process is nothing but a "whitewashing" show. The people of Hong Kong will not be deceived so easily. So, just go somewhere else if they "want to hoodwink people. When the US Assistant Secretary of State visited Hong Kong recently, the only CE candidate he asked to meet was TUNG Chee-hwa. From this, we can realize that even the international community has seen through the trick of the Chinese communist authorities.

Mr President, Chinese officials have queried us why we have waited until 1997 before we ask for a universally elected CE, given the fact that we have not reacted strongly to the appointment of Governors by Britain in the past 100 years or so. The answer is simple. Now that Hong Kong can at last break away from colonial rule, naturally we do not want Hong Kong to change from a British colony to a Chinese colony! The Sino-British Joint Declaration states that the CE shall be elected. For that reason, we expect that the CE can be elected by one-person-one-vote as a manifestation of "a high degree of autonomy and Hong Kong people ruling Hong Kong".

Although the method of selecting the CE conforms with the Basic Law in terms of procedures, it must still be pointed out that the Basic Law also states that the Selection Committee should be "broadly representative". That being the case, since the members of the Selection Committee now in question are all hand-picked by Beijing and lack any representativeness, the whole selection method simply cannot be accepted.

Mr President, let us now examine why the Chinese Government wants to

hand-pick TUNG Chee-hwa. To the Chinese communist authorities, it is most important that the CE is both trustworthy and reliable. In the mid-1980s, the TUNG family's Orient Overseas shipping group was caught in a grave financial crisis and was on the verge of collapse. At that time, pro-China businessman Henry FOK and the Chinese Government helped the shipping group tide over the difficulties by a capital injection of US\$125 million. Why did the Chinese communist authorities come to the rescue of TUNG Chee-hwa? We must remember that China was not as capitalistic as it is nowadays. Mr President, I believe that you and I, and even the whole community, will never know what connections really exist between TUNG Chee-hwa and the Chinese communist authorities. Yet, even on the surface, their relationship looks far from simple.

A few weeks ago, TUNG Chee-hwa spoke highly of governing Hong Kong on the basis of Confucianism. He stressed again and again: The Chinese people must never stop strengthening themselves; the Chinese people must seek to become the master of their own house; the Chinese people must lay more stress on their obligations and so on. All these remarks reflect his feudal way of thinking, conservative style and bias towards the rule by men. Consequently, we are worried that when Hong Kong comes under the rule of the SAR Government led by TUNG Chee-hwa, the rule of law may be damaged, and society as a whole would become more secluded and more conservative.

What is more, TUNG Chee-hwa has also labelled the Democratic Party as "opposing everything from the Chinese side" and said they must correct the lack of constructiveness in their words and deeds. Actually, even the Chinese Foreign Minister Mr QIAN Qichen himself has never assailed the Democratic Party in such a manner. Quite the contrary, Mr QIAN even gave people the impression that China was prepared to listen to dissenting voices when he referred, earlier on, to the need of "seeking common grounds on major issues while allowing minor differences to exist". For that reason, after listening to TUNG Chee-hwa's remarks, I cannot help asking him, "Just who do you think you are to assail the Democratic Party, to label it as 'opposing everything from the Chinese side'?"

Another point I want to raise, Mr President, is that some high-ranking officials of the Hong Kong Government have declared openly their support for TUNG Chee-hwa, saying that he is most suited for the post to stabilize the higher echelons of the Hong Kong Government. But, if only we can closely follow the views expressed by TUNG Chee-hwa, we will see that it should not be long before these civil servants are disillusioned. Our Chief Secretary was confident that as head of the Civil Service, she could serve TUNG Chee-hwa as a "pointer"

and that TUNG Chee-hwa would have to count on her to keep the situation under his control. Much to her surprise, however, TUNG Chee-hwa suddenly commented that the Chief Secretary's credibility had been impaired as a result of her support for Chris PATTEN's political reform package and her opposition to the provisional legislature. So the retention or otherwise of Anson CHAN and other Policy Secretaries would consequently be up to TUNG Chee-hwa. Besides, since TUNG Chee-hwa has also said that he wants to be a strong leader, it would not be surprising at all if he appoints his own trusted followers to important government posts shortly afterwards.

Since the opinions expressed by the mass media have given a false impression that the election of TUNG Chee-hwa will be good for our community, some Hong Kong people may cherish illusory hopes about him. However, if only members of the public can closely follow the views expressed by TUNG Chee-hwa on various occasions, I believe that they will become disillusioned very quickly. Despite the Chinese Government's promise that the concepts of "one country, two systems" and "a high degree of autonomy" will be implemented in Hong Kong after its return to China, TUNG Chee-hwa has made it clear that he will put the interests of China before everything. When people ask for his opinions about some sensitive issues, such as the "June 4" massacre and the arrest of XI Yang, he will invariably provide irrelevant answers, and seek to confuse people by dragging in some high-sounding but largely empty principles. He has never criticized the Chinese Government. In view of this, and since TUNG Chee-hwa has labelled the Democratic Party as "opposing everything from the Chinese side", I must ask him whether he is "accepting everything from the Chinese side".

TUNG Chee-hwa has frequently stressed the need to "attach importance to the overall situation and to consider everything in the light of the common good". He has also remarked that in case foreign countries adopt political means to sanction China, Hong Kong will not watch with folded arms, but will instead make sacrifices whenever necessary. On the basis of such remarks, we can actually predict that in case the interests of the SAR clash with those of the Central Government, it is highly probable that TUNG Chee-hwa will not stand on the side of the Hong Kong people. As far as such a scenario is concerned, Mr President, the people of Hong Kong have actually witnessed a lot of similar cases under the current government. Whenever the interests of Hong Kong clash with those of London, the Governor will never stand on our side because he represents the British Government. If the future CE is to be hand-picked by the Chinese communist authorities, I believe that history will only repeat itself because in case of clashes of interests, it is only natural that the CE will stand on

the side of those who hand-picked him. It can thus be seen that this is actually a problem with the system, a grave defect. We deeply regret about such a situation because even in the SAR with "a high degree of autonomy", we are not allowed to elect our own CE, and we are thus unable to hold the CE directly accountable to us.

Mr President, the last point I want to make is that TUNG Chee-hwa is extremely conservative over the issues of democracy and human rights. He has said that he will restore the system of appointment and reinstate some draconian laws. And, he has also made it clear that opinions advocating the independence of Taiwan and Tibet will not be allowed in the future. Such remarks of his are so markedly similar to those made by Chinese officials that he seems like a mouthpiece of China. For that reason, he has led us to worry that our freedom of speech and of the press may receive no protection at all in the future. With respect to livelihood issues, instead of offering any concrete and specific solutions, he simply emphasizes repeatedly that "the Chinese people must never stop strengthening themselves" and that people should "talk less about their rights but undertake more obligations".

Mr President, we from the Frontier want to move this motion today because we observe that there is an inherent defect in the system under which TUNG Chee-hwa has been selected. As a result of this defect, TUNG Chee-hwa will never stand on the Hong Kong people's side to speak for our interests. Besides, the views expressed by Mr TUNG in recent weeks have also aroused our worry. We very much hope that in the very near future, TUNG Chee-hwa, who has been hand-picked by China today, will prove with his words and deeds that the worry of the Frontier is totally unwarranted and that he will always stand upright on the Hong Kong people's side. I do not intend to sow discord between TUNG Chee-hwa and China. However, I do hope that in case the Chinese Government does something wrong, he and all those hand-picked advisers of China can pluck up the courage to speak out against it. This will foster our confidence in the future, and remove the worry that the freedom and rule of law treasured so much by us may be trampled on by the government under his leadership.

With these remarks, I beg to move.

*Question on the motion proposed.*



**PRESIDENT** (in Cantonese): Mr Paul CHENG has given notice to move an amendment to this motion. Dr YEUNG Sum has also given notice to move an amendment to Mr Paul CHENG's proposed amendment. The amendments have been printed on the Order Paper and Members have been advised by circulars issued on 9 December. I propose that the motion, the amendment and the amendment to the amendment be debated together in a joint debate.

The Council shall debate the motion, the amendment and the amendment to the amendment together in a joint debate. I will first call upon Mr CHENG to speak and to move his amendment to the motion, and will then call upon Dr YEUNG to speak and to move his amendment to Mr CHENG's proposed amendment. After Members have debated the main motion as well as the amendments, we will first vote on Dr YEUNG's amendment to Mr CHENG's amendment to the motion. I now call upon Mr CHENG to speak and to move his amendment.

***MR PAUL CHENG's amendment to MISS EMILY LAU's motion:***

"To delete "does not believe that" and substitute with "congratulates"; to delete "first"; to add "designate" after "Chief Executive"; to delete ", who is selected" and substitute with "on his election"; to delete "not through universal franchise, will have the" and substitute with "by the representative 400-member Selection Committee and hopes that he will work with"; and to delete "and resist the Chinese Government's interference with the HKSAR" and substitute with "for the HKSAR as stipulated in the Basic Law, so as to enhance Hong Kong's prosperity and stability"."

**MR PAUL CHENG:** Mr President, I move the amendment standing under my name in the Order Paper.

This is a historic day for Hong Kong. Today, in accordance with the Basic Law, the 400-member Selection Committee has voted-in the first Chief Executive of the Hong Kong Special Administrative Region — the man who will lead Hong Kong into a brand new era, an era both of great challenge and tremendous opportunity.

Today is historic, also, for the fact that it is the first time Hong Kong people have had any say at all in who should be our head of government. It is therefore an important step towards fulfilment of the promise of Hong Kong people ruling Hong Kong — a promise which is a fundamental element of both the Sino-British Joint Declaration and the Basic Law.

For a great many Hong Kong people, today will be a source of pride. Pride in ourselves, and pride in our future. For a few, however, it will be another opportunity to criticize and to carp. But these people will probably not be satisfied unless we rewrite parts of the Joint Declaration and the Basic Law — hardly a sensible and stabilizing course of action at this sensitive and critically important stage in Hong Kong's history.

Criticizing anything and everything on purely ideological grounds may attract media coverage at home and abroad, but is it constructive? At the end of the day, do such emotive outbursts really help Hong Kong and Hong Kong people? I think not. They serve only to raise doubts and uncertainty, especially amongst overseas audiences who are not familiar with the true situation in Hong Kong. Not only is this bad for Hong Kong's image, it can also have a negative impact on inward investment, which in turn will have an adverse affect on the livelihood of the Hong Kong people.

I believe it is time to take a positive attitude, especially on a historic day like today. And that is why I feel compelled to move an amendment to the motion by the Honourable Miss Emily LAU — a motion which, I am sorry to say, is negative to the extreme.

On the face of it, my proposed amendment seems radically different from the original motion. But is it really that different? Surely, at the end of the day, we all want the same thing — a Chief Executive who will have the determination and strength of character to safeguard Hong Kong's promised high degree of autonomy. A man of integrity who, first and foremost, will serve Hong Kong and the best interests of the Hong Kong people.

Where Miss Emily LAU and I differ is that she tends to assume the worst. She doubts whether the Chief Executive (Designate) will have the strength and determination required. I, however, do not want to prejudge him. I prefer to give him a fair chance to deliver on the promises he has made during his recent

high-profile campaign. My Honourable colleague has also come to the conclusion that the only good Chief Executive is a Chief Executive elected through universal franchise. Mind you, looking around the world today, I am sure even the ideologists would have to agree that election by universal franchise is no guarantee of a good leader.

Hong Kong has embarked on a dramatic and unprecedented period of transition and change. Our first priority should be Hong Kong's continued stability and prosperity. In most respects — whether it be our economic systems, our legal framework or our way of life — that translates as "the less change, the better". However, in terms of democratic development, the need for gradual change has been recognized and incorporated within our future constitution, the Basic Law. I emphasize the word "gradual", because I believe the vast majority of Hong Kong people would agree that the "steady as she goes" approach is more conducive to preserving Hong Kong's stability.

Today's vote by the Selection Committee on the Chief Executive candidates is an important step in the change process. According to Article 45 of the Basic Law, the ultimate aim is "selection of the Chief Executive by universal suffrage". We are therefore heading in a direction which eventually, I hope, will please everyone.

In Hong Kong, where we are used to having our leaders thrust upon us without any consultation, we have finally been given the chance to decide for ourselves on who our leader should be. However, the motion seeks to cast aspersions on the Chief Executive (Designate), even before he has had chance to take up his job. While it is perfectly reasonable for this Council to remind the Chief Executive (Designate) of what we and the Hong Kong people expect of him, why does it have to be couched in such negative and demeaning terms?

At least, the further amendment by Dr the Honourable YEUNG Sum is a call to action rather than a defeatist attack on the personal integrity of the Chief Executive (Designate).

However, while I am pleased to see the Democrats taking a more positive view, I think it churlish to try to prevent this Council from expressing our congratulations to the Chief Executive (Designate).

If we are sincere in ensuring that Hong Kong continues to prosper, if we really want to continue to improve the livelihoods of people at all strata of society, we all need to work together. Now is the time for unity — the time for this Council, the Hong Kong Government and all of Hong Kong — to rally behind the Chief Executive (Designate) and to work as a team for the good of Hong Kong.

Thank you.

*Question on Mr Paul CHENG'S amendment proposed.*

***DR YEUNG SUM's amendment to MR PAUL CHENG's amendment:***

"To delete "congratulates" and substitute with "considers the election of"; to delete "on his election"; to delete "representative"; to add "only" after "400-member"; to add "lacks representativeness," after "Selection Committee"; to delete "hopes that he will" and substitute with "strongly urges the Chief Executive designate to"; to delete "as stipulated in the Basic Law" and substitute with "and to have the courage to pursue with the Chinese Government the HKSAR's democracy, human rights, freedoms and the rule of law"; to delete the "and" in "Hong Kong's prosperity and" and substitute with ","; and to add "and progress" after "stability"."

**DR YEUNG SUM** (in Cantonese): Mr President, today is a special day on which the Chief Executive of the Hong Kong Special Administrative Region (HKSAR) is selected. The selection of the Chief Executive has a very significant meaning as it marks the end of the colonial rule. Unfortunately, the end of the colonial rule does not mean that the people of Hong Kong could have democracy. Nor could we select our Chief Executive directly through universal franchise on the basis of "one man, one vote" to make sure that the Chief Executive will be accountable to the people of Hong Kong and to put into effect the principle of "Hong Kong people ruling Hong Kong with a high degree of autonomy".

Mr President, the Honourable Paul CHENG moved an amendment to congratulate the first Chief Executive designate on his election "by the representative 400-member Selection Committee". Such an amendment is indeed full of over-exaggerated wording. As the 400 members of the Selection

Committee are all China-appointed members, how can such a committee be regarded as representative? Dominated by members from the pro-China camp and the industrial and business sector, how can the Selection Committee represent all walks of life? The most crucial point is that the 400-member Selection Committee was not returned through universal franchise, it is therefore by no means widely accepted or representative. The Democratic Party will oppose the amendment moved by Mr Paul CHENG.

Mr President, the Democratic Party supports the Honourable Miss Emily LAU's motion in principle. Therefore, if my amendment to Mr Paul CHENG's motion is voted down, the Democratic Party will support Miss Emily LAU's motion. In my opinion, as the Chief Executive is selected by the 400-member Selection Committee, the selection itself is not at all democratic but is done within a small group of people. As such, the Chief Executive selected naturally lacks acceptability, credibility and representativeness.

Mr President, since the Chief Executive lacks acceptability and representativeness, three problems will arise, undermining seriously the principle of "Hong Kong people ruling Hong Kong with a high degree of autonomy".

First of all, it is the emergence of money politics. As the Selection Committee appointed by China will select a provisional legislature, it follows that this unrepresentative Chief Executive will not be subject to the supervision as well as checks and balances by representatives of the public opinion. Furthermore, because the Chief Executive himself has very close ties with the industrial and business sector, I believe that, in future, collusion between the government and business interests would occur and people with political connections will have more advantages than their competitors in economic activities. As a result, "getting in by the back door", corruption, seeking personal gains by power, going after whatever profitable, marrying economic interests with political relations will spring up in the HKSAR. The emergence and intensification of such a trend will damage seriously the environment of fair competition in Hong Kong, obstruct the operation of our free economy and in turn undermine the confidence of overseas investors.

Mr TUNG Chee-hwa has once said that money politics will have no place in Hong Kong because we have the rule of law. However, in my opinion, without a legislature which is returned through a democratic election and has the people's mandate to monitor as well as check and balance the operation of the executive machinery, money politics will most likely emerge.

Secondly, social justice will be hard to uphold and improvement to people's livelihood will not be easy. In view of the close relations between the Chief Executive Designate and the business sector, as well as his relatively conservative social policies and financial strategies, it is predictable that the quality of life of the middle and lower classes could not be improved easily. On the other hand, the livelihood problems confronting the people will further deteriorate. For instance, problems such as shortage of public housing, high property prices, provision of welfare for the elderly lagging behind the demand, persistence of problematic education quality, difficulties hindering new immigrants from integrating into the community, employment and retraining issues arising from the structural transformation of the economy, recovery of medical costs through charges and so on will worsen further. The disparity between the rich and the poor will therefore be intensified and affect, in turn, the stability of our society. Such social crisis definitely cannot be alleviated by the promotion of Confucianism.

Thirdly, the prospects of development for democracy, freedom, human rights and the rule of law in Hong Kong is hardly optimistic. Since the Chief Executive is not returned by a democratic election, he does not need to be responsible or accountable to the majority of people in Hong Kong. As such, the people's quest for democracy, human rights, freedom and the rule of law does not necessarily have anything to do with the administration of the Chief Executive. In other words, the Chief Executive hand-picked by the Chinese Government will stick to the political line adopted by the Central Government towards Hong Kong. Coupled with the lack of checks and balances by a legislature that does not have the people's mandate, the prospects of democracy, human rights, freedom and the rule of law in the HKSAR are worrying. Judging from the fact that the Chief Executive gives his support to the provisional legislature, agrees with the provisional legislature's proposal to reinstate the draconian laws, as well as supports an increase in the number of appointed seats in the two municipal councils and district boards, we can find adequate evidence to prove how little regard the Chief Executive Designate has for democracy, human rights, freedom and the rule of law in Hong Kong.

Mr President, as the body representing the public opinion, this Council should never take the three aforementioned problems lightly. Frankly speaking, since the Chief Executive Designate is not returned by a democratic election, he does not have to be responsible and accountable to the general public. And

because of his own conservative attitude towards politics, we can hardly expect him to say "no" to the Chinese Government or to strive to realize the principles of "one country, two systems" and "a high degree of autonomy" for the people of Hong Kong.

From our past contacts with the Chief Executive Designate, we have found that he tends to look more at Hong Kong's development from the angle of "one country" and pay less attention to "a high degree of autonomy" in the "one system", which is the system of Hong Kong, under the "two systems". What he says about putting more emphasis on obligations and talking less of the one's rights; a strong leadership; refraining from confrontation and so on all indicate that he is following the Chinese Government's line of policy towards Hong Kong.

Therefore, I move this amendment specially to express this Council's strong demand for the Chief Executive Designate to have the courage to pursue with the Chinese Government democracy, human rights, freedom and the rule of law for the people of Hong Kong so as to enhance the prosperity, stability and progress of our society. I add "progress" rather than talking about stability alone. Although the Chief Executive Designate is not returned by a democratic election, this Council, as the body representing the public opinion, should exercise its role of checks and balances and vigorously demand that he has the courage to say "no" to the Chinese Government and to strive hard for "a high degree of autonomy" for Hong Kong.

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

*Question on YEUNG Sum's amendment to Mr Paul CHENG's amendment proposed.*

**MR IP KWOK-HIM** (in Cantonese): Mr President, in their speeches during the motion debates held over the last few weeks, many colleagues inclined to use such negative terms as "clandestine operation", "election by a small number of people" and "being hand-picked" to describe the Selection Committee (SC) and the election of the Chief Executive. Today, the Honourable Miss Emily LAU even moves a motion which is in effect a vote of no confidence in the Chief Executive. It is shocking indeed. I feel that some colleagues in this Council are used to looking at the preparation work of the Hong Kong Special Administrative Region (SAR) through "tainted glasses", thinking that all those

work relating to the Preliminary Working Committee, the Preparatory Committee and the SC are against the interests of Hong Kong people. They blindly oppose and discredit everything they do not like, and even hold a distorted attitude in viewing things. Have they really considered the interests of Hong Kong people? It is indeed regrettable that they, in the capacity of Hong Kong people's representatives, would have made analyses in such an irrational manner.

Mr President, in the history of Hong Kong, the day of the handover of Hong Kong's sovereignty, that is 1 July next year, will be a memorable day. Today, 11 December 1996, is also a very important day in the history of Hong Kong. For the first time, Hong Kong people have selected the SAR Chief Executive who will be responsible for the governance of Hong Kong after 1997. He has been formally elected by 400 SC members according to the procedure stipulated in the Basic Law by way of secret ballot.

The SAR Chief Executive Designate has gone through three selection procedures, namely the nomination by 50 SC members who jointly signed to confirm the candidacy; the candidates' announcement of their platforms and questioning by SC members; and finally the casting of the votes. The whole selection process was widely reported by the media and broadcast live on television. The public could participate indirectly in the whole process by watching the television. In the questioning sessions on the candidates' platforms, SC members and members of the public could learn from the candidates' introduction of their platforms and their answers to the questions about their views on the future administration and their ideas as to how to implement "one country, two systems", how to implement the Basic Law and how to maintain Hong Kong's prosperity and stability in the long run. We can say that the selection of the Chief Executive was conducted with transparency and was accountable to Hong Kong people. The opinion polls conducted by various bodies and the media in the past also showed that public support for the Chief Executive candidate Mr TUNG Chee-hwa was gradually rising and the public's understanding about Mr TUNG was also growing with each passing day. The latest opinion poll conducted by the Lingnan College a few days ago showed that the Chief Executive Designate received the greatest support, which was even 16.6% more than that scored by the Honourable SZETO Wah, who all along claimed himself to be the "candidate for the common people's SAR Chief Executive". All these prove that the Chief Executive Designate has been chosen in accordance with the will of the Hong Kong people. As facts speak louder than words, those who always criticize that the Chief Executive Designate



is "hand-picked" are just "looking for bones in an egg" and are deliberately making excuses to attack the Chief Executive Designate.

Mr President, the greatest expectation cherished by most of the Hong Kong people is that the Chief Executive, who bears an important mission, can protect their interests, implement the concepts of "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy", as well as contribute to and bring into effect the smooth transfer of Hong Kong's sovereignty. After today's formal election, the Chief Executive Designate will become a centre of attention in Hong Kong and even the whole world. Every word he says and every move he makes will be linked up with the confidence of the people all over the world in Hong Kong and their views on Hong Kong's future. When DENG Xiaoping conceived the model of "Hong Kong people ruling Hong Kong" years ago, he said "Hong Kong people must have self-confidence for they are capable of ruling Hong Kong". To prepare for the setting up of the SAR Government, the Chief Executive Designate, as a member of the Hong Kong population, must prove with actual deeds that he is the most reliable administrator for the Hong Kong people.

After the transfer of political power in 1997, Hong Kong will have to maintain the existing system for 50 years. The rule of law, honesty, freedom of speech will all remain unchanged. Such rights have been fully guaranteed by various provisions contained in the Basic Law. For this reason, the Chief Executive Designate must be responsible for implementing the Basic Law to ensure that Hong Kong will be more prosperous and stable.

Mr President, the Democratic Alliance for the Betterment of Hong Kong supports the amendment moved by the Honourable Paul CHENG to congratulate the Chief Executive Designate elected today. These are my remarks.

**MR LAU CHIN-SHEK** (in Cantonese): Mr President, the Chief Executive of the Special Administrative Region (SAR) is elected today. However, even though it is such an important post, the six million Hong Kong people have not taken part in the voting. As the Honourable Miss Emily LAU has said just now, the SAR Government can hardly expect the Hong Kong people to fulfil any obligation. At the same time, this practice has also sown the seeds of uncertainties.

Lately, Mr TUNG Chee-hwa has emphasized that Hong Kong people should "fulfil more of their obligations and talk less of their rights". He keeps telling

Hong Kong people that they should be benevolent, exercise restraint and be tolerant. I would like to point out to Mr TUNG that these words should not only be directed at Hong Kong people, but also at Hong Kong's business sector, the Beijing Government and the SAR Government, and he should ask them to "fulfil more of their obligations and talk less of their rights".

Mr TUNG ought to tell the business sector that they should be more benevolent, so that the employees can have their standard of living improved. He should ask the Beijing regime to be more tolerant and release WEI Jingsheng and WANG Dan. He should tell the SAR Government to exercise restraint and refrain from reinstating the draconian laws.

In fact, the Confucian principles of benevolence, tolerance and restraint that Mr TUNG talks about is a set of values. But it cannot be his way of running a country, just as visiting the poor and showing sympathy would not solve problems. What Mr TUNG, in the embrace of the business sector and Beijing, must do is to think of a way to put these values into practice and convert them into policies.

Today, Mr TUNG assumes the post of Chief Executive but he is not widely accepted by the public. However, I am not assuming that he is a villain. As a Legislative Council Member, I have the duty to monitor him. There will also be six million pairs of eyes watching him.

Mr President, I so submit.

**MR LEUNG YIU-CHUNG** (in Cantonese): Mr President, no one would deny that today is a historic day — no matter how, it is worth remembering as this is the first time that the post of the Chief Executive of Hong Kong is taken up by a Hong Kong resident. It marks the end of British colonial rule. However, that does not necessarily imply that we must sing his praises and forget the fact that the Chief Executive is not selected by the people of Hong Kong through a one-person-one-vote election.

If the people of Hong Kong had been able to participate and select their Chief Executive in today's election, most of them would not have been so indifferent; perhaps there would not have been demonstrations, or the large group of outspoken demonstrators (which included several of our honourable colleagues) would not have taken the peaceful and rational action to express their

resentment—very regrettably, they were still treated unreasonably by the police. And above all, there would not have been any need for today's debate! Whether the result of the Chief Executive election held today is worth celebrating is not dependent on whether the Honourable Paul CHENG's amendment is agreed to by this Council, nor on the decision of the 400-member Selection Committee, and still less on the blessing of the Chinese Government. If the end of British colonial rule only means the rule being taken over by a group of yellow-skinned Chinese, what is there to celebrate? If "Hong Kong people ruling Hong Kong" is only "a small coterie of Hong Kong people ruling Hong Kong", Hong Kong people will not really be the masters of their own affairs. That being the case, is there anything worth celebrating?

To most of the people in Hong Kong, the "three big mountains" that have been pressing heavily upon us for years, namely feudalism, bureaucratic capitalism and colonialism, will not be removed when the British colonial rule comes to an end. On the contrary, their pressure will only be further strengthened and intensify in the days to come.

Mr TUNG Chee-hwa advocates the restoration of the traditional values of Chinese culture and what he emphasizes is in fact the Confucian concept of human relationship which divides people into the honourable and the humble. But that is running exactly in the reverse direction of the basic concept of human rights that "all men are born equal". No wonder we can only hear Mr TUNG talk about "undertaking more obligations and caring less about our rights", because that means everyone should submit himself to the authorities. Such feudalistic thoughts can be said as going against the objective law of development in modern-day society to the extreme. We can imagine what Mr TUNG will be like in the days to come. Like a monarch in the traditional society, he will not accept any opposing views and, when necessary, he will suppress dissenting views or actions by force. So what is there for us to celebrate?

As I have always said in the past, all through the 150-odd years of British colonial rule, the colonial rulers have joined hands with the business sector to exploit the "wage earners". Very soon, the situation of "businessmen ruling Hong Kong" will appear without disguise. With the provisional legislature and the future Executive Council both to be dominated by the industrial and commercial sector, the whole ruling echelon in the Hong Kong Special Administrative Region (SAR) Government will certainly lean towards the

interests of the capitalists. All these, together with the conservative civil service system in Hong Kong, will cause the new "bureaucratic capitalism" to emerge as the guiding principle of administration in the future SAR Government.

In fact, we see today that the Chief Executive and legislature are not returned through democratic elections. In the past, we saw the appointment of the Governor by the Queen and the appointment of legislators by the Governor. Actually, there is hardly any difference between the two situations. Many in Hong Kong share this view and think that there is no way for them to tell who the future "public servants" will be. Actually, the result that we see today is just "old wine in a new bottle", and there is not much difference from the colonial rule in the past.

In fact, as long as the "three big mountains" that weigh upon the people of Hong Kong are not removed, we should not have any celebration. Besides, there is nothing to celebrate! At the most, we can only say that today marks the beginning of a "new colonial era".

Mr President, from today's voting result, we can clearly see that a political situation will emerge in future, and that is the situation of people "bending with the wind" in our legislative assembly. We can see that many are willing to "bend with the wind". As a result of that, in the future legislature that we have great expectation of and depend upon, there will hardly be any member who would impartially and objectively speak for the public and speak from their hearts. Therefore, with regard to today's election of the Chief Executive, there is nothing for us to congratulate. Instead, we only have feelings of deep sorrow and sadness because democracy will not be implemented, our interests will not be protected and our rights will be trampled upon.

Mr President, these are my remarks.

**MR TSANG KIN-SHING** (in Cantonese): Mr President, first of all I would like to congratulate you. I hope that it will be smooth sailing for you and you will rise high in the new phase of your political life.

**PRESIDENT** (in Cantonese): Mr TSANG, comments about the President are not allowed.

**MR TSANG KIN-SHING** (in Cantonese): All right. I was just praising you, Mr President.

**PRESIDENT** (in Cantonese): Praises are not allowed either.

**MR TSANG KIN-SHING** (in Cantonese): Mr President, the day that we return to our motherland should be a day celebrated by all Chinese. They can shake off the humiliation of coming under colonial rule for more than 100 years, and drive away the British rulers. The people of Hong Kong will become masters of their own affairs and regain the dignity of the Chinese nation. However, since 1984 when the fate of Hong Kong was decided, the people of Hong Kong have witnessed drastic changes in this major epoch and those with means have either gone or emigrated to other countries, while the capitalists have diversified their investments the best they can. I wonder what this phenomenon reflects.

As regards the political circles, the faithful partners of the British who cried out loud for trading sovereignty for the right to rule in those years have suddenly turned into elites who love China and Hong Kong. The wrongs of yesterday have become the rights of today while the rights of yesterday have suddenly become the wrongs today. The colonial ruling system have nurtured some people with distorted and twisted political personalities, they keep overthrowing their own selves of yesterday with their own selves of today. There are those who keep licking boots, those who draw close to the power, those who throw in their lots with the communists and those who have gained wealth and rank. But there are yet those who still have the moral integrity to hold fast to the principles, dare to fight for social justice and steadfastly resist the unjust. However, these people are now being regarded as "opposing everything from the Chinese side" and insensible by the new favourite, "the "kind-hearted Hwa". How come we have degenerated to such a stage in the face of the cardinal principles of righteousness of our nation? On the other hand, there are also several million people who are helplessly waiting for the dark to approach.

The very reason when boiled down is that the Chinese Government does not trust the people of Hong Kong. The new favourite selected today, namely the "kind-hearted Hwa", is the best example of that. Today's election is purely an arranged marriage. It is like the people of Hong Kong must marry one of these three men. Now we have no choice but to entrust our happiness to the "kind-hearted Hwa".

This bogus election of the "kind-hearted Hwa" is on all account an undemocratic game of being hand-picked and operated behind close doors. It is an illicit arrangement without legal basis. I, together with the six million people of Hong Kong, have watched his election on television and have read about it in the newspapers. Yet there is no way for us to participate or to stop the "kind-hearted Hwa" from winning in this rigged horse race. His victory not only pleases Beijing but is also welcomed by the Tung Wah Group of Hospitals and the Chinese Temples Committee. Why should I say that? That is because the "kind-hearted Hwa" is fond of fung shui and Confucianism. As the saying goes, "Ask not the common people but the spirits and gods." From now on for matters big or small, from the people's livelihood to democracy, he will go to Wong Tai Sin Temple to consult the gods and fortune tellers. As such, the Temple will have many worshippers.

Here I would like to wish the "kind-hearted Hwa" a high flying political life, longevity and wealth. I also wish the new favourites to be born on 21 December wealth, honour and longevity. However, I also wish that these new favourites would not build their fortune upon the worries of the six million people in Hong Kong.

Mr President, we are not indifferent. But faced with unreasonableness, those who have insight will have to deal with it seriously because history turned upside down will eventually be reversed back again by history one day, and the six million people are waiting for this day to come. Once again, I would like to remind the new favourites not to do anything wrong, otherwise, there will be no end of street demonstrations and struggles.

Here I would like to pay tribute to one person whose name also has the character "Wah" in it. No, he is not the "kind-hearted Hwa"; but SZETO Wah. Instead of being selected by that 400 people, he is the common people's chief executive of the Hong Kong Special Administrative Region nominated by 100 000 Hong Kong people. He is more representative than the new favourite "kind-hearted Hwa" selected by the 400 bootlickers.

If those 60 new favourites, including the "kind-hearted Hwa", are going to turn into evil spirits, I, TSANG Kin-shing, wish to turn into ZHONG Kui to eliminate them one by one.

These are my remarks.

**MISS CHRISTINE LOH:** Mr President, speaking about the Honourable Miss Emily LAU's original motion, she seems to have concluded that, because the Chief Executive is not selected through universal suffrage, by definition he will not be able to safeguard a high degree of autonomy and resist Chinese Government's interference, if that should be the case some time in the future.

The conclusion she makes is that, because of the lack of universal suffrage, there will be an inherent inability on the part of Mr TUNG. I am not sure I am prepared to go that far on this day simply because, what is it that we want? What we want is for Mr TUNG to be a good Chief Executive, and that will include being able to stand up to China whenever the need arises. So, what is the point today of saying that because the process is not as we would like to see, we make a motion debate to write him off? I do not wish to see that. I think what Hong Kong people want is for Mr TUNG to do a very good job.

So how do we help him to do a very good job? I mean, after all, British Governors have been dumped on us for 150 years. Perhaps at this time, the fact that this Council and Hong Kong people are now raising questions about the process shows that Hong Kong people are finally gaining some measure of maturity, politically. That is a good thing and, I hope, by the fact that we are debating this openly today, that Mr TUNG and the Chinese Government will not take unkindly to what we are trying to say.

I have sympathy for the Honourable Paul CHENG's amendment. However, I think his amendment is less preferable to that moved by Dr the Honourable YEUNG Sum for two reasons. First of all, he wants to lead us to believe that the 400 members of the Selection Committee is representative. He makes the point of saying this. Well, I do not think it is representative enough. He also used a very weak word. He goes on to say that he hopes that the Chief Executive will work with determination to safeguard a high degree of autonomy. Well, hoping is frankly not enough. One of the reasons I prefer Dr YEUNG Sum's motion is very simple. In parliamentary terms, the strongest terms, as you know, Mr President, that we can use in this Council is to urge, so why "hope" when we can "urge"? And I think in the case of Dr YEUNG Sum's amendment, he clearly urged the Chief Executive to work with determination.

Further, Dr YEUNG Sum also wants to make the point that the Selection Committee is not as representative as some people would like to make it out to be, and I certainly agree with that. But Dr YEUNG Sum goes on, I think, to try and spell out the aspirations of Hong Kong people. It is not just prosperity and stability that we want. Which community does not want prosperity and stability? But in Hong Kong's case, when we are going through a transition, what Mr YEUNG Sum has tried to do is to spell out some of the long-term aspirations of Hong Kong. He talks about democracy, human rights, freedoms and the rule of law, and beyond prosperity and stability, he also talks about progress. He talks about modernization, a more open political system. Well, I certainly agree with all of that, so whilst I have sympathy for what Mr CHENG is trying to introduce in the Council, I much prefer Dr YEUNG Sum's.

Perhaps one point I would like to make is we do not know very much about Mr TUNG. Although he has spent two years in the Executive Council, he really has hardly any, if any, no public record in public service, apart from a short stint in the Executive Council. So, there is nothing for us to examine how politically astute he is and how good he might be as a public administrator, but we wish him well. We want Mr TUNG to do well because if he does not do well Hong Kong is in trouble. If we are prepared today to accept a British Governor dumped on us, well, it is a little unsightly to be critical of Mr TUNG on Day One. So, perhaps the question really is, how do we ensure, what role do we want to play to help the future Chief Executive to do his part?

Looking through the Chief Executive's various election platform, well, he tells us himself he is a very conservative person. What does that indicate to us? What are his preferences, his prejudices, his values as all of us carry with us because of our own background history certain prejudices and values?

What worries me about Mr TUNG's comments during his election campaign is that he seems to have very little sensitivity for what I call minority issues. I wonder how he would look at issues of equal opportunities? I wonder how he would look at balancing economic growth with the environment? These are issues that the Civil Service, as well as all Members of this Council, have been very concerned with over the last few years. And what would be his views about constitutional development in the future?

But then let us not write him off just because we do not quite know what he thinks. Maybe he himself does not quite know what he thinks. So, of



course, we have to rely on the Civil Service to perhaps remind Mr TUNG how far we have gone in certain policy issues. Of course, many Members of this Council, including myself, think the Civil Service is moving too slowly on many of these issues. So how can we help? Why should we have a different relationship with this Chief Executive than we try to have with the Governor at the moment? And I think certainly for my part I would continue to be critical where criticism is appropriate. I would certainly wish to offer recommendations and suggestions whenever I think something could be done better, and let us hope and let us urge, let us promote, let us offer ourselves to the Chief Executive, even though he is not elected by us, that he can do a better job and stand up to China. I do not want to run him down. Mr President, I will just end with this last sentence. I do not want us to be critical of him, to push his credibility when he may have to stand up to China with our full backing.

Thank you, Mr President.

**MRS ELIZABETH WONG:** Mr President, to be the person who leads some 6.3 million people is no easy task, as Governor PATTEN would undoubtedly attest. Let me say that I have nothing against the Chief Executive (Designate) himself personally or any of those who selected him as I consider it wrong in principle to take things personally. But I must admit that I cannot agree with the process by which he was selected. There again, I suppose some people may not agree with the process by which I was elected under the new 1995 functional constituency.

But regardless of the person, regardless of the process, what is important is the product. The right product ensures stability and prosperity of Hong Kong, the stability and prosperity of China, and that of the Chinese people's. If we succeed, the product will be there for the world to see as a shining example of an Asian city with freedom under the rule of law in one country with two systems. Hong Kong's failure will be everybody's failure. The rule of law is a cornerstone of Hong Kong's success today. I believe in the rule of law. The quality of a product is always measured by some benchmarks. Here I offer some of the more important benchmarks against which the Chief Executive (Designate)'s future contribution can be measured.

First, eradication of poverty. Although Hong Kong is an affluent city, there are still poor people among us who live in dire poverty and do not enjoy the fruits of their labour or our success. They are forgotten in the hard tooth of our times. Much of the world's poverty is caused by uncaring policies and unjust

factors. It is necessary for all strata of people in Hong Kong to fight against poverty and injustice. Without taking Hong Kong down the slippery path of welfarism, there is much we can do for these vulnerable people, particularly the elderly amongst us, through the provision of adequate financial support and supporting services.

Secondly, visa-free entry for Hong Kong Special Administrative Region (HKSAR) passports. Future HKSAR passport holders will no doubt want to travel freely in and out of Hong Kong post-1997. It is important to gain international acceptance of HKSAR passports and to establish rapport with other countries so as to obtain the trust in and understanding of the integrity of our passport issuing system in Hong Kong. We should not lose time in gaining this understanding and urging for visa-free entry into other countries. We need also to show resolve in demonstrating that Hong Kong will continue to be governed by the rule of law and to be devoid of all the risks that might endanger visa-free travel.

Thirdly, right to housing. The home is where your heart is. In keeping with the International Covenant on Economic, Social and Cultural Rights, it is time that we had a piece of domestic legislation to give the right to housing to all people here. We should build diligently, overcoming all difficulties in creating adequate housing for all, and eradicate cage-homes altogether.

Fourthly, health care. We all know that health is wealth. We should do our best in Hong Kong to promote the legitimate use of traditional Chinese medicine, to encourage primary health care, to train more health care professionals at all levels and promote research and development. This costs money and I am sure that Hong Kong people can afford it and the public will support many different schemes to contain costs, such as medical insurance schemes, manage-care schemes and so on, so as to fulfil the World Health Organization's aim of health for all in the year 2000.

Fifthly, accountable government. We should promote an open and accountable Government and, through an improved education system, a greater understanding of human rights. We should encourage full and equal participation in public affairs. But beware of possible heavy-handed government controls that will stifle the sentient voices. That will not be in Hong Kong's best interest. The best is yet to come. The best is possible. Politics is the art of the possible, and all things are possible in politics.

In summary, Mr President, regardless of the person, regardless of the process, what is important now is the product and the best benchmarks by which the product is measured. We are all made in Hong Kong.

**MR DAVID CHU:** Mr President, why are we being asked to rise in condemnation of the Chief Executive (Designate) on the day of his nomination when we should be rising in congratulations of him? Mr TUNG Chee-hwa is chosen to lead the whole territory. He has campaigned and reached out to the citizenry far and beyond the Selection Committee of 400. He is still doing it, day in, day out, even with victory in sight. No Governor ever courted our opinion before assuming office because his authority was taken for granted.

We have media news tapes, press articles and radio reports of what the Chief Executive has said and done. We indeed have a better idea of his agenda than we had of any Governor's. This is clear. This is on the record. This is beyond dispute. This we should acknowledge.

I dislike any double standard. I cannot support the motion which deplores the nomination of Mr TUNG as undemocratic without one of even greater stridency against the Governor whose appointment was far less democratic. Mr TUNG was chosen in a contest that complies in full with the Basic Law. If we insist on being harsh with Mr TUNG and indulgent of the Governor, then we are not fair to the Chief Executive and to ourselves.

We should praise the Selection Committee which has opened its deliberations to public scrutiny through the mass media. Television cameras were present when the votes were counted in the first and the final rounds of the process. They were present throughout when the candidates addressed the audience to bear witness for history.

I understand that it is hard for some in Hong Kong to accept leadership from one of our own after more than a century and a half of colonial paternalism. Habits are hard to break and this is a fact. For so long we have been conditioned to defer to and be awed by any royal envoy who steps off the plane. When a while back some in our community did question the leadership of the

Governor, we were reminded by the British Government that it was not for the Queen's subjects to question Her decision.

Just as we can take care of our own affairs, we can count on Mr TUNG to discharge his constitutional obligations with neither fear nor favour. Look around you and you would see the success of Hong Kong is our achievement. We have made this happen with the help of world free trade, reforms in China and the ingenuity and hard work of our own people. We should not be ashamed of our accomplishments, but instead build on them through the Chief Executive's guidance.

Nobody should give Mr TUNG a blank cheque of endorsement. But everyone should give him a chance to prove himself in office and offer him advice, counsel, and support along the way. When he falters, we lose. When he excels, we gain. He is a part of our future. He is an epitome of our can do, gungho spirit. He is not someone imposed on us only to sail off into the sunset, leaving us to clear up any mess. He is someone who will face up to and live with the full legacy of his undertakings. He will be answerable to us and to posterity rather than to a foreign sovereign many time zones away. He serves our interests and not that of another country. He is also about our community's coming of autonomous age, an age of prosperity, progress, rule of law, freedoms, human rights and all those things promised to us and are in our character.

May fortune be kind to Mr TUNG and to us for we are one in this community. I support the Honourable Paul CHENG's amendment and against Dr the Honourable YEUNG Sum's amendment as well as the original motion which seems to have been conceived in spite. Spite should not be the luggage we take with us on this train to carry us into the Special Administrative Region.

Thank you, Mr President.

**MR ALLEN LEE** (in Cantonese): Mr President, I read a book written by a foreign author. As it was a long time ago, I have forgotten the author's name. The title of the book is *The End of Hong Kong*. I believe some Members might have read it as well. I think this author will now be erased from my memory. Unfortunately, some Hong Kong people have gone overseas to spread the words that Hong Kong would no longer have the rule of law, freedom or democracy and that everything would be lost. These remarks were not made by foreigners, they

were made by those people of Hong Kong. They have portrayed Hong Kong as a kind of living hell.

Today, the 400 members of the Selection Committee elected Mr TUNG Chee-hwa to be our future Chief Executive. I have no intention to defend Mr TUNG here. All I want to say is that the Honourable Miss Emily LAU is so sure that Mr TUNG was appointed and that he will certainly let those with money interfere with politics. If that is the case, I really do not understand why the other candidates still campaigned so hard. During the past ten weeks, they all showed the Hong Kong people that they were not just in touch with those four hundred members. Is this fair to Mr TUNG? To have such prejudice against him before he has even started his work. Miss LAU went on to say that the opinion polls lack credibility and accused the media of singing his praises, thus causing Mr TUNG to lead by an ever wider margin. The organizations that conducted those opinion polls were mostly universities. During the Legislative Council election in 1995, these organizations conducted different kinds of surveys, yet I never heard Miss LAU or other Members criticize them of singing somebody's praises or shaping public opinion. I do not wish to comment on whether those opinion polls are accurate or not. I just feel that it is really unfair to Mr TUNG to say that the media were singing his praises.

Rather, I would agree with what the Honourable Miss Christine LOH has said today, that we should at least give Mr TUNG a chance since he has already been selected as our future Chief Executive. A responsible Member of this Council should observe people's deeds and listen to their words. Is it fair to do nothing but "smear" and insult Mr TUNG at this stage? As I have said earlier, I have no intention to defend Mr TUNG here, I just hope that Mr TUNG hears this open debate among Members and takes this as an admonishment as well as a lesson, so that he knows that his service to Hong Kong in the next five years will be assessed in terms of his words and deeds.

During the election campaign, he said that he has learnt a great deal. I recall the time when John KENNEDY campaigned for presidency, he came to the university where I studied. He asked the American people what they could do for their country. I believe Mr TUNG meant something similar. Hong Kong is really facing a historic challenge and the transition is by no means an easy one. To achieve the target of "Hong Kong people ruling Hong Kong" and to unite us, we require a wise leader. Whether, under his leadership, Hong Kong can continue to enjoy the international reputation it enjoys now and continue to have

prosperity as well as stability, or whether the interests of Hong Kong people will be well looked after remain to be seen. However, for those people who talk about money dominating over politics in Hong Kong and pronounce its doom at this stage, I hope they will slap their own faces with the author of *The End of Hong Kong*.

**MR AMBROSE LAU** (in Cantonese): Mr President, today should be an occasion of joy for us Chinese, since Mr TUNG Chee-hwa has been elected by the Selection Committee comprising 400 representative Hong Kong people to be the Chief Executive Designate of the Special Administrative Region (SAR). This is an event for us to celebrate indeed, for it marks the beginning of the implementation of "Hong Kong people ruling Hong Kong and a high degree of autonomy". We believe that no one among our colleagues in this Council wants colonial rule to continue in Hong Kong and no one is against the principles of "Hong Kong people ruling Hong Kong" and "a high degree of autonomy". So this is a very good common starting point.

Mr President, according to the Basic Law, the Chief Executive will lead the Hong Kong SAR Government to exercise "a high degree of autonomy" under the principle of "one country, two systems". We hope that he will fully and faithfully implement the Basic Law and promote the stability and prosperity of Hong Kong.

We trust and rely on the Basic Law because it not only vests the Chief Executive with a number of rights for "a high degree of autonomy", but also establishes a political system for the checks and balances as well as mutual co-operation between the executive authorities and the legislature. In exercising his powers, the Chief Executive will be subject to the monitoring or even impeachment mechanism provided for in the Basic Law. Thus the Chief Executive must exercise his powers along the tracks laid down by the Basic Law and strive to uphold "a high degree of autonomy" for the SAR. We should have full confidence in this.

Mr President, we trust and rely on the Basic Law because it also stipulates the method of selecting the Chief Executive, stating that it shall be specified in the light of the actual situation in the Hong Kong SAR and in accordance with the principle of gradual and orderly progress, with the ultimate aim of election by universal suffrage upon nomination by a broadly representative nominating

committee in accordance with democratic procedures. If we mistrust the first step of implementing the principle of "Hong Kong people ruling Hong Kong and a high degree of autonomy", that is, the election of the first Chief Executive, how can we achieve the ultimate aim of election of the Chief Executive by universal suffrage in a gradual and orderly way in the near future?

Since solidarity is strength, I hope that my colleagues in this Council and the six million Hong Kong people will unite in supporting our future Chief Executive Mr TUNG Chee-hwa, putting aside our differences to seek common grounds, in order to build a free, democratic, stable and prosperous SAR.

Mr President, with these remarks, I support the Honourable Paul CHENG's amendment.

**MISS MARGARET NG:** Mr President, to be perfectly honest, I prefer the motion as amended by the Dr the Honourable YEUNG Sum. It is usually more reasonable and really only fair to give a new chap a chance in his job first before expressing a view of his likely performance in the future.

But, Mr President, sometimes a debate assumes a symbolic meaning and one cannot help siding with what the words stand for. In this debate, the original motion of the Honourable Miss Emily LAU stands for a certain kind of stubbornness, a refusal to shut up even though there is no prospect of success and being unafraid of consequence to oneself. For once, Mr President, I vote with the singer, not the song. I am sure Dr YEUNG Sum will understand. Sometimes prudence can be too close to hedging for comfort. I fear more of being unprincipled than being imprudent.

Reason being not my reason for supporting the original motion, I will put no further argument before you. Mr TUNG already has 320 votes out of 400. The unreasonableness of one cowardly woman can mean nothing to him.

Thank you, Mr President.

**MRS SELINA CHOW** (in Cantonese): Mr President, the Honourable Miss Emily LAU has always called herself a democrat. However, her remarks today make it necessary for us to reevaluate this self-assessment of hers.

It seems that Miss LAU believes in the argument that a lie can become truth by repeating it a thousand times. In her speech, she used the word "hand-picked" several times, apparently in an attempt to convince Hong Kong people that this is the truth by endlessly repeating her one-sided opinion. What is the difference between her statements and the rumour circulated in August among the public that another candidate was really the real leader? Are these not extremely subjective speculations? Actually, members of the Selection Committee know that this "theory of being hand-picked" is totally groundless. Not only does Miss LAU lack confidence in China, but she also has absolutely no confidence in the press, the professional survey organizations in Hong Kong and even the people of Hong Kong. She said that these people's "flattery" of TUNG Chee-hwa was their propaganda tactics and that they were "tricking" people. Such insulting remarks on everybody in Hong Kong can be simply described as an attitude of allowing no dissenting views, which is totally undemocratic. Miss LAU also criticized that TUNG Chee-hwa was wrong in saying that the Democratic Party is "opposing everything from the Chinese side". I do not agree. It is because the Democratic Party has been speaking and acting against China for years. However, I respect Miss LAU's different opinion. Yet the terrible thing is that she said TUNG Chee-hwa is in no position to criticize the Democratic Party. Does it mean that she is in a position to criticize TUNG Chee-hwa then? Do her one-sided democracy and selective freedom of speech represent real democracy?

Mr President, the Democratic Party stresses that the Chief Executive of the Special Administrative Region (SAR) must be able to say "no" to China. This sounds appealing but it is somewhat misguided. More importantly, we need a leader capable of commanding the respect of the Central Government not by saying "no" but by being competent, and of implementing benevolent policies which will further Hong Kong's interests and development. Who will object to democracy, human rights, freedom and the rule of law as mentioned in Dr the Honourable YEUNG Sum's amendment? These are the so-called "motherhood and apple pie". However, if TUNG Chee-hwa fails to give priority to handling such problems as housing, education, welfare, the elderly and law and order which concern all of us and which have seen little progress in recent years, he will not be able to meet Hong Kong people's major expectations of him. These policy issues and social needs are considered by many people as more important than politics. However, it seems that these are not regarded as so important by the Democratic



Party. Otherwise, why has Dr YEUNG Sum's amendment not touched upon these important social needs?

Mr President, all the opinion polls show that TUNG Chee-hwa is regarded by Hong Kong people as the first choice to be the SAR Chief Executive. Unfortunately, the candidate for the common people's SAR Chief Executive nominated by the Democratic Party ranks third only. I wonder whether the Democratic Party would think that the opinion polls were indicative of "horse rigging", or that Hong Kong people had not made a shrewd judgments, or that the Democratic Party has actually alienated itself from the masses and neglected its responsibility of listening to the views of Hong Kong people?

Mr President, the Liberal Party supports the Honourable Paul CHENG's amendment because it is the only amendment that is positive, filled with hope and forward-looking. In the past few years, Hong Kong was plagued by Sino-British disputes. It lost its orientation for the future and there were constant confrontations in the community. Today, it is time for us to face a new beginning and to support and assist the Chief Executive elected in Hong Kong in improving and reshaping our future.

**MR CHIM PUI-CHUNG** (in Cantonese): Mr President, this morning I went to the Selection Committee meeting at the Convention and Exhibition Centre for the election of the Chief Executive of the Hong Kong Special Administrative Region (HKSAR). When I arrived at the venue, it was very chaotic outside and many people complained why it was like that. Yet I was not afraid as this was an alternative form of celebration. If one day all these voices disappear, it would be quite lonesome.

In connection with today's voting of the HKSAR Chief Executive, I have conducted a survey on the first 100, 200, 300 and 400 votes respectively. Out of the first 100 votes, Mr TUNG Chee-hwa obtained 85 votes, which we regard as the first group: the industrial, commercial and financial sector. From the second group which was composed of professionals, Mr TUNG got 82 votes. From the third group of people from the labour and religious sectors, he received 73 votes. Lastly, he got 80 votes from the former political figures, Hong Kong deputies to the National People's Congress and the National Committee of the Chinese People's Political Consultative Conference. The average rate was 80%. In other words, Mr TUNG has succeeded in securing an extremely high rate of votes from all the four groups. Mr President, I am not bootlicking and I am not used to doing it. I am just stating the facts and I earnestly hope that all the

people in Hong Kong would understand that this voting result is supported by the 400 members of the Selection Committee.

I have been a Legislative Council Member for nearly six years and the political views I hold have all along been different from those of some people. However, the facts prove that what I said each time almost always turned out to be right. I recall that on 29 June 1994, I pointed out that our term of office will expire on 30 June 1997. At that time I got 14 votes. But now we can see that our term of office will come to an end in seven months' time. I have also time and again reminded the so-called democrats of the major direction and trend of participating in Hong Kong's political affairs in the future. We can of course have different political views and opinions, yet eventually the facts will prove who is right for everything I said was based on facts. The most important fact I have based on is that Hong Kong is not an independent entity and it will ultimately revert to China. Anything, any illusion should make a self-review under this principle. Of course, many people incline towards international democracy and human rights as well as the brilliant achievement of British rule over the past 150 years. I am not in a position to criticize the views of others, but we should pay attention to the actual outcome. The irresponsible attitude of claiming one is right when he wins but criticizing others when he loses is only the sort of attitude of a shrew shouting abuse in the street. Mr President, my comments are not directed at Members of this Council. They are only directed at the facts. I thus hope that the clever Hong Kong people can be baptized by politics. I absolutely believe that Hong Kong people need democracy and in particular human rights. Nevertheless, they should not fight for them blindly, or believe in them blindly.

Just now the Honourable James TO mentioned that more than three years ago, I already predicted that Mr TUNG Chee-hwa would become the HKSAR Chief Executive. I was not really that smart. I was just making an inference from various aspects. Now some people may say that if that was not "being hand-picked", how could I have so much insider information? No, in fact that was not true. I think that when we make criticisms, we should be fair-minded. I can tell Honourable Members frankly that I once handed Mr TUNG a note telling him the first thing I think he should pay attention to after being elected is to go to Beijing immediately after taking a rest. This is because China is after all our sovereign state. It is therefore necessary for Beijing to complete the authorization procedure for the subsequent acceptance by Hong Kong people of this legal procedure. Secondly, he should immediately set up a consultative

committee which comprises representatives of different voices from all sectors of Hong Kong so that the interests of various sides will be attended to. In the meantime, the composition of the policy secretaries who will be responsible to govern the whole territory has to be taken into account. Fourthly, I reminded him to have a sincere dialogue with the democrats, but bearing in mind the principle that dissenting views against the human rights and democratic situation in China have to be put aside and excluded from the discussion. However, he could talk about other issues concerning the betterment of Hong Kong and the pursuit of more democracy and human rights for the people of Hong Kong, but there should be no invective. The Frontier, represented by the Honourable Miss Emily LAU, should not listen to Mr TSANG Kin-shing, who said that one, two, three, the Frontier should go first. This morning, you were .....

**PRESIDENT** (in Cantonese): Please speak to the President.

**MR CHIM PUI-CHUNG** (in Cantonese): This morning, the Frontier was fighting at the frontier. Somebody said, "The Frontier should lie down," and they did so. I am not saying that they were not right, but that was policy.

To this end, I hope that various sides could conduct discussion in the interests of Hong Kong people in the future. I believe firmly that, at present, there is no need to make use of opportunities, radio, the mass media or other channels to instigate the feeling of Hong Kong people anymore. In fact, as Chinese people, we should behave in a rational manner. No matter whether we hold a British passport, American passport or any other passport, we are after all Hong Kong people. I also believe firmly that all liberal countries in the world hope that Hong Kong and China can give full play to their potentials, especially in the economic aspect, and attend to democracy and human rights in days to come. Because if China is good, Hong Kong will be good, Asia will be good; and if Asia is good, all the liberal countries in the world will be good too. On the contrary, if China fails, Hong Kong will fail, and those countries upholding human rights and democracy will also fail. Therefore, the era of confrontation should belong to the past, and we should strive for a better tomorrow by means of dialogues and a compromising manner.

Mr President, these are my remarks.

**MR LEE WING-TAT** (in Cantonese): Mr President, I would like to respond to the questions posed to the Democratic Party by the Honourable Mrs Selina CHOW and other Honourable Members.

First, the issue of the public opinion surveys. The public opinion surveys were carried out by universities and therefore I absolutely have no doubt about the way they were conducted or the scientific method employed. However, I hope that Mrs Selina CHOW will pay attention to two points when she looks at the findings of the surveys. In fact, these two points are not raised by me but by Dr LI Pang-kwong of the Lingnan College. Only in this way can the findings be regarded as comprehensive. According to Dr LI, some objective factors were difficult to predict and it was not known whether the factors were reflected in the survey — one of the candidates whom the public could choose was the Honourable SZETO Wah. Since the public knew very well that he was not really a candidate, it was difficult to assess whether they were biased when making their choices. We therefore have to be careful when we look at the findings. Besides, there is a second point, which is even more important. If Mrs Selina CHOW believes that Mr TUNG Chee-hwa is so popular with the people and can gain such a great support, why not organize a direct election? Members need not be afraid. As the candidate Members support is able to gain so much support from the people in a public opinion survey, why should Members be afraid of holding a direct election? Why should Members be afraid to elect through a one-man-one-vote direct election a person whom Members think is suitable for leading Hong Kong? In so doing, we will not have to be sceptical about the authenticity of the findings of the surveys. I thus hope that the Liberal Party supports a one-man-one-vote election for the second Chief Executive in 2001 after Mr TUNG takes office. When the person you prefer is elected, there will be no more dispute.

Second, the question of whether the Democratic Party is "opposing everything from the Chinese side". I have said before if it is right for us to raise objections to China's affairs. Whether we are "opposing everything from the Chinese side" is not the most important point. The point is if the Chinese Government arrests XI Yang, imprisons WANG Dan and errs in its policy, what is wrong with the Democratic Party in criticizing it? The most important thing is, if the Liberal Party or other people think that it is wrong for the Democratic Party to object to certain policies or views of China, can they tell us which of the objections are wrong? If they feel that our objections are wrong, they can well lay them out on the table for discussion. There is no need for them to say that

we are "opposing everything from the Chinese side".

I remember that once in a forum, a colleague from the University of Hong Kong asked Mr TUNG what China had done he thought was wrong, and whether it was true that "everything China did must be right". Later some reporters also asked Mr TUNG if there were something he thought China had done wrong. Mr TUNG answered simply that he had his own view but he did not have to speak out. Sometimes I really do not understand. As such an important leader of the Special Administrative Region (SAR), Mr TUNG should point out what is right and what is wrong. He should not be afraid of mentioning the mistakes one has made simply because the party concerned is a powerful figure, a country or someone possessing enormous power. Neither should he humiliate a person because that person has no power. What we suspect is not that he has no idea of what China has done wrong. Rather, we are worried that he knows that China has done something wrong yet he dares not say it openly. In fact, we all know that the Cultural Revolution was wrong and what Mr TUNG needs to say is simply that "the Cultural Revolution was wrong". While everybody knows that it was a mistake, he still dares not say it. Why? I wonder if he feels he cannot make a contradictory remark in the formidable Central Government?

Dr the Honourable YEUNG Sum mentioned just now that he hoped Mr TUNG, being the SAR Chief Executive, could act as the head of "one system" in defending the interests of Hong Kong people. Under this principle, contradiction with the Central Government may arise from time to time. Of course, there is no need to argue every time a contradiction arises. However, sometimes it is necessary to speak out if there are dissenting views.

Mrs Selina CHOW queried a moment ago why the issue of people's livelihood was not mentioned in the amendment proposed by the Democratic Party. Mrs Selina CHOW may be a bit forgetful as a couple of weeks ago, we were criticized by the Honourable IP Kwok-him that we had initiated too many debates about the SAR Chief Executive. In fact, in a debate raised by the Honourable Fred LI concerning the people's livelihood, we discussed for several hours as to how the Chief Executive should address this problem. It is not true that we did not discuss it, and we did have discussion. However, we know that there are something, unlike motherhood and apple pies as Mrs Selina CHOW said, which are not preferred by everyone. According to Mrs Selina CHOW,

human rights, democracy, freedom and the rule of law are wanted by everyone, but there are also some people who do not want them. Maybe she has not read the news. Mr TUNG has stated clearly that the provisional legislature will amend the provisions relating to the Public Order Ordinance and the Societies Ordinance as contained in the Bill of Rights so as to restrict the freedom of assembly, demonstration and association that we now enjoy. Are these not important? It is for this reason that we have proposed these four clear-cut principles in our amendment.

Lastly, the question of "being hand-picked". Mr President, I dare not say whether such situation exists or not. However, the Preparatory Committee (PC) was definitely hand-picked by the Chinese Government. As we all know, the political tendencies and views of the PC members are obviously similar to those of China. The PC selected a Selection Committee, which in turn selected the Chief Executive. Is it not an indirect procedure of being hand-picked? Even in a most recent public opinion survey, 60% of the people of Hong Kong still feel that the Chief Executive is hand-picked. Why did Mrs Selina CHOW fail to mention that the survey was also carried out by those organizations? The Cable TV conducted a survey today and the findings shows that 39% of the public are most worried about a deterioration in the human rights situation in Hong Kong while only 12% believe that there will be an improvement. These are also opinions of the public. Should these opinions be conveyed too? I do think so, Mr President.

Mr President, these are my remarks.

**MR MOK YING-FAN** (in Cantonese): Mr President, today, the 400 members of the Selection Committee selected Mr TUNG as the first Chief Executive (CE) of the Hong Kong Special Administrative Region (HKSAR). Besides congratulating Mr TUNG on behalf of the Hong Kong Alliance for Democracy and People's Livelihood (ADPL), I also hope that as the first CE of the SAR, Mr TUNG will be able to see the heavy responsibilities which await him because the six million people in Hong Kong all eagerly expect their CE to do his best to implement "one country, two systems" and to safeguard their rights and freedoms under the Basic Law.

Since the CE has been selected by just 400 people without the direct participation of the general public, the first and most important task faced by him

following his assumption of office will be to gain the acceptance of the six million Hong Kong people, and to build their confidence in him by taking concrete actions. My view is that the CE must govern Hong Kong according to the following four principles:

1. *Hold firmly the position of the Hong Kong people and safeguard "Hong Kong people ruling Hong Kong"*

When handling the relations between the Central Government and the HKSAR, the CE should find backing from the opinions of the people, and then he should fight for the case of Hong Kong in accordance with the Basic Law so as to prevent the Mainland from intervening in the affairs of the SAR in violation of the Basic Law. The CE must see to it that the Central Government, and the provincial and municipal authorities can all realize that upholding "one country, two systems" is not just the wish of the six million people in Hong Kong, but it is also a concept conducive to the long-term interests of the modernization of China.

2. *Prevent the emergence of money politics*

At present, members of the public still have some reservations about "businessmen ruling Hong Kong" because we the people of Hong Kong hope that our politics and society can remain equitable and free from corruption in the future. In other words, we hope to see an equitable environment for economic competition, and we do not want the policy-making and administration of the Government to be influenced by a few huge consortia, lest that we may follow the path of Japan's money politics. That is why Mr TUNG must be absolutely fair and impartial. Apart from maintaining the existing mechanisms of anti-corruption and monitoring the Government, he must carefully consider the worries of the people when he handles his private assets. Besides declaring his assets to the Chief Justice of the Court of Final Appeal and putting these on record pursuant to Article 47 of the Basic Law, he should allow the public to gain access to such a record. While a trust fund should be set up to handle his assets, he should also make an open promise to the effect that he will refrain from involving in the handling of his assets during his term of office and a specific period of time after he leaves the office.

3. *Conduct fair and equitable elections for the first Legislative Council of the SAR*

The provisional legislature is merely an expedient measure intended to fill the legislative vacuum caused by the breakdown of Sino-British negotiations on

Hong Kong's political system. For that reason, the legislative programme to be submitted by the CE to the provisional legislature must be strictly limited to the legislative work which must be done before the setting up of the first Legislative Council of the SAR (such as the definition of permanent residents and the electoral laws for the Legislative Council elections in 1998). Any other legislative work falling outside this scope should be handled by the first Legislative Council of the SAR. The CE must make sure that the provisional legislature can complete its tasks as quickly as possible. Following that, fair and equitable elections should be held for the first Legislative Council of the SAR so that the law-making system of the SAR can return to the tracks laid down by the Basic Law.

4. *Protect the people's livelihood*

The middle and lower strata have all along been regarded as the unsung heroes contributing to the prosperity of the territory. Yet, they have been denied a fair share of our social resources. We maintain that if our society is to remain stable, the fruit of our economic success must be shared reasonably among all strata. In the past, largely because of the inherent myopia of a colonial regime, the policies adopted by the British administration in Hong Kong were mostly piecemeal in nature. However, the setting up of the SAR and the implementation of "Hong Kong people ruling Hong Kong" will give Mr TUNG a good opportunity to reduce the disparity between the rich and the poor and to foster social harmony.

I hope Mr TUNG can understand that the people of Hong Kong do have very high expectations about the CE of the future SAR because they still have some worries about their future. They all hope that the CE can take concrete actions as the leader of the Hong Kong people in order to uphold "one country, two systems", implement "Hong Kong people ruling Hong Kong" and work with them to bring a prosperous SAR into play. In view of such expectations, and since the newly elected CE has not yet started the actual work of administration, it is really much too early to say definitely that the CE will not have what it takes for the job. I would like to urge my colleagues in this Council to look at the CE Designate with a constructive attitude. Let us draw up and put down on record a set of objective and sensible criteria to evaluate the administrative work of the CE. Then, we should monitor the words and deeds of the CE, and wait until he starts the actual work of administration before we conduct an evaluation. I also want to urge Mr TUNG not to let the six million Hong Kong people down, for he must remember that "while water can keep a boat afloat, it can also turn it upside down". For the reasons I have stated, I have to say on behalf of the ADPL that we



do not support the Honourable Miss Emily LAU's motion.

**MR ALBERT HO** (in Cantonese): Mr President, while moving its own amendment, the Democratic Party also supports the original motion moved by the Honourable Miss Emily LAU. We support her motion because we understand that it is directed at the system as a whole. We do not think that it is the intention of Miss Emily LAU to pick on Mr TUNG Chee-hwa personally, for the two of them simply do not have any grudges against each other, and they may not even know each other at all. However, history tells us what kind of people will be selected under such a system and such electoral arrangements. Does he really have what it takes for the heavy responsibilities which await him? Can he really uphold "a high degree of autonomy" for Hong Kong under its unique circumstances? Will he really side with the interests of the masses and fight for democracy and uphold human rights? Actually, all these doubts are caused precisely by our lack of confidence in the electoral system concerned.

Hence, we believe that the logic or reasons quoted by the Honourable Miss Christine LOH just now simply should not be applied to negative Miss Emily LAU's motion. Besides, to be very honest, I was a bit surprised to hear Miss Christine LOH say that our real concern was whether or not he was a good man. I must point out that the integrity or otherwise of any particular person is not so much our real concern here. Rather, we want to see what kind of system should be set up in the long run. We want to ensure that under the system so identified, apart from confronting the community and putting forward election platforms which balance the interests of various sectors, the candidates will have to abide by their own election platforms and submit to democratic checks and balances after the assumption of power. The election we have witnessed today can hardly give us any confidence. For that reason, it is only natural that people would want to query the result of an election conducted under such a system.

Today, many members, including the Honourable Paul CHENG, said that we should give Mr TUNG a chance to show us how he will do his job. The Honourable Allen LEE even say that we should monitor his words and deeds. Mr President, we are bound to give him such a chance any way. For, do we indeed have the authority to deny him of such an opportunity? So, he can rest assured that he will be able to serve as the Chief Executive for five years. The

point is that once he has such an opportunity but subsequently fails to meet the people's expectations, what actions will be taken by those Members who now say that he should be given the chance? Will they stand up and tell him, "Sorry, you must step down because you have not done your job well"? Will they have the courage to say so? Actually, we do not have to consider whether or not he is to be given a chance because quite a number of remarks which he made during the election period have already aroused our queries. For example, on the inheritance rights of indigenous residents in the New Territories, he once said that he wanted to restore the former position. In other words, he does not think that men and women should enjoy equal inheritance rights. This can fully reflect how conservative he is over the issue of sexual equality and equal opportunities. Another example is the issue of curbing property speculation. All of us know and agree that land supply should be increased. However, everyone also knows that this will take time, and we must take immediate steps to tackle the urgent problems now. Since even those barely effective administrative measures of the Government have failed to receive his approval, we can clearly see what sectors or classes he represents when he approaches the problem. He is approaching the problem merely from the standpoint of those classes, instead of having the overall interests of the people in mind.

Many people say that today is a big day, and we should congratulate him. However, we do not think that we should become yet another well-wisher when there are already so many. I believe that Mr TUNG should be receiving numerous telephone calls from his well-wishers today. But, we must tell him that although the general masses have to accept the fact that he is elected in accordance with the procedures laid down in the Basic Law, we remain very concerned and even very worried about how he will govern the territory in the future. I also hope that in case he still has the leisure to listen to our debate today, he will not mind too much about our strong criticisms and queries. He is advised to "make amends for genuine errors and compliment himself in case he has not committed the errors concerned". He should prove us wrong with the very best of his performance, and I hope that he can really prove that we are wrong. That said, we still have to point out that however well he performs, we will remain dissatisfied. Our dissatisfaction is not caused by anything personal, but by the system under which this CE is elected. We are simply lucky if Mr TUNG can perform well in the future. We are convinced that in the long run, only a good system can ensure that we do not always have to depend on our luck.

Mr President, the Honourable Mrs Selina CHOW has repeatedly said that

we "oppose everything from the Chinese side", saying that we have to face a charge of being pro-Britain but anti-China. Here I would like to draw Members' attention to a few points to help them make their own assessments. First, we can compare the anti-colonial records of the Democratic Party and the Liberal Party. To those who accuse us of being pro-Britain, I must say that the Democratic Party has, over the years, remained firmly against corruption, unreasonable fee increases and many undemocratic decisions of the colonial government. Second, the Democratic Party has never relied on the colonial government's patronage to get where it is. But, what about the Liberal Party? Third, upon comparison, which political party, the Democratic Party or the Liberal Party, has more members who hold foreign passports? Fourth, which party will defend our country's dignity and interests by, for example, defending the Diaoyutai Islands and pressing for compensation from Japan which invaded China? Fifth, who were the first people to support Hong Kong's return to China with an unambiguous position? Sixth, Mrs Selina CHOW said a moment ago that we all support freedom, democracy and human rights. But, has she ever fought whole-heartedly for the cause of freedom, democracy and human rights in China?

**MR MARTIN LEE** (in Cantonese): Mr President, many years ago, the Chinese leader Mr DENG Xiaoping said if there was a good system, even bad people could not do bad things; but if there was not a good system, even good people could not do good things and they might even be forced to do bad things.

In fact, the most important point that we are debating today is whether there is a good system. I believe many Hong Kong people would agree that today Mr TUNG Chee-hwa is selected rather than elected to be our first Chief Executive Designate through a good democratic system. I therefore think that the most important point in the Honourable Paul CHENG's amendment is that he says the 400 people are representative, whereas Dr the Honourable YEUNG Sum's amendment says otherwise. I am quite sure that Dr YEUNG Sum's amendment would not be carried today. There is no need for the Honourable CHIM Pui-chung to tell me. I am aware that it will definitely not be carried. It is because I learned from the newspapers that 34 Members of this Council have already signed up for the election of the provisional legislature. And if they want to join, they have to count on the votes of these 400 people. If the 400 people were said to be not representative, then the 34 Members might as well refrain from signing up just as the Democratic Party did. Therefore, I am sure

that at least 34 Members will negate Dr YEUNG Sum's amendment. We should understand that even if our amendment could not be carried, it does not mean that these 400 people are really representative. We all know how they were chosen. Were they elected by the Hong Kong people? To be frank, I do not see anyone of them who can represent me. On the contrary, I can represent many of them. I represent those who live in Island East! *(Laughter)*

As regard whether people can condemn the Democratic Party, of course they can. But what I am saying is different from DENG Xiaoping's saying that people can condemn the Communist Party. What he referred to is just restricted to one voice or two. If these voices are organized, they will be taken as subverting the Central Government. Of course, everyone has the right to condemn the Democratic Party. But why do we hope that our Chief Executive can say "no" to Beijing? It is because he once said during the election campaign that he was prepared to amend the Bill of Rights and reinstate the draconian laws. These are exactly the views raised by that great Preliminary Working Committee of ours! We hope that the Chief Executive can say "no" to these issues since this will definitely be beneficial to Hong Kong.

As we all know, at present there is not a good system for electing our Special Administrative Region (SAR) Chief Executive. Without a supportive system, it is very difficult for him to say "no" to Beijing on various issues. If he is elected through a one-man-one-vote election, he can well negotiate with Beijing officials on issues which he does not agree with the Central Government, and he can refuse to execute them on the grounds that they are unfavourable to Hong Kong or he cannot betray his voters. The leader in Beijing will understand that it is futile to force him to resign or dismiss him because a by-election, which will again be conducted under a one-man-one-vote system, will then have to be held. For this reason, the candidate will definitely adopt similar stand as that of the previous Chief Executive as his platform because Hong Kong people will definitely not vote for him if he adopts Beijing's stand as his platform. Therefore, if a good system is in place, our SAR Chief Executive will absolutely be able and find it necessary to strive for what Hong Kong people deserve. But if a good system is not in place to give him support, it would be difficult for him to help Hong Kong people.

I said it would be difficult but I did not say it would be "impossible". We only hope (but we cannot be too wishful) that under this framework of the rule by men (China is under the rule by men and so will be the future Hong Kong SAR), the Chinese leader will let go and stop interfering with the internal affairs of

Hong Kong, allowing our Chief Executive to make his own decisions. In this society under the rule by men, we hope that senior officials in the Hong Kong Government, and members of the Executive Council can give him more encouragement and constructive advice. We also hope that he can accept the views of various strata and refrain from appointing only from among those 400 people to join the Executive Council.

We can only hope for all that. We hope that under such circumstances, our Chief Executive will be able to strive for maintaining a high degree of autonomy in the SAR, and will dare to pursue with the Chinese Government for democracy, human rights, liberty and the rule of law in the SAR — those are the "apple pies" as mentioned by the Honourable Mrs Selina CHOW and in fact I love apple pies too. However, "motherhood" is something I do not have! (*Laughter*) — in order to promote Hong Kong's prosperity, stability and advancement.

In view of the above, the Democratic Party is willing to have dialogues with our Chief Executive because we believe we are representative as we are elected by Hong Kong people. We hope that he can discuss with us as soon as possible those issues of Hong Kong people's concerns. Of course, in the aspects of people's livelihood and freedom, we know that the SAR Chief Executive has his own difficulties. But we hope that we can help him as far as possible to understand the views of different strata so that he can make a sensible decision.

Mr President, these are my remarks.

**MR LEE CHEUK-YAN** (in Cantonese): Mr President, just now the Honourable CHIM Pui-chung mentioned what happened this morning. Actually, when I was manhandled and carried upside down this morning, I probably became a bit out of my mind and suddenly thought of an amendment. However, it is a pity that I did not have enough time to formulate my thoughts and put them down in words for a debate in this Council. Regarding the "congratulatory" amendment moved by the Honourable Paul CHENG, I am sorry to say that it cannot fully express the sentiment of the 400 members of the Selection Committee. I think that if their feelings are to be truthfully conveyed, the original motion should be amended as follows: "This Council warmly congratulates TUNG Chee-hwa the Great Helmsman on his election as the boss-designate by the 400 outstanding persons of Hong Kong in a fair and open manner, and we wish that he can adhere firmly to the will of the Central Government and strive to safeguard the

privileges of the 400 outstanding persons while continuing to say 'No' to the Hong Kong people's demand for democracy."

The election today is in fact a very great one. This occurred to me only when I was manhandled and carried upside down. Firstly, this election is very open. We can all remember that one year ago JIANG Zemin shook hands with TUNG Chee-hwa openly. This was an open act, for JIANG did not shake hands with TUNG in secret. Secondly, this election is fair. I feel that you are all wrong about one thing. Fairness as defined by you is based on people. That is to say, you compare the six million people of Hong Kong with the 400 Selection Committee members, and conclude that the 400 members are just a coterie which excludes the six million people from the election. But your way of thinking is completely wrong.

**PRESIDENT** (in Cantonese): Please address your remarks to the President.

**MR LEE CHEUK-YAN** (in Cantonese): Yes, Mr President. It is wrong because you have not taken one thing into account. Fairness can be looked at from two angles: either in terms of the number of people involved, or in terms of money. When you look at a person with \$10 billion and another with only \$1,000, you may as well regard them as equal. However, there is another way of looking at these two people. Since the one with \$10 billion is more important and thus of a higher social status, it is only natural that he is allowed to vote. By the same token, since the six million people have less money, but the 400 members are very rich, the latter should be allowed to vote. What is wrong with that? I therefore feel that your way of thinking is somewhat biased because there is another way to measure fairness, that is, in terms of money, not in terms of the number of people involved.

What is more, another great aspect of this election is that it has given full play to the great spirit of "one country, two systems". While China practises the dictatorship of the proletariat, from now on Hong Kong will practise the dictatorship of the bourgeoisie. Through this election, China has ensured that Hong Kong will come under the dictatorship of the bourgeoisie. Just take a look, and we will see that the Preparatory Committee is dominated by the commercial and industrial sector; the Selection Committee is also dominated by the same sector and most of the candidates also belong to this sector. So,

eventually people from the business sector will be elected. Last week, the Honourable SZETO Wah described this as inbreeding. That was not a very good description because there is actually a more appropriate description: "A dragon will give birth to a dragon, and a phoenix will give birth to a phoenix". (*Laughter*) The Hong Kong people are just insignificant and humble subjects, and so we should not be given the right to vote. Since "a dragon will give birth to a dragon, and a phoenix will give birth to a phoenix", the commercial and industrial sector has the right to vote, and the ones elected also belong to this sector, thus leading to the dictatorship of the bourgeoisie. This in itself is not so much a problem because it is just a revival of old colonialism. In the past, British capitalists were in power. From now on the capitalists in power are no longer British, nor can they be regarded as Chinese in the strict sense of the word, because each of them has another passport in his or her rear pocket. So, it should be said that Hong Kong will be run by international capitalists, a sure guarantee that Hong Kong can retain its international status. The only thing which will remain unchanged, however, is that the Jockey Club will remain the centre of power in the future, as was the case in the past. Since there will be "horse racing as usual", people can indeed stop worrying any more!

In addition, what the Chinese Communist Party has done this time also shows how broad-minded it is. The Chinese Communist Party owes its existence to the support of workers, peasants and the military and to its adherence to Marxism-Leninism and Mao Zedong Thought. However, it still allows the capitalists to dominate Hong Kong and accords priority to their interests. It is indeed clever of them to do so because everyone knows that the working class people in Hong Kong cannot afford to leave the territory while the capitalists can. That is why the capitalists must be allowed to take control and practise dictatorship. If they are allowed to do so, they will not leave Hong Kong. The working class people can well be ignored because they do not have the ability to leave. This is indeed a very great perspective.

In addition, democracy has always been the antithesis of the dictatorship of the bourgeoisie. If there is democracy, a balance between the interests of the people and those of the capitalists will be struck, and this will affect the interests of the latter. Therefore, it is only right to adhere to an undemocratic line because this can prevent the working class people from snatching the fruit of prosperity which the capitalists have worked so hard to bring about. For example, in recent years, some working class people representatives have been demanding a halt to importation of labour and improvements to labour welfare.

These are nightmares for capitalists. Following this election, and under the future leadership of TUNG Chee-hwa the Great Helmsman, capitalists will not have to experience such nightmares. As for the nightmares of the working class people, they can be ignored because these people are not capable of leaving Hong Kong. In the future, importation of labour, halting of social welfare provision, freezing of labour laws and suppression of civic liberties will all become non-issues because workers are unable to leave Hong Kong anyway. Therefore, this is indeed a very great election.

In addition, I strongly subscribe to TUNG Chee-hwa's view that the issues of labour, housing and people's livelihood are all so important that we have to study them in detail. I also agree that we should not focus on short-term interests only, but should look at the long-term situation instead. Well, under the dictatorship of the capitalists, long-term interests will certainly be safeguarded. So, if workers look only at the present and refuse to accept the dictatorship of the capitalists, they are very myopic. Let us all be more farsighted, bearing in mind that we will commit no sin if we listen to TUNG Chee-hwa the Great Helmsman.

However, at last, we all see that the Chief Executive of the Special Administrative Region has already been elected. A saying has become very popular these days: "Let us make the mother's choice together".

I hereby state that the above opinions definitely do not represent those of the Confederation of Trade Unions, or the Frontier.

**DR ANTHONY CHEUNG** (in Cantonese): Mr President, having heard the speeches delivered by Members including those from the Liberal Party, I find that most Members seem to be saying that we, Members from the Democratic Party, are holding a "rally to criticize Mr TUNG", and we are making a judgement right now, without giving Mr TUNG Chee-hwa a chance. However, taking another look at the motion moved by the Honourable Miss Emily LAU today or the amendment moved by Dr the Honourable YEUNG Sum, Members will see that we are not criticizing Mr TUNG but the system. As Mr TUNG Chee-hwa has been elected Chief Executive under this system, it is inevitable that this system has caused people to have all kinds of worries about him. The focus of our debate today is the criticism of this system. Miss Emily LAU has just said that if what actually happens in the future proves that she is wrong about



such worries, we will be glad to see what is going to happen. When Dr YEUNG Sum moved his amendment, he expressed that he hoped Mr TUNG Chee-hwa as the Chief Executive of the SAR would fight for the human rights, rule of law and freedom in Hong Kong, and that he would defend "a high degree of autonomy" in Hong Kong. These are our expectations of Mr TUNG.

Why do we put forward such expectations? It is because it is the first step Hong Kong has to make in order to carry through "Hong Kong people ruling Hong Kong" from 1997 onwards. If the Chief Executive of the SAR cannot defend "a high degree of autonomy" in Hong Kong, such a precedent or example will have serious impact on the future of Hong Kong. Why is it so important to ensure that Hong Kong has "a high degree of autonomy"? I still recall that, at the beginning of the 1980s, when Zhao Ziyang, the then Chinese Premier, was interviewed by Hong Kong reporters, he asked what Hong Kong people had to fear, and he asked why Hong Kong people still had fears when we are going to have "Hong Kong people ruling Hong Kong". I believe everyone, including each and every Member of this Council knows what we have to fear. Why did some Members prefer to fight for the continued rule of Hong Kong by the British at the beginning of the 1980s and to exchange sovereignty for the right to rule? They actually feared something, and we probably fear more or less the same thing.

Most importantly, we have to safeguard that the Hong Kong system really enjoys autonomy under the principle of "one country, two systems", unaffected by the Mainland's system. Under the principle of "one country, two systems", the Hong Kong system is in fact very delicate. Politically, Hong Kong is only a dwarf, unable to withstand various kinds of pressures exerted by the Central Government in China or other authorities in the Mainland. Mr LU Ping, Director of the Hong Kong and Macau Affairs Office, once said that he feared that too many hands would be extended from the Mainland to Hong Kong after 1997. Some businessmen in Hong Kong are also worried about how Mr LU Ping can use his two hands to ward off so many pairs of hands in the future. We do not know whether Mr TUNG Chee-hwa can use his two hands to ward off the interfering hands of the Central Government or the authorities in other places in the Mainland in future. However, Mr TUNG said several weeks ago that if officials from some provinces or municipalities in the Mainland interfere in the affairs of Hong Kong, he will adopt the toughest measures to ward off such interference. He said that he would be very tough the first time as the first time

is really important. If what he does cannot straighten out the situation the first time, it will set a very bad example. The Democratic Party hopes that Mr TUNG can similarly take the toughest measures to ward off any interference from the Central Government in future.

In addition, as the Selection Committee is led by the industrial and commercial sector in our society, although I do not intend to hold a criticism rally against the industrial and commercial sector, the general public are really worried that Mr TUNG's support has come from the 400 votes of the Selection Committee, most of which would be cast by the industrial and commercial sector. Therefore, will he be subject to very great pressure from the industrial and commercial sector? Some people are worried about the emergence of money politics. There are solid grounds for such worries. How will the two hands of Mr TUNG ward off the hands extended from various sectors in Hong Kong in future?

The Democratic Party hopes that Mr TUNG will have the courage and ability to say "No". We do not expect Mr TUNG to "oppose everything from the Chinese side", "oppose everything from the business sector", "say no to everything China wants" or "say no to everything the business sector wants". If the "two systems" can co-exist peacefully in the future; if the Central Government of China really lets Hong Kong develop on its own without interference, and if Hong Kong can enjoy "a high degree of autonomy", there will surely not be any resistance. Conversely, if there are conflicts or conflicts of interests which give rise to interference, I believe the Chief Executive of the SAR cannot help saying "No" as he is subject to and representative of this "system" of Hong Kong. Would he have the courage to say "No"? This is our concern. If something happens in the future which causes the regression of Hong Kong in such aspects as human rights, freedom, the rule of law, democracy and people's livelihood, would Mr TUNG have the courage to say "No"? We have heard many people say that we will revert to the old path after the British have gone as Hong Kong people enjoyed too much democracy and human rights in the last few years. Would Mr TUNG have the ability to resist such regressive forces in future? Would he have the ability and courage to say "No" to money politics? These are the questions we have raised.

We have raised our questions. Under the existing system, we are relying

on the fact that Mr TUNG can do so personally. We are relying on the rule by men, and we hope that he has such personal integrity and willpower. Why can we not have the protection of a system? This is the focus of our debate on Miss Emily LAU's motion and Dr YEUNG Sum's amendment today. We think that, instead of relying on the rule by men, and on our expectations of Mr TUNG, why can we not rely on a system? Therefore, the issue of a system is precisely the focus of our debate today.

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

**DR JOHN TSE** (in Cantonese): Mr Deputy, today is 11 December 1996, the day on which the Chief Executive of the Special Administrative Region was born. In a certain way, this is the first day of the transformation of Hong Kong from a British colony into a Chinese colony, and from an old autocracy into a new autocracy. Since the right to vote of more than six million Hong Kong people has been deprived of and trampled, is there anything worth celebrating by us, the people of Hong Kong?

I wish to change the subject of my speech to a criticism of the leader of the Democratic Party. I am a Democratic Party member and I very seldom criticize the Party leader. This is probably the first time I do so. However, there is something good about being a member of the Democratic Party, and that is I can openly criticize the Party leader. Why do I have to criticize him? It is because the Honourable Martin LEE has said something wrong this evening. He said that Dr the Honourable YEUNG Sum's amendment would certainly not be passed for the reason that 34 of the incumbent Legislative Council Members have already registered to take part in the election of the provisional legislature, and these 34 people would vote against Dr YEUNG sum's amendment. In fact, there would not be 34 but 33 votes, as one of them cannot participate in the voting.

I so submit.

**MR SIN CHUNG-KAI** (in Cantonese): Mr Deputy, the Honourable Paul CHENG seemed to have said before that if there was "one-person-one-vote", that

would only be John MAJOR's vote. In the Chief Executive (CE) election this time, has democracy achieved a progress of 400 times because there is one vote for each of the 400 people?

Just now, the Honourable MOK Ying-fan said, "While water can keep a boat afloat, it can also turn it upside down." But, now that the 400 members of the Selection Committee have already elected TUNG Chee-hwa, can they remove him from office? I doubt that they can do so because after reading the Basic Law, I come to know that the next Selection Committee of 800 members will still be appointed by the Central Government. This means that in case a Selection Committee member fails to do his job well, he may be removed from office next time. That being the case, if one is not appointed to the Selection Committee next time, one will be unable to remove Mr TUNG from office even though he fails to do his job well. Such a system is not found in the election culture in the West because under the western system, people know that their voting right is always guaranteed, be it this time or next time. I congratulate those who are able to join the Selection Committee this time because, as the Honourable TSANG Kin-shing said, these people would rise to fame and wealth. But, will they still have such a chance next time? I want to ask these people: Can you tell me whether you are sure that you can still serve in the Selection Committee next time? Members of the Association for Democracy and People's Livelihood (ADPL), in particular, will still have to "fight and negotiate" for a long, long time to come.

I am very pleased that the CE of the Special Administrative Region (SAR) has been elected today. However, I am, at the same time, not without worry because I saw from the news report at noon that about 40% of the people expressed less confidence with respect to the protection of human rights in Hong Kong after Mr TUNG has been elected as the CE. Does this finding reflect the people's response to Mr TUNG's frequent advice that the people of Hong Kong should talk more about their obligations, but less about their rights, especially human rights? I hope that Mr TUNG will consider what steps should be taken to allay the people's worry.

I learned from television news reports that many common people attributed the election of Mr TUNG mainly to his kind and honest image. But then, when I think about some important elections in the past, I cannot help asking: Did the

people vote for a certain candidate simply because he or she looked kind and honest? Or, did they decide to vote for a certain candidate because he or she advocated and upheld some ideologies and convictions? Nevertheless, the answer does not matter so much because the majority of the six million people in Hong Kong did not have the chance to vote in the election.

What surprises me most is that as early as 1993, the Honourable CHIM Pui-chung already knew that Mr TUNG would become the CE. Did Mr CHIM Pui-chung have contacts with some "Imperial Agents"? How come he knew three years ago that Mr TUNG would become the CE? Three years ago, Mr TUNG was still not very much a public figure, and very few people knew him. Apart from knowing that he was appointed to the Executive Council, I knew nothing else about him. So, can this be regarded as a verification that in the election culture of China, the results of elections are determined well before there are any candidates? Mr CHIM Pui-chung told us of the election result as early as three years ago, and what he said has turned out to be true. Did Mr CHIM Pui-chung have antennas which can receive messages sent right down from the Heavenly Court?

Just now, Dr the Honourable Anthony CHEUNG quoted Mr TUNG as saying that he would use his resolute hands to resist any hands extended from various provinces and cities in the Mainland. Actually, I guess it will not be easy for the provinces and cities to extend their hands to Hong Kong because there is already the hand of the Central Government, the biggest hand of all. This hand alone can already serve the purpose and all other hands can thus be withdrawn.

Finally, Mr President, I want to refer again to the saying quoted by Mr MOK Ying-fan just now because it is so meaningful. The saying is: "While water can keep a boat afloat, it can also turn it upside down". I hope that those Members from the ADPL will realize that they owe their present status to the tens of thousands of voters who voted for them in 1995. I hope that these voters can take a close look at the performance of these Members now and in the past, just to see whether they should be removed from office in the next election.

Thank you, Mr Deputy.

**MR FRED LI** (in Cantonese): Mr Deputy, at first, I did not intend to speak because of the condition of my voice. However, since today is such a historic day, I have decided that I must say something too.

We notice that the Hong Kong Federation of Trade Unions (HKFTU) has put up some "street boards" which say that it supports the Chief Executive (CE) elected by the people of Hong Kong. Mr TUNG Chee-hwa is no doubt a Hong Kong resident, and we do not intend to pick on him. That said, we still have to ask, "Who elected him?" If his election is the result of Beijing's decision, then should we really feel happy even though he is a Hong Kong resident? Must we feel happy as long as a Hong Kong resident can become the Governor, or the CE? No, I am afraid not. The most important factor is the people's participation. The problem now is that the CE is elected by those 400 people alone. But, how were those 400 people selected in the very first instance? We know absolutely nothing about this, apart from the fact that they were selected from a larger group of some 5 000 people.

Hong Kong is now a British colony. But, why do we always have to compare the CE with the Governor? Why do we feel that the situation now is far better? Why do we have to compare with the British colonial government? We have always been anti-colonial; and we have always been against colonial rule. We have always supported the return to China. But, why do you people say today that things are far better now because in the past, we had Governors appointed by Britain, and now we have a CE elected by the people of Hong Kong? I really think that we should not make such a comparison. What is now going to take place is the handing back of a piece of Chinese soil to the Chinese people. This is a reunion, and for that reason, the people of Hong Kong should be allowed to return to Chinese rule with a democratic institution and a high degree of autonomy. This should not be compared with British colonial rule. Therefore, we cannot accept such a comparison, which draws the conclusion that the situation now is far better than that under the colonial government.

Besides, many colleagues said just now that public opinion was in favour

of Mr TUNG. At the initial stage, YANG Ti-liang was in the lead in opinion polls. However, after several days of public forums, Mr TUNG started to overtake Mr YANG. Today, right before the election was held, Mr TUNG was leading Mr YANG by about 80%. However, after the election today, it turned out that the number of votes obtained by Mr TUNG was ten times that obtained by Mr YANG. In other words, the findings of opinion polls and the election result simply do not tally. What is more, the support for Mr YANG in opinion polls was in fact still quite substantial, while Peter WOO could only get the support of a very small minority. However, the number of votes which Peter WOO eventually received was very close to that received by Mr YANG. From this, one can see how much the effects of opinion polls have on the 400 members of the Selection Committee. I can tell Members that opinion polls have produced absolutely no effects on the Selection Committee members. Opinion polls are far less influential than inter-party compromises, secret lobbying by political parties and individuals as well as exchanges of advantages. We never know when and how these activities take place. Reporters would very much like to report on them. However, since this is an election by a small group of people, we will never be able to know what are going on because there are just too many entanglements of interests, too many exchanges between political parties and too many secret negotiations. In the case of an election with universal franchise, all these activities will never take place, and everything will be so clean and open that all candidates will have to gain public support on the strength of their own abilities. The CE candidates have conducted many visits to various districts, but, these visits were nothing but political "shows". They have told some elderly people that they care a lot about them. But, so what? Does this mean that he who is elected will really administer Hong Kong with the elderly people in mind? I do not think that he will do so. I know only that he wants to be a strong leader under an executive-led system.

They say that Mr TUNG is supported by public opinion. So is Chris PATTEN. Shortly after Chris PATTEN arrived in Hong Kong to assume office, the rate of support for him was as high as 60% to 70%. Though the rate has now dropped drastically, it is still over 50%. That being the case, should we let him be the CE? No, of course not. But, why is there such a high rate of support for Chris PATTEN? Why is the rate of support for Mr TUNG so high? There can only be one answer: the people can see him on television and in newspapers everyday. I am not accusing the media of favouritism; but, I can at least say that the media have in fact been engaging themselves in a publicity campaign to introduce him to members of the public. This reminds me of the

case that whenever people want to have soft drinks, they will immediately think of one particular brand. This is precisely the effect of advertising. What opinion polls have managed to find out is just the number of people influenced by advertising efforts. It is that simple. But, the findings cannot in any way reflect the real situation. If one asks the people which particular point in Mr TUNG's election platform they appreciate most, not many of them, I believe, will be able to give an answer. If one asks the supporters of Mr TUNG why they support him and which part of his election platform they support, many of them will not be able to answer because what they have seen so far is just something very one-sided, very superficial and very general. No doubt, Mr TUNG's image is very good. He is as fat as I am, and looks very kind-hearted. He has got a really well-designed image, I must say. For Peter WOO, perhaps because his eyes are not that good-looking, he has not been considered very favourably by the people. Well, like it or not, this is reality. I have learnt that many people prefer Mr TUNG simply because they like his look and appearance. As for his merits, however, they cannot give any specific answer.

I want to raise one last point. The Honourable MOK Ying-fan of the Alliance for Democracy and People's Livelihood (ADPL) said that he would oppose the original motion moved by the Honourable Miss Emily LAU. However, he did not declare his position in regard to the respective amendments moved by the Honourable Paul CHENG and Dr the Honourable YEUNG Sum. I want to point out that out of the four Legislative Council Members from the ADPL, two of them, namely the Honourable Bruce LIU and Dr the Honourable LAW Cheung-kwok, are excluded from the Selection Committee. In that case, how can the ADPL still claim that the Selection Committee is representative? You see, even these two people cannot be tolerated. The amendment moved by Dr YEUNG Sum aims precisely to point out that the Selection Committee lacks any representativeness. So, there is simply no reason why the ADPL should not support it, especially when even Dr the Honourable LEONG Che-hung is excluded. Pardon me, I am not supposed to mention him because he is now playing the role of the President's Deputy. Anyway, since these Members are excluded, how can it be claimed that this Selection Committee of 400 members is adequately representative? The people I have just mentioned should all support Dr YEUNG Sum's amendment. Besides, with respect to the four pillars of society which we have mentioned, namely freedom, human rights, democracy and the rule of law, I am convinced that the ADPL will render its total support. Since Mr MOK Ying-fan did not say how he would vote, I do not know how the ADPL would vote. However, I sincerely hope that Members from the ADPL



will support Dr YEUNG Sum's amendment because it aims to point out the lack of representativeness of the Selection Committee. And, in the case of Mr Bruce LIU, since he is also excluded from the Selection Committee, he should support Dr YEUNG Sum's amendment.

These are my remarks.

**MR CHAN WING-CHAN** (in Cantonese): Mr Deputy, affected by the joyful atmosphere today, I would also like to say a few words. A moment ago, the Honourable Fred LI mentioned the "street boards" put up by the Hong Kong Federation of Trade Unions, which express support for the election of the Chief Executive (CE) of the Special Administrative Region (SAR) by the people of Hong Kong. Today, I also want to say a few words more on this particular subject.

The question of today's motion debate is about the election of the first CE. I support the amendment moved by the Honourable Paul CHENG, which reads: "This Council congratulates the Chief Executive Designate of the Hong Kong Special Administrative Region on his election today by the representative 400-member Selection Committee and hopes that he will ..... safeguard a high degree of autonomy for the Hong Kong Special Administrative Region ..... so as to enhance Hong Kong's prosperity and stability".

Mr Deputy, the successful implementation of "Hong Kong people ruling Hong Kong with a high degree of autonomy" and the maintenance of Hong Kong's prosperity and stability are the common aspirations of all the Hong Kong people.

The Selection Committee, which has just elected the CE of the SAR earlier today, is vested with a two-fold task: first, the election of the first CE; and second, the election of the provisional legislature. Today, in the morning, the third plenary session of the Selection Committee was held at the Hong Kong Convention and Exhibition Centre in a grand and dignified manner. During the meeting, all the 400 members of the Selection Committee each cast a sacred vote in the form of secret ballot to elect the first CE of the HKSAR.

So, the plenary session held this morning has accomplished the Selection Committee's first sacred task of electing the first CE of the SAR. Today is indeed a day for great rejoicing. Today is indeed a glorious and memorable day. Today marks the end of colonial rule in Hong Kong and the first step towards the implementation of "one country, two systems" and "Hong Kong people ruling Hong Kong". Today is the milestone of genuine democratic development in Hong Kong. Today, of course, is also an important day in the history of Hong Kong, which is bound to be of profound and far-reaching historical significance.

Mr Deputy, looking back at the history of Hong Kong over the past 150 years or so, we notice that Britain has appointed a total 28 Governors to rule Hong Kong. But, the people of Hong Kong have never been consulted on such appointments. The public at large, and even Members of the Executive and Legislative Councils, have all been denied a say, let alone electing a Governor, or his counterpart in the SAR — the CE.

Mr Deputy, people of our age have all lived under the rule of Governors YOUNG, GRANTHAM, MACLEHOSE, YOUDE, WILSON and PATTEN. Before each of these six Governors arrived in Hong Kong to assume office, all of us knew nothing or very little about them. All along, with respect to the appointment of Governors by Britain, all the Hong Kong people have been kept in the dark — all the 6 million people in Hong Kong do not have any say. It is only when Hong Kong is about to be returned to the motherland that they can start to exercise some democratic powers which are totally unimaginable under a colonial regime. For example, today, the people of Hong Kong themselves have elected the CE who is responsible for governing Hong Kong, and on 21 December, they will also elect the provisional legislature. This is the first time ever in the history of Hong Kong when its people can participate in forming their own government on a democratic basis. Nothing similar has ever occurred in Hong Kong before.

This morning, with the overall and long-term interests of Hong Kong in mind, and motivated by a legitimate sense of mission in the exercise of their rights, the 400 Selection Committee members at the Hong Kong Convention and Exhibition Centre cast their sacred votes to elect the first CE of the SAR. This is indeed a joyous event. It can also be foretold that the event today will forever remain a glorious page in the history of Hong Kong.

On such a joyful day, I hope that the community of Hong Kong will adhere to the spirit of "seeking common grounds while tolerating differences", and seek to foster social harmony by reducing arguments and disputes. I also hope that all of us can work together with one heart to successfully complete our tasks during the transition period, so that we can build a better tomorrow for Hong Kong.

Mr Deputy, these are my remarks.

THE PRESIDENT resumed the Chair.

**MR HOWARD YOUNG** (in Cantonese): Mr President, during the debate today, many honourable colleagues have lashed out at the Chief Executive (CE), the Selection Committee and even the future provisional legislature, criticizing that they are all hand-picked. In response to these criticisms, I must point out that before the nomination deadline of the Selection Committee, I personally wrote to a number of Legislative Council Members who are present here today, telling them that I was prepared to nominate them to join the category of former political figures. I even sent them the forms. Then, in the case of the provisional legislature, at the last minute before the application deadline, I still had a quota of five nominations remained unused. I told many Members that if they wanted to apply at the last minute, I was always prepared to nominate them. So, I think that if one has turned down the offer of an opportunity, one should not subsequently criticize others as being hand-picked.

A moment ago, a Member questioned how the 400 or so members of the Selection Committee had been selected from the 5 000 or so applicants. It is a pity that the Honourable Fred LI is not in this Chamber, otherwise I should be able to tell him that they were all chosen by the 150 Preparatory Committee members by open ballot, and each of them was selected solely on the basis of vote counting. As for the 340 people finally shortlisted from the 409 nominees, they were all selected by secret ballot. The answer is so simple, not in the least complicated.

Today, many Members do not feel very happy because they are criticized for "opposing everything from the Chinese side". I very much hope that all of

us can change our perspectives of looking at things. We should refrain from demeaning all those who are not against China and from criticizing them for being pro-China. This kind of criticism is really odd. In the United States or Britain, if the citizens there are asked whether they are pro-United States or pro-Britain, they will probably think that this is a silly question. They will probably wonder why such a question should be asked at all because it is only natural that they should support their own countries. In contrast, many people in Hong Kong have been making deliberate efforts to belittle Hong Kong's relations with China. I do not think that this is good for any of us. If we frequently accuse others of being "pro-China" without good reasons, or if we even say that they "curry favour with China", I do not think that such criticisms are justified.

The motive behind the motion debate today is somewhat negative. I have noticed that quite a number of motion debates recently held in this Council were intended to pick on the Selection Committee, the provisional legislature and the CE. I have also noticed that the wording of the motions concerned was actually part of a systematic attempt to belittle these institutions, and sometimes, the wording was almost threatening in tone. In the case of the Honourable Member who moves the motion today, for example, even when she was not moving a motion of this kind, I have still noticed that on various occasions such as the Governor's Question Time, she always said how badly Hong Kong would fare under communist control. Of course, I understand that it is natural for everyone to have his or her own stance. That said, I cannot help saying that her viewpoints are somewhat contradictory: while saying that the Special Administrative Region due to be set up will come under communist rule, she has noted just now that mainland China was not as capitalistic as it is now. What is more, when Miss Emily LAU spoke just now, she criticized Mr TUNG for asking the people of Hong Kong to discharge their obligations towards their own country, commenting that such an appeal was similar to the way of thinking in a feudal society. However, my most vivid recollection of similar appeals is not related to someone in a feudal society, but President John KENNEDY of the United States.

A Member also asked just now whether members of the Selection Committee could remove the CE from office. My answer is: members of the Selection Committee cannot, but the provisional legislature can because according to the Basic Law, the legislature has the power to impeach the CE. Before the deadline in the evening before last, there was in fact an opportunity for a greater number of current Legislative Council Members to submit their

applications. Regrettably, however, since some Members refused to apply, they missed this opportunity. I hope that these Members can change their stubborn attitude, and refrain from accusing the provisional legislature of lacking in representativeness just because they themselves have not taken part in it. Over half of the Members of this Council have applied to run in the election of the provisional legislature, and I wish them every success. Some of these Members are directly elected; others are returned by functional constituencies and by the Election Committee, which comprises a small number of people. However, I look at them all as equals, and very much hope that they can be successful.

With respect to "a high degree of autonomy", I think that the people of Hong Kong must unite at this point of time and support the CE. If we are worried about intervention from the Central Government, then there is all the more reason for us to unite and support the CE because it is only in this way can the CE gain enough strength when discussing with Beijing. If the people of Hong Kong themselves are divided in their opinions, Beijing may as well say, "Well, just let me do it for you then!" So, it will do us no good if we argue among ourselves now.

Some Members accuse others of "staging a show". Well, my view is that there are indeed people who are "staging a show". These people can of course voice their opinions. However, I hope that while they are "staging a show", they will not speak ill of Hong Kong because this will tarnish Hong Kong's image in the world, and affect my constituency — the people engaged in the tourism industry who rely on foreign visitors for their "rice bowls".

**MR HOWARD YOUNG:** And since we are very international, I would like to make a point. It is time to consolidate and give support to the CE. I watched with amusement this morning when some of my colleagues — two male colleagues were sleeping in the street together with the mover of the motion, the Honourable Miss Emily LAU. I do not mind if you want to sleep together or whatever, even with maximum transparency, but I hope next time you could do it in a safer place, or perhaps in a more comfortable place. Thank you.

**MR MICHAEL HO** (in Cantonese): Mr President, a point of order.

**PRESIDENT:** (in Cantonese): Please state your point of order.

**MR MICHAEL HO** (in Cantonese): Mr President, the Honourable Howard YOUNG just said that "some male colleagues were sleeping together with the Honourable Miss Emily LAU, but next time they could do it in a safer place". I want your ruling on whether or not this remark is insulting.

**PRESIDENT** (in Cantonese): What were the words you used, Mr Howard YOUNG?

**MR HOWARD YOUNG:** I said I saw them on television that they were, well, I should have said they were lying down together.

**PRESIDENT** (in Cantonese): Mr YOUNG, are you giving a narration of an event which happened this morning? Can you clarify on that?

**MR HOWARD YOUNG** (in Cantonese): I was just concerned about their safety because they were lying in the street.

**MR WONG WAI-YIN** (in Cantonese): Mr President, first of all, I would like to respond to the Honourable Howard YOUNG's remarks. He should not need to worry about their safety, because they were surrounded and well protected by dozens, or even hundreds of police officers at that time, therefore, he could set his mind at rest.

Originally, I was supposed to act as full-back today and I should be the last one to speak in response after other honourable colleagues have made their speeches. After listening to the Honourable CHAN Wing-chan's speech, I could not think of any response to make. He should have made his speech before the Honourable Fred LI spoke, as Mr Fred LI already answered his questions and explained why we had made no demands for electing the Governor and for voting

in the past. This somehow confirms what Dr the Honourable HUANG Chen-ya said a week or two ago that some colleagues might have lived under colonial rule for too long and therefore could not get rid of their colonial mentality.

Mr President, since I need not make any response, I would like to say a few words about Mr TUNG Chee-hwa. He likes talking about Confucianism, especially on an occasion when he visited a school run by a Confucian association. After meeting the school board members, he said that Hong Kong enjoyed too much human rights. As far as I can recall, he seemed to be saying that this was not conducive to the development of Hong Kong. If this election had been a one-man-one-vote election, I am sure Mr TUNG would not have dared to say that. Why did he dare to say that then? It is precisely because this election had only 400 voters, that is, the 400 members of the Selection Committee. He could be sure of getting elected just by saying something that the 400 Selection Committee members like to hear. Therefore, he said one thing to one group and another thing to another group, this is so-called "speaking the human language to human beings, the ghost language to ghosts, and officialese to officials". Colleagues in this Council often criticize us, Members from the Democratic Party, that we often make speeches in the Legislative Council for the sake of garnering votes. I wonder whether Mr TUNG have made the remark referred in order to garner votes. However, there were some questions that he would not dare to answer at all, obviously because he was afraid of losing the votes.

Today, however, everything is settled. Mr TUNG is officially elected. Although the Selection Committee has yet to report the result to the Central Government before the appointment can be confirmed, I believe the result is fixed. Since Mr TUNG has already won the election, I sincerely hope that once he officially takes office and administers Hong Kong in future, he can really think about what policies and legislation are most favourable to Hong Kong people. I hope he will seriously consider these then, and recall what he said during the election campaign. If he recalls having said anything that is not favourable to Hong Kong, I hope he would realize that he was wrong at that time. Anyway, some Members of this Council can go back on the pledges they made in their platforms during the 1995 election that they opposed the provisional legislature.

Although Mr TUNG likes to talk about Confucianism, it seems to me that he never mentioned the key Confucian thought on the transfer of political power.

The most detailed discussions on the question of the transfer of political power is found in *Mencius*. In *Mencius*, Confucius's idea of benevolent government is elaborated and discussed in greater detail. *Mencius* clearly points out a truth, "Whether you win or lose the Empire depends on whether the people's hearts are with you." And it is crucial to win the support of the people. I would like to briefly quote one or two passages from *Mencius*. I believe Mr TUNG might have read them but he did not dare mention them. In Book IV, *Mencius* says, "The Three Dynasties won the Empire through benevolence and lost it through cruelty. This is true of the rise and fall, survival and collapse, of states as well." A passage appearing later in the same Book says, "It was through losing the people that Chieh and Tchou lost the Empire, and through losing the people's hearts that they lost the people. There is a way to win the Empire; win the people and you will win the Empire. There is a way to win the people; win their hearts and you will win the people." Book VII puts it in a nutshell: "The people are of supreme importance; the altars to the god of earth and grain come next; last comes the ruler."

Mr President, as the saying goes, "Honest advice, though unpleasant to the ear, benefits conduct." I hope Mr TUNG will lend me his ears. Thank you, Mr President.

**MR ANDREW CHENG** (in Cantonese): Mr President, I would like to give a simple speech on the issue raised by Mr TUNG Chee-hwa on television recently regarding the quality of the members of the future provisional legislature. I remember that when Mr TUNG talked to the reporters, he appeared just like a kind-hearted father talking to his children. He told the reporters that he often talked with the members of the Selection Committee, that the members of the provisional legislature to be selected consequently would be very good and he urged the reporters to believe him.

Mr President, this shows that Mr TUNG himself believes that we should practise patriarchal rule in the face of the future SAR government. How could the Chief Executive be selected by a Selection Committee whose members are going to select the members of the provisional legislature, while these members have to discuss with Mr TUNG concerning the suitable candidates for the members of the provisional legislature? Mr President, the executive and



legislative organs in Hong Kong have all along been operating separately. The mechanism of having the Government monitored by a Legislative Council returned by the public is excellent. On the basis of Mr TUNG's logic, I wonder whether the Chief Executive, the executive council led by Mr TUNG as the Chief Executive and the provisional legislature (I am not sure how long it will remain "provisional" and whether it will be similar to the temporary housing areas which have remained "temporary" year after year and would probably remain "temporary" for around ten years) will just sing the same tune. If so, we would have to say "congratulations" just like what the Honourable Paul CHENG sitting next to me does today. I beg to differ.

Mr President, saying "congratulations" signifies happiness. I think the 400 members of the Selection Committee should be very happy today, and many people, probably including you, Mr President, who are prepared to become the members of the provisional legislature should also be very happy. It is because these 400 people are the source of power, those who are prepared have only to be accountable to these 400 people, or even only to the Beijing government before enjoying the free lunch. If the people is the source of power, all Members present will have to be accountable to the public. If Members' performance is not good, they may not be elected in the next term. In fact, I am not sure when the next term will be. Anyway, the members of the provisional legislature need only to please several hundred people, including Mr TUNG Chee-hwa.

Today, Dr the Honourable YEUNG Sum further amends Mr Paul CHENG's motion. His amendment contains the word "progress" and it touches upon democracy, human rights, freedom and the rule of law. We hope that Mr TUNG can really represent the public, the Hong Kong people, and say "No" to the recent regressive moves of China in respect of human rights and the rule of law.

The Honourable IP Kwok-him has said that the democrats have acted very irrationally during a recent debate in this Council and they have only concentrated on criticizing the Preliminary Working Committee, the Preparatory Committee and the Selection Committee. We have mentioned that the Joint Declaration is an international treaty registered with the United Nations but the Chinese side can still arbitrarily break such a solemn international treaty. I

would like to ask how can China have any credibility? How can our future SAR Government have any credibility?

Mr TUNG Chee-hwa, the newly elected first Chief Executive, has maintained that the members of the provisional legislature who are going to be elected would be very good, how can he have any credibility? We are purely criticizing from a rational and logical angle. In my opinion, those new celebrities who have written "a warm welcome to the establishment of the Selection Committee" on boards hung in the streets and used such words as "congratulations" to enshroud our rational criticisms have made irrational criticisms!

The provisional legislature appointed by the central authorities and comprising 400 people is going to overturn the Legislative Council returned by more than a million Hong Kong people, Members present who are interested in joining the provisional legislature are saying fallaciously that they are joining the provisional legislature for the purpose of serving the public. Mr President, this is plainly irrational.

We hope that all those who work for Hong Kong, our future and the SAR, including Mr TUNG, would really do something for "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" and would really bring about progress.

**MR CHAN KAM-LAM** (in Cantonese): Mr President, the election of the first Chief Executive was held this morning and Mr TUNG Chee-hwa has successfully been elected with an overwhelming 320 votes and it could be said that Mr TUNG enjoys popular confidence.

Taking another look at the comments made in major newspapers today, the heading of the editorial of *Sing Tao Daily* reads: "A Big Step Forward Towards One Country, Two Systems" and the editorial remarks that the Chief Executive elected today signifies "Hong Kong people ruling Hong Kong" and he is going to lead Hong Kong towards the grand prospects of "one country, two systems" in the future, noting that "Hong Kong people ruling Hong Kong" can only be carried through after Hong Kong has returned to the embrace of its motherland. The heading of the editorial of *The Express News* reads: "The First Chinese Chief

Elected By Chinese People". It is mentioned in the editorial that the election of the Chief Executive today means we are going to turn over a new leaf in history, and so long as we are Chinese, we should be happy regardless of whether we are pro-communist, anti-communist or whether we are neither pro-communist nor anti-communist. The political commentary of *The Oriental Daily News* remarks that the support TUNG Chee-hwa has got in the opinion poll these days gets ahead of that of other candidates and this illustrates that he enjoys the support of the public to a certain extent and this is a fact we cannot rashly deny just because the election method adopted is at a distance from western democracy.

Mr President, I hope that those who have been defaming the Chief Executive election can seek common grounds while reserving differences although they may have different political views and be happy as the election of the Chief Executive of the SAR by Hong Kong people this time is a step forward in the democratic process of Hong Kong. I hope they can stop adopting the attitude of opposing or resisting whatever remarks made by the Chinese Government, the Preparatory Committee and the Chief Executive.

Mr President, I do not know whether those who actively criticized the Chief Executive Designate as not representative enough have got in touch with the public themselves and listened to what the public have to say. For more than a month since I was elected as a member of the Selection Committee and after the three candidates, namely Mr TUNG Chee-hwa, Mr Peter WOO and Mr Ti-liang YANG, were declared candidates for the office of the Chief Executive, I have held several consultative meetings in the districts with civil servants, regional groups and representatives of residents. Yesterday and the day before that, I held mock elections of the SAR Chief Executive in the districts, collected the views of the people on the three candidates and found out their voting intents. I was thus voting on these bases today. I believe other members of the Selection Committee from different constituencies have also consulted the opinions of people in their respective constituencies or the people they met, therefore, the votes they cast this morning reflect the views of a majority of Hong Kong people.

Therefore, although only the 400 Selection Committee members have voted in this election, the vote cast by each individual Selection Committee member is not only representative of his personal views but also the views of many people from their respective constituencies. Moreover, there are many Members or well-known people in the Selection Committee who are truly representative of many Hong Kong people.

In the course of consultation, I have also realized that although people have different ideal candidates in mind, they generally agree that the three candidates are competent to be our Chief Executive. This view is in line with the remark made by President JIANG Zemin that the Chief Executive of the SAR should be acceptable to Hong Kong people.

In fact, each of the three candidates has his own merits: Mr TUNG Chee-hwa is composed and sedate, he will not casually make pledges or draw any dishonoured cheques; Mr Peter WOO is young and promising, enthusiastic, positive and enterprising; while Mr Ti-liang YANG is modest, self-disciplined and has high judicial prestige. During the time they ran for the office of the Chief Executive, they visited many groups and political parties, actively solicited votes from members of the Selection Committee and painstakingly went into the midst of the general public in order to understand people's lives in various social strata in order to make up for their unfamiliarity with the livelihood of the grassroots in the past. What they did are really commendable.

After the result of today's election has been released, I hope that Mr TUNG Chee-hwa as the Chief Executive Designate can really fulfil the pledges in his election platform and manifest his recent concerns about the problems encountered by the grassroots in housing, education and so on when he formulates policies in the future.

As regards the two unsuccessful candidates, Mr Peter WOO and Mr Ti-liang YANG, they are outstanding and talented, capable of running Hong Kong and accepted by most Hong Kong people. I also hope that they can fulfil the pledges they made during the election and continue to serve Hong Kong people in the future.

Mr President, these are my remarks.

**MR YUM SIN-LING** (in Cantonese): Mr President, I would like to respond to what some Members have just said. First, some Members have just said that some negative motion debates are often moved in this Council. However, the motion debate I have just moved is very positive, it looks after the interests of Hong Kong people and cherishes sincere expectations of the Chief Executive, but it is not supported by the Selection Committee. What are they afraid of?

Second, the motion I have just moved touches upon our economy, trade, the tourist industry and the gains of Hong Kong people and the tourist industry, mostly that of the retail trade, which should positively affect the employment situation of these trades. Therefore, I thought Members from the Liberal Party should support my motion, otherwise, how could they treat the voters from their functional constituencies fairly? However, they did not even dare to abstain. So once they have joined the Selection Committee, they have to go against the wills of the voters, and they have changed from being representative to being not representative at all. No wonder Dr the Honourable YEUNG Sum has remarked that these 400 people are not representative.

Third, ever since my birth, I have experienced the rule of Hong Kong by many governors, including Governor GRANTHAM, David TRENCH, MACLEHOSE YOUDE, WILSON, PATTEN and so on. Some Members have just said that, before these governors came to Hong Kong, Hong Kong people were kept in the dark and they did not know anything about the governors who were going to assume office. I would like to ask in response, why were the Hong Kong people not afraid or worried while they were kept in the dark previously? Why are they afraid or worried about so many things that may happen now that we have a Chief Executive who is going to assume office? So I hope Members can ponder over this.

Thank you, Mr President.

**MR MICHAEL HO** (in Cantonese): Mr President, I originally did not intend to speak but I would like to respond to what the Honourable CHAN Kam-lam has just said.

There is not much problem for the election of the Chief Executive today to signify "Hong Kong people ruling Hong Kong", but can we really attain "a high degree of automony"? I doubt that. Now the Chief Executive has been elected by Chinese people today when some people may still not have Chinese passports and are holding foreign nationalities. I am happy about Hong Kong's return and I applaud Hong Kong's breaking away from British rule and its return to the

motherland. Although Hong Kong's return to China allows it to break away from colonial rule, I am not sure whether "a high degree of autonomy" as promised by the Sino-British Joint Declaration can in fact be realized.

As regards a step forward in the democratic process, breaking away from British colonial rule can of course be regarded as a step forward, but we should not forget that for more than a hundred years in the past when Hong Kong was under British colonial rule, there was no progress in our democratic process. I recall that the Honourable SZETO Wah has said something about the speed of a tortoise as described by a stone. The stone can say that the tortoise is moving too quickly. However, this so-called big step forward in our democratic process is only true when compared with the totally stationary stone of more than a hundred year's colonial rule.

As to the views of the public, to be frank, can those people who claimed that they were voting according to the wills of the public after holding some consultative meetings and mock elections be considered democratic? If so, why do they not fight for the public's rights to vote but vote on their behalf instead? Why should the public be represented by them? Today, have those who claim to be voting on behalf of six million people been authorized by the voters to vote in the Chief Executive election on their behalf? I am now talking about the entire system, not the ability of the candidates.

As regards the three candidates, probably only one candidate would be referred to by Members now. I believe nobody would doubt the ability of Mr TUNG Chee-hwa. However, as a local chief executive, he is going to lead the development of policies of this government and his political inclination is closely related to the well-being of all Hong Kong people. Would his policies on the people's livelihood be affected by the "shows" he staged when he visited the districts during this period? For those who know nothing at all about the poor or the situation of some workers, to be frank, would their brief visits to where the poor live be of any help?

In fact, a representative political system allows every person to have the right to elect whom he really wants to elect, and people who are so elected would be accountable to those who have elected them. When I saw the promotional boards of the Federation of Trade Unions, I have complex feelings. Of course, the words "elected by Hong Kong people" often caught my eyes but a number

appeared in my mind whenever I looked at the boards. Only 400 Hong Kong people have voted in the election. Members may calculate for themselves the percentage of these 400 people out of six million Hong Kong people. How could such a percentage be representative? For many years in the past, Hong Kong people have had the rights to elect the district board members in their districts, the Urban Council members or the Regional Council members in their districts, and also their representatives in the Legislative Council. However, as what the Honourable Mr CHAN Wing-chan has just said, we were not involved when the Governors were chosen in the past. Actually, it was also the case in the election of the Chief Executive this time. Except the said 400 people, nobody else was involved. After we have deducted 400 people from six million Hong Kong people, we are still among those not involved. This is precisely what we must fight for.

As there are two minutes left, I would like to respond to the remark made by the Honourable Howard YOUNG of "opposing everything from the Chinese side" and that someone is pro-China if he does not oppose China. This is not the case. First, are we "opposing everything from the Chinese side"? The return of Hong Kong to China is just and we fully support the efforts made by China to realize this. We only raise our opposition when the Chinese side fails to abide by the Joint Declaration and affect "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" in the future. If Hong Kong people do not argue, dare not express different views or submit different opinions to the Chinese communist authorities, or if they would be falsely labelled as arguing when they express their views, no one would voice their opinions in Hong Kong.

**DR HUANG CHEN-YA** (in Cantonese): Mr President, I originally did not intend to speak but the tone of the remarks just made by the Honourable CHAN Kam-lam reminds me of the history of China in the past decades. Party spirit is shown in his remarks which follow the line of the *People's Daily* of reporting only the good news and not the bad and following the leadership of the Chinese Communist Party.

Why do we say that the reform and opening up of China in the recent ten years have permitted China to take off? I believe everyone remembers that the Great Leap Forward during the time of the Cultural Revolution made China suffer significant losses as people reported only the good news and not the bad, followed the extreme Leftist line, and dared not point out the mistakes they found.

As a result, they made more and more mistakes and brought disasters to the country and the people. When we listened to such remarks today, we would imagine that Hong Kong may enter such a dark era again.

Today, in addition to Mr CHAN Kam-lam, the Honorable IP Kwok-him of the Democratic Alliance for the Betterment of Hong Kong (DAB) has also only talked about what is good and dared not mention what is dark. He has prettified the dark side in the hope that people would not take note. If Members would like to discuss about this election, why do they not discuss about the big joke on earth of having candidates before voters? Has there ever been such a method of election?

Why do they not mention that a group of Preparatory Committee members who do not have the mandate and support of the people have selected a group of Selection Committee members who do not have the mandate and support of the people, but these people allowed pre-set questions to be asked at consultative meetings to permit the assured candidate to give fluent answers in a wise and brilliant manner which made the public lost in astonishment?

The Honourable David CHU has said that our Governor is also not elected and we cannot have double standards. I agree totally with him. Hong Kong is now a colony, the British has been relying on guns to suppress Hong Kong people and maintain its colonial Government for 150 years. Therefore, the Governors were not elected by Hong Kong people. Do Mr CHU and the DAB want to tell us that the SAR government is also a colonial government which suppresses Hong Kong people and it is also propelled and supported by guns? If this is not the case, why is the Chief Executive of the SAR not elected by Hong Kong people but by some undemocratic means?

Mr President, today is definitely a happy day to Mr TUNG Chee-hwa. I do not know Mr TUNG very well, therefore, I do not want to comment on how he has performed. However, why have such groups as the Liberal Party, the DAB, and the Hong Kong Progressive Alliance not considered that Mr TUNG Chee-hwa should be elected by one person, one vote? If you find him so competent, why do you not give him a chance to be elected this way? Instead of giving people the impression that he is elected only because he hands with President Jiang Zemin's hand and that he is supported by the Communist Party and the big consortia, why do we not allow him to prove that he really has the support of the public? He is supported and hailed as wise and brilliant by the Liberal Party, the DAB, the Hong Kong Progressive Alliance, the Honourable CHIM Pui-chung and the Hong Kong Association for Democracy and People's



Livelihood. Why do you not give Mr TUNG a chance of being elected by one person, one vote? Could we not improve his acceptability and would he not be more supported by the public this way? Is it because you do not believe Mr TUNG is able to do so?

**PRESIDENT** (in Cantonese): Please address your speech to the President. Please use "he" or "they" instead of "you".

**DR HUANG CHEN-YA** (in Cantonese): You have taken up my time when you speak to me! (*Laughter*).

Why do we not mention the use of one person, one vote to elect Mr TUNG? Is it because they have doubts about Mr TUNG and fear that he would not be supported by the public? Or is it because they still do not believe in democracy or the will of the people?

When the Honourable Paul CHENG congratulates Mr TUNG, he is also congratulating himself (*Laughter*). Mr CHENG may have forgotten to congratulate the Communist Party which deserves congratulations most, or he may have already extended his congratulations in private but has forgotten to tell us so. It is because the Chinese Communist Party gets the full support of four major political parties in Hong Kong which are willing to become the Party's obedient boys and to carry out smoothly the tasks assigned by the Party. They have pushed this election forward and made it successful. Even the compromising motion of the Honourable YAM Sin-ling has been treaded upon, so the Chinese Communist Party really deserves congratulation. From now on, they will have good sleep and no worries because so many people are going to spare no efforts to carry out the tasks of the Party.

The poor 6 million Hong Kong people do not deserve congratulations. They have no votes and no rights, and they can only allow themselves to be trampled upon. However, I have to tell you that we are living in the 1990s, not far from the 21st century. Hong Kong people and the people in China would not be content with becoming slaves. We will continue to fight for democracy and for one person, one vote, just wait and see!

**MR PAUL CHENG:** Mr President, I will not respond to sarcastic and flippant comments made by some Members because Hong Kong's future is a very serious

matter and is of great concern to the whole community, and we should not make a joke of it.

What I am trying to emphasize in today's debate is that, irrespective of the different beliefs on whether one process of electing the Chief Executive (Designate) is or is not better than another, we should nevertheless unite to rally behind Mr TUNG Chee-hwa to encourage him to do his very best as our leader for the next five years from 1 July 1997.

The reason why I refer to the Selection Committee as representative is because it does represent various sectors, from businessmen to professionals, from members of the unions, religious groups, academic circles to former and current political figures. The people of Hong Kong should know that those who chose not to participate in the selection process are now saying the Committee is not representative. I respect their freedom of choice, but I object to their double-talk.

If Mr TUNG is willing to make a personal sacrifice to serve Hong Kong, he deserves our congratulations and our whole-hearted encouragement. I have known Mr TUNG for some time and, for the benefit of those who may not know him well, I can assure you that he is a man of integrity and I have every confidence that he will do his utmost to safeguard Hong Kong's interests and enhance the well-being of our community.

Thank you, Mr President.

**MISS EMILY LAU** (in Cantonese): Mr President, I will certainly speak against the amendment moved by the Honourable Paul CHENG. First of all, he mentioned that the Selection Committee is representative. Moreover, when he spoke just now, he repeated the words of the Honourable Howard YOUNG and said that we — mainly the democrats — are unhappy because we cannot participate. We do not want to "share the doughs" or "strive for a seat" with them, and we do not even have the slightest intention to do so. The Frontier, in particular, does not have such an intention. Most of the members of the Frontier do not want to run in the election either. However, we want to fight for a system which allows the people of Hong Kong, all those who meet the requirement of being a voter, to vote. If this standard is not met, then the Selection Committee is by no means representative. It is true that we cannot participate, but that is not the reason why we say the Selection Committee is not representative. I hope he will understand that. In addition, when Mr Paul

CHENG spoke just now, he pointed out that not many people would criticize this selection system. However, the motion I move today is supported by the Democratic Party, the Frontier, as well as the Honourable Miss Margaret NG. I dare not say that the Honourable YUM Sin-ling is in support of my motion because he has not said so in his speech. Nevertheless, I believe that we are representing the majority of voters in Hong Kong. As such, I do not know what kind of standard was Mr Paul CHENG referring to when he said that our point of view would rarely be supported.

He also asked if we wanted to rewrite the Joint Declaration. I now invite him to read the Joint Declaration once again. It is written clearly in the Joint Declaration that the Chief Executive is to be created through election, so there is no need for us to rewrite the Joint Declaration. He then went on to criticize us for not being constructive and accused us of trying to attract media coverage abroad whereby we would affect the image of Hong Kong. He said what worried him most was that doubts might be raised amongst foreign countries regarding the future of Hong Kong as foreign investments would not come to Hong Kong if they feel that the future of Hong Kong is uncertain. I believe that the people of Hong Kong as well as we members of the democratic camp would never want to deter foreign investments from coming to Hong Kong. However, if there are things that we want to voice out from our hearts, we would certainly do so. Talking about the business sector, some members of the business sector (that might not include Mr CHENG) would go to Beijing and advise the Beijing authorities to suppress the democratic camp till it perishes, for neither democracy nor freedom but the opportunity to make money is needed. Some even say that the word "democracy" should be erased from dictionaries. Such kind of selfish behaviour could hardly win the support of the over six million people in Hong Kong.

Mr President, Mr CHENG also mentioned that neither universal franchise nor the one-person-one-vote mode of election could guarantee that a good leader would be elected. I agree to this point. However, I am sure that some Members of this Council do believe in the rule of man, which means it would be fine for them if they think that that person is good. We are not like that. We believe in system, and we hope that there is a system under which the public could make their choices. If they do not take time to think carefully and elect a wrong leader, they would have to suffer. Yet this system could still protect the public because they could elect another leader in the next election exercise. I think this is where the real meaning of universal franchise lies, unlike what some people have said: "Fear not, for a good man has been chosen." Should that be the case, those people would really kneel down and say thank you. However,

that can never be the case.

Mr President, Mr Paul CHENG has also said that now is the time for unity, the time to rally behind the Chief Executive. The Frontier does not want to disrupt Hong Kong, we definitely do not want to do this. However, if we have something to say, we will certainly voice it out. It is for this reason that the Frontier was set up in August this year. Mr President, during this period of commotion when less and less people are willing to speak, this motion could let you see very clearly that some people are already behaving in an evasive manner and do not dare to speak. We from the Frontier will continue to speak, I am sure the Democratic Party and members of the democratic camp — the genuine ones, not the fake ones — genuine members of the democratic camp will continue to speak. We members of the democratic camp also want to have a dialogue with the Chinese Government and the team designate under the leadership of Mr TUNG Chee-hwa. We are not trying to gain a seat, nor would we beg him for a dialogue, yet we are willing to discuss with him. It is our hope that the worries which the Frontier has brought up today would very soon be proved as unnecessary worries by the actions and words of Mr TUNG. We also hope that he would stand bravely on the side of the people of Hong Kong and fight for our interests.

Mr President, in relation to the points raised by the Democratic Party, as they are totally irrelevant to my motion, honourable colleagues from the Frontier and myself will not give our support. However, I am still very grateful for the support they give to my motion.

*Question on Dr YEUNG Sum's amendment to Mr Paul CHENG's amendment put.*

*Voice vote taken.*

Mr TSANG Kin-shing 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 called upon to vote on the question that Dr YEUNG Sum's amendment be made to Mr Paul CHENG'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? Still one short of the head count. The result will now be displayed.

Mr Martin LEE, Mr SZETO Wah, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Michael HO, Dr HUANG Chen-ya, Mr LEE Wing-tat, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-Yin, Miss Christine LOH, Mr Andrew CHENG, Dr Anthony CHEUNG, Mr Albert HO, Mr LAW Chi-kwong, Miss Margaret NG, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE and Mr YUM Sin-ling voted for the amendment.

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, Miss Emily LAU, Mr Eric LI, Mr Henry TANG, Dr Philip WONG, Mr Howard YOUNG, Mr James TIEN, Mr LEE Cheuk-Yan, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Paul CHENG, Mr CHENG Yiu-tong, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr David CHU, Mr IP Kwok-him, Mr LAU Chin-shek, Mr Ambrose LAU, Mr LEE Kai-ming, Mr LEUNG Yiu-chung, Mr LO Suk-ching and Mr NGAN Kam-chuen voted against the amendment.

Mr Frederick FUNG, Dr LAW Cheung-kwok, Mr Bruce LIU, Mr MOK Ying-fan and Mrs Elizabeth WONG abstained.

THE PRESIDENT announced that there were 21 votes in favour of Dr YEUNG Sum's amendment and 31 against it. He therefore declared that the amendment was negatived.

*Question on Mr Paul CHENG's amendment put.*

*Voice vote taken.*

Dr Philip WONG claimed a division.

**PRESIDENT** (in Cantonese): I would like to remind Members that they are called upon to vote on the question that Mr Paul CHENG's amendment be made to Miss Emily LAU'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? Still one short of the head count. 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 Eric LI, Mr Henry TANG, Dr Philip WONG, Mr Howard YOUNG, Mr James TIEN, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Paul CHENG, Mr CHENG Yiu-tong, Mr CHEUNG Hon-chung, Mr 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 Martin LEE, Mr SZETO Wah, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Michael HO, Dr HUANG Chen-ya, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-Yin, 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 31 votes in favour of Mr Paul CHENG's amendment and 26 against it. He therefore declared that the

amendment was carried.

**PRESIDENT** (in Cantonese): Miss Emily LAU, you are now entitled to reply and you have five minutes 14 seconds out of your original 15 minutes.

**MISS EMILY LAU** (in Cantonese): Mr President, first of all, I would like to thank the 29 Members who have spoken on this motion. Whether they spoke for or against my motion, I am still grateful for their participation in this very important debate. This debate has just exceeded three hours and a half. I hope the Chinese Government and Mr TUNG Chee-hwa, Chief Executive of the Special Administrative Region, will take into consideration the opinions expressed by Members of this Council.

To begin with, I would like to talk about the issue of "being hand-picked". Why have I been stressing this issue of "being hand-picked" over the past few months? I think at the time when the President of the People's Republic of China, Mr JIANG Zemin shook hands with Mr TUNG Chee-hwa, a very strong impression has already been given out. Shortly afterwards in Hong Kong, Mr FOK Ying-tung, the businessman whom the Chinese communist authorities trusted most, showed his full support to Mr TUNG overtly. Then many businessmen, real estate developers — all those who feared making the wrong bet most — started to speak in support of him. I believe they must have received some messages. Over the past few months, not only I Emily LAU but also many Chinese as well as foreigners have thought that the Chief Executive would be hand-picked. I do not think I am so influential that people will believe in what I say after I have spoken for a few times. On the other hand, the members of the Selection Committee were also hand-picked. As such, I think there are plenty of evidence in support of my argument. Certainly, the only thing that we do not have is a highly confidential letter from the Chinese Government. This is what I do not have. However, in view of many other facts, I surely would say again and again that he is hand-picked, he certainly is.

Some Members of this Council accused me of "attacking" or "smearing" Mr TUNG. Mr President, someone even criticized me before listening to what I had to say since his speech was written before the sitting. I urge the Member to

listen carefully to my speech, each word I am going to say is spoken with reference to the relationship he has with China and to the things that he has said. The Honourable Allen LEE is now staring at me. Just now he said I talked about money-politics and money-power. He was wrong, for I have not talked about such things! Perhaps it was the Democratic Party! I did not say anything about that. Sometimes it would be better if we could put aside the prepared speeches and listen to what other people have to say first, then the debate would be more interesting. Otherwise, it might be rather embarrassing for us if something is mistaken.

Some people say that I am jumping to conclusion. Frankly speaking, I find such people too naive and simple-minded. We all know how China would get things done, and we all know how much Mr TUNG Chee-hwa has owed China. Very few people, especially the mass media and the Chinese media, have mentioned the fact that China loaned Mr TUNG US\$12.5 billion at the time when his company was near bankruptcy. It was a huge sum of money. So you can tell how much he owes China. In view of such, can you tell us that this person would dare to stand bravely on our side? Perhaps it was still early when I delivered my speech just now. It was just past five o'clock and not many Members were present. Nobody listened and nobody wanted to listen, for they had prepared to stand up and attack right away. I think that was what they had intended it to be. As such, I urge Members to listen to what I have actually said! Every point I want to make is a response to what the Chinese communist authorities have done.

Some Members ridiculed opinion polls and said, "Hey, why did you regard those opinion polls regarding the election of this Council and other elections as valid?" My point is whether the opinion poll concerned an election related opinion poll. Mr President, looking around the world, I think this so-called opinion poll we have is the only one on earth conducted for an election in which the electorates could not cast their votes. Someone just hand-picked several persons and then made phone calls to you, saying that those are the hand-picked ones and asking you who you would support. Ask those university people who are responsible for conducting opinion polls to consult other places and see if their opinion polls are conducted this way. People like to say "birdcage something", this one is indeed a "birdcage opinion poll". Several candidates have already been picked for you, now you can make your choice! Which one do you like? Could this so-called opinion poll be compared to the overseas counterparts? I believe it would make people laugh their heads off.



Mr President, many people have criticized us for not comparing this with colonial rule. I have already talked about that, but I still would like to say a few words. Some people asked me why I have never condemned the British Government. I think the Honourable David CHU knows that the people of Hong Kong do not intend to stage any revolution, and so far nobody has ever tried to overthrow the colonial government. Nevertheless, we are surely very glad to learn that the Chinese Government would take back Hong Kong to implement the principle of "Hong Kong people ruling Hong Kong and with a high degree of autonomy". However, what does "Hong Kong people ruling Hong Kong" really mean? In the past, the Hong Kong Governor was appointed by the British Government. Today, the Chief Executive is appointed by the Chinese Government and we are told that this is "Hong Kong people ruling Hong Kong with a high degree of autonomy". That is why I say you are trying to cheat us, yet we are not so stupid as to be cheated by you.

Mr President, I would like to stress once again here that the Frontier would like to start a dialogue with the Chinese Government. We hope that the Chinese Government could become more open-minded and let Hong Kong people know that people with different political views could stay in Hong Kong and have their roles to play. Thank you, Mr President.

*Question on the motion, as amended by Mr Paul CHENG, put.*

*Voice vote taken.*

Miss Emily LAU and Dr Philip WONG 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 motion moved by Miss Emily LAU as amended by Mr Paul CHENG's amendment be approved.

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 Eric LI, Mr Henry TANG, Dr Philip WONG, Mr Howard YOUNG, Mr James TIEN, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Paul CHENG, Mr CHENG Yiu-tong, Mr CHEUNG Hon-chung, Mr 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 amended motion.

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

THE PRESIDENT announced that there were 31 votes in favour of the amended motion and 26 against it. He therefore declared that the motion was carried.

## **MEMBERS' BILLS**

### **First Reading of Bill**

#### **HOUSING (AMENDMENT) (NO. 3) BILL 1996**

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

## Second Reading of Bills

### HOUSING (AMENDMENT) (NO. 3) BILL 1996

**MR LEUNG YIU-CHUNG** to move the Second Reading of: *"A Bill to amend the Housing Ordinance."*

**MR LEUNG YIU-CHUNG** (in Cantonese): Mr President, I move the Second Reading of the Housing (Amendment) (No. 3) Bill 1996.

The object of this Bill is to amend the Housing Ordinance (Cap. 283) to make any future determination or variation of the rent of residential units in public housing estates under the control of the Housing Authority to take effect three years after the preceding determination or variation and that the amount of rent to be determined or varied shall not be greater than the rate of inflation. The rate of inflation I refer to is the one pegged to Consumer Price Index (A).

At present, the rents of public rental housing are adjusted every two years and the new rents must not exceed 15% to 18.5% of the tenants' household income.

Mr President, the existing method of rent increase provides no protection for the tenants of public housing estates. For example, it was announced last week that the rent in six housing estates would be increased in April next year and the average rate of increase would amount to 22.7%. In addition, it was announced last September that 38 housing estates would introduce rent increase this month and the rate of increase for 12 estates is as high as 25%! However, over the past two years, the rate of increase of Consumer Price Index (A) has been 16.1% while the rate of increase in real wages has dropped sharply. Under such circumstances, the Housing Authority has still imposed rent increase indiscriminately and fervently on their tenants. Certainly, it is not only adding burdens on the public rental housing tenants but also extorting from them their hard-earned wages. In view of such, I am of the opinion that certain measures should be introduced to regulate the rent increase in public rental housing, so as to protect the rights and benefits of public housing tenants without affecting the normal functioning of the Housing Authority.

I think it should be more reasonable to keep the rate of rent increase below the rate of inflation. As the rate of inflation could reflect directly the affordability

of the general public as well as the economic situation of the society as a whole, if the Housing Authority would determine the rate of rent increase with reference to inflation, then rent determination could then be directly pegged to the affordability of the people.

The Housing Authority has all along been keeping the rate of rent increase below 15% of the household income of the old building tenants and 18.5% of that of the new building tenants. I find this practice not scientific enough. It is not at all convincing to set the maximum rate of rent increase at 15% or 18.5% of the estimated household income and there is no objective data to support it.

At present, the rent of residential units in public housing estates is increased every two years. However, for the commercial units in public housing estates, rent is only raised every three years. If we want to be fair, the rent increase schedules for residential units and commercial units should be identical. In other words, the interval between rent increases for residential units should also be extended to three years.

Under the existing pressure coming from high rent, public housing tenants may be forced to buy Home Ownership Scheme (HOS) flats or public housing units. Another objective of this Bill is to alleviate peoples's pressure in this respect. In addition to increasing tremendously the rent of public housing, the Housing Authority is also setting the rent for residential units in newly completed public housing estates at very high levels. The amount of rent and the maximum household income limit for applicants waiting for public housing are totally out of proportion. In fact, the intention of the Housing Authority is to force the people to purchase HOS flats or the public housing units to be sold later under its new policy. In my opinion, such measures would impose immense pressure on the livelihood of the people, in particular the public housing estate tenants. If they were to purchase such units, they certainly have to scrimp and save to buy their own homes.

Home ownership is certainly everyone's wish, but for the 150 000 applicants on the Waiting List, could they afford to buy the HOS flats at the current prices or the public housing units to be sold later? Moreover, for those living in public housing estates, would they have enough spare money or other income to buy the existing HOS flats or the public housing units in the future? As a matter of fact, if the tenants want to improve the living environment and have the money to do so, they would seek to achieve their aims. They would not need the Housing Authority to use high rent to force them. Should that be

the case, the Housing Authority is wrong and the policy concerned is inhuman. Mr President, I therefore hope that the Bill could control or prevent the Housing Authority from increasing the rent tremendously and provide the public housing tenants with a reasonable protection regarding their daily expenditure, so as to enable them to pay relatively low rent to enjoy a peaceful life.

Mr President, I recommend this Bill to the 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 Bill**

### **PUBLIC ORDER (AMENDMENT) BILL 1996**

#### **Resumption of debate on Second Reading which was moved on 9 October 1996**

**MISS MARGARET NG:** Mr President, as we progress together with the rest of the world towards greater regard for individual rights and freedoms, the law must be regularly reviewed to ensure liberalization whenever proper to do so. Police power must, correspondingly, be clearly defined and narrowly limited to what is strictly necessary.

In this context, section 6 of the Public Order Ordinance is undoubtedly out-of-date. For the Commissioner of Police to exercise his power under this section to control and direct in any manner he thinks fit the use of speech and music of a demonstration, all that is required is that it should appear to him to be necessary or even expedient, in the interest of public order to do so.

This is a subjective requirement which is difficult to challenge. There is too large an element of discretion for police interference. The section should have been amended long ago. That the Administration has not taken the

initiative to do so is an act of irresponsibility.

However, as between the amendment proposed in the private Members' Bill of the Honourable James TO and the amendment proposed by the Administration at the Committee stage, I would prefer the latter. I do not think that the amplification of music and words or speeches should be totally exempt from control whatever the circumstance. What is important is not to allow unnecessary interference. I am satisfied that the preconditions for exercising such control are appropriate, namely that:

- there has to be an imminent threat to public safety or public order;
- what is to be done has to be necessary to prevent such a breach of public safety or public order; and finally
- the belief of the Commissioner of Police that there is imminent threat and that the action is necessary, must meet an objective test of reasonableness

Indeed, I find these preconditions clearer and more stringent than the wording of clause 2 of the Bill.

I cannot agree with the Administration's position on section 7(2) of the Ordinance. I see no justification for giving the police power to interfere with meetings in private premises. The safety of such meetings on account of the number of people attending is well taken care of by such non-politically oriented regulations such as fire regulations. I will therefore support clause 3 of the Bill.

Mr President, I had not meant to speak originally, but recent events involving police and demonstrators, especially the events of this morning which all of us are aware of, make it impossible for me to remain silent.

Mr President, the Bill of Rights Ordinance gives expression to the recognition of this community for the rights and freedoms of the individual, including the freedom of belief, and freedom of peaceful assembly. The police, therefore, have a duty to maintain order in such a way as to enable such rights and freedoms to be fully exercised.

The police are supposed to facilitate the exercise of these freedoms, not to frustrate it; they are supposed to make it less difficult for these rights to be exercised, not more difficult. They should use their professional skill to diffuse tension, not to heighten it; and as one expects of an open society, to make it less costly to exercise these basic rights by lessening the risk and dangers which may otherwise arise, not to make it infinitely more costly by precipitating confrontation, and finally making arrests and criminal charges inevitable. Unfortunately, our police are losing sight of these guiding principles.

Mr President, it greatly saddens me to have to say these things today, when the selection of the Chief Executive (Designate) signifies the beginning of a new stage for Hong Kong, our home which we all love. This is a sombre beginning, but it underlines exactly why Bills such as the present one moved by Mr James TO are utterly necessary.

Thank you, Mr President.

**MRS SELINA CHOW** (in Cantonese): Mr President, the Liberal Party in fact stated clearly through me on 19 July 1995 why we supported the Government's stance regarding clause 6(a). This is what I said then: "As a matter of fact, if incitement-filled or radical remarks are expressed in a rather sensitive situation where the people are highly emotional, some very terrifying consequences would most probably result." The subject of our debate today is whether the Police Force should be given the power concerned to prevent the occurrence of certain circumstances. We, the Liberal Party, believe that the police should have such power. On the other hand, we also believe that if the police stop or intervene in the conduct of an activity for any reason, the parties affected should have the right to apply for judicial review to challenge the legality of the way the police exercise the power concerned. In such case, the crucial point would be whether it was legal, necessary, or in line with public interests and public order for the police to exercise the power.

In addition, I also mentioned that apart from judicial means, political means could also be employed to achieve the purpose. The general public as well as this Council are powerful enough to require the Police Force to explain the case and be accountable for their action. It was under such conditions that we agreed that clause 6(a) should be maintained. For the same reasons, we are now in opposition to this amendment. Moreover, we share the Government's view that it is necessary to notify in advance the Government of public meetings

with 500 or more participants. Such prior notification requirement is in the interests of the general public because it enables the Government to make the appropriate arrangements. For these reasons, we are against the Bill introduced by the Honourable James TO.

**MR IP KWOK-HIM** (in Cantonese): Mr President, the maintenance of law and order in Hong Kong is fully dependent on an efficient and impartial Police Force which is dedicated to protecting the lives and properties of the people. Nevertheless, the Police Force is just a law enforcement body and the source of its power is the law of Hong Kong. As such, over restraining the power bestowed by law to the Police Force will certainly bring about negative results in the maintenance of law and order in Hong Kong. Today, the Honourable James TO once again proposed to repeal section 6(a) and section 7(2)(b) of the Public Order Ordinance to further weaken the riot prevention ability of the Police Force. Such a proposal has indeed neglected the interests of the society as a whole and will make riots more prone to happen.

Section 6(a) of the existing Public Order Ordinance empowers the Commissioner of Police to control broadcasting in public places if he reasonably considers it to be necessary in the interests of public safety or public order. Some people have criticized this section of interfering in the freedom of expression, and some even say that it is an "infringement on human rights, and censorship of speech". The Democratic Alliance for the Betterment of Hong Kong (DAB) has all along been advocating freedom of speech in a civilized and liberal society. Besides, such freedom should be fervently safeguarded. However, does it imply that we could be free from any restriction when we express our opinions, or even be allowed to disseminate opinions that would lead to riots and impair directly the lives and properties of the people?

The objective of the Public Order Ordinance is "to take precautions beforehand and prevent situations that would incite riots from taking place", instead of imposing restrictions on freedom of speech. Moreover, the Ordinance only control broadcasting that would threaten public order. It will not prohibit people from expressing their views, let alone preventing people from expressing their opinions through other means. If anybody still suspects that the Police Force would abuse the power and regards the responsibility to protect people's lives and properties as "political censorship, restriction on speech", then he or she is really having undue worries as well as scorning the impartiality and judgment of the Police Force.



Mr President, although the Police Force has never applied this Ordinance, that does not necessarily imply that the Ordinance is not worth retaining. As the saying goes, "Prevention is better than cure." The fact that this Ordinance has never been applied reflects that the people of Hong Kong express their opinions peacefully and have no intention to incite riots. Nevertheless, nobody could guarantee that social unrest would never be incited by any speeches and opinions in future. The purpose of this Ordinance is to provide the people of Hong Kong with a "riot-prevention insurance policy". I am sure whoever cares about social order and personal safety would be ready to join this insurance scheme. Besides, the Government has time and again stressed that no existing legislation could replace this Ordinance. If the relevant sections of the Ordinance are repealed today, it will certainly cause the Police Force to lose its ultimate shield in relation to riot prevention. As a result, the Police Force would be powerless to stop any possible riots but just stay there like a sitting duck.

Mr President, the DAB also opposes the proposal to repeal section 7(2)(b) of the Public Order Ordinance. Many catastrophic incidents in the past have told us that prior arrangement of preventive measures as well as contingency plans are of utmost importance. This Ordinance only seeks to require the relevant organizers to give the Police Force prior notice of large scale activities to be held in private premises, so as to allow time for the Police Force to make arrangement and prepare for the measures to tackle unexpected accidents.

Mr President, today we have to make a decision with regard to the riot prevention power of the Police Force as well as their power to safeguard people's lives and properties. If the amendment Bill introduced by Mr TO is passed, the riot-prevention power of the Police Force will certainly be reduced greatly in future. Should there be a riot that threaten or even hamper the people's lives and properties, who would be held responsible for the consequences?

Mr President, with these remarks, I oppose the amendment Bill.

**MR BRUCE LIU** (in Cantonese) : Mr President, I received several pager messages today, three of which warned me not to oppose the Public Order (Amendment) Bill introduced by the Honourable James TO.

One of the messages said, "We condemn the Hong Kong Association for Democracy and People's Livelihood (ADPL) for opposing the amendment to the Public Order Ordinance and turning things back to the starting point 20 years ago. What a tragedy!"

A Mr WONG, who is a social worker, said, "Please say no to the amendment proposed by the Government tonight, or tomorrow I will send you a dog."

Mr President, I think our society is divided to a very serious extent while the degree of political tolerance in our society seems to be dropping. I hope that members of the public would listen carefully to the different views expressed by Members of this Council before making any comments. In addition, I also hope that the public would not make any prior warnings or "put labels" on before listening to us.

Mr President, I am going to raise several points on behalf of the ADPL. To begin with, the objective of the Public Order Ordinance is to enable the Police Force through legislation to control certain activities that would affect public safety or public order in our society. Such kinds of control must be reasonable and in line with the international standards of human rights as set out in the Bill of Rights Ordinance, so as to strike a balance between the power of the police and the human rights of the people. The ADPL will support the amendment moved by the Government, that is, the further amendment moved by the Secretary for Security to Mr James TO's amendment to section 6(a).

Section 6(a) provides that the Commissioner of Police may, if he reasonably considers it to be necessary in the interests of public safety or public order, control the use of amplifiers in public places.

With regard to the maintenance of public order and public safety, it is necessary to provide the Police Force with the appropriate power so as to prevent the following three kinds of situations from taking place:

- (1) situation that would incite riots;
- (2) situation where two camps of people using abusive words against each other that might lead to confrontation or confusion; and

- (3) situation where public safety or public order would be under imminent threat.

The amendment moved by the Government is to add a clause (1A) to Mr James TO's clause 6. It stipulates clearly that if the Commissioner of Police reasonably considers it to be necessary to prevent an imminent threat to public safety or public order may, in such a manner as he thinks fit, control or direct the use of amplifiers. The ADPL finds this an appropriate amendment that could also stop the loophole by which the Police Force might abuse the original section 6 of the Public Order Ordinance. As such, the ADPL would support the amendment moved by the Government during the Committee stage. We would also call on other Members of this Council to give their support.

However, if the Government's amendment to section 6(a) is negatived, the ADPL would abstain from voting on Mr James TO's amendment because we do not oppose the proposal to repeal the original section 6(a). Our rationale is that some other sections of the Public Order Ordinance already have relevant provisions which enable the Police Force to control any activities that would impair public order or lead to a breach of the peace. For example, the provisions in section 17B(2), section 18(1) and section 26 have clearly provided the Police Force with the relevant power to control speech as well as behaviour that would lead to or are intended to cause others to lead to a breach of the peace. Section 17B(2), in particular, contains a provision which is very much similar to the Government's amendment. I do not have the Chinese text on hand, the provision in English is as follows: "Any person who in any public place behaves in a noisy or disorderly manner, or use, or distributes or plays any writing containing threatening, abusive or insulting words, with intent to provoke a breach of the peace or whereby a breach of the peace is likely to be caused, shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000 and to imprisonment for 12 months."

Section 17B(2) is very similar to the Government's amendment to section 6(a). Mr James TO did not propose to repeal section 17B(2), that means he also agrees that the Police Force should be given the power to maintain and safeguard public order.

*Regarding section 7(2)(b) of the Public Order Ordinance*

I would like to point out that, in the past, the legislation regarding public order required that prior notice should be given to the police of meeting in private premises in which the attendance would exceed 200 persons. The last time when amendment was made to the Ordinance was during the 1994-95 session, at that time our President was still among the Members. The 200-person provision was then amended to 500 persons and the gatherings concerned would include political gatherings. I have asked some of the Members of that session why it seemed that no comment had been made on the amendment at that time. Could a right balance be achieved by amending the 200-person provision to 500 persons? Was any discussion held? I found out that quite a number of Members did not speak then, perhaps they had missed the chance, or perhaps they were confused and thought that the amendment was appropriate. I guessed that most of the Members at that time would agree to two points. First, there are seldom private gatherings in Hong Kong in which the attendance exceeds 500 persons. Second, if the attendance exceeds 500 persons and the Police Force is given prior notice, the Police Force would provide proper assistance or service to safeguard public safety. In such case, I think the existing arrangement is able to strike a good balance. If amendment is to be made, in view of the present situation in our society, the existing sections 7(2)(a) and 7(2)(b) should also be amended at the appropriate time. That would include amending the 50-person provision regarding public meetings such as meetings on the streets to 200 persons. In other words, a meeting where the attendance is less than 200 persons would not need to notify the Police Force. As for gatherings in private premises, the existing 500-person provision should be amended to 800 to 1 000 persons. In my opinion, such a provision could be regarded as a right balance and more suitable to the situation in Hong Kong. Perhaps we have to wait until the next time when amendment is to be moved. However, if all those provisions are repealed at one time, that might not be good to public order in our society. I so submit.

**MR TSANG KIN-SHING** (in Cantonese): Mr President, originally I did not intend to speak today. However, those colleagues who joined me in using loud speakers to tease that LU Ping was a jellyfish have forgotten their old selves. Among them are the Members from the Hong Kong Association for Democracy and People's Livelihood (ADPL), who also used loud speakers to protest against the Bank of China being the third note issuing bank. They have become so honourable today that they have forgotten everything. On the other hand, I wonder whether those from the pro-communist camp have forgotten the anti-Britain riots in 1967 and how the Public Order Ordinance suppressed them. Have they forgotten that during the "Chinese Language Campaign" and the

"Protection of the Diaoyutai Islands Campaign" in the 1970s, how Superintendent WYLIE used his baton to beat the Chinese? They have forgotten everything completely. For the new ruler —the Chief Executive for the Special Administrative Region hand-picked by Beijing—has been selected. The 60 new favourites will soon be anointed to follow Beijing's high-handed suppression policy. Stability is of utmost importance, all the dissidents' voices must be suppressed. The ADPL, you are so smart! The new you is the exact reversion of the old you, the old you will be defeated. Could it be that you have forgotten that you once shouted "Jellyfish LU Ping"? The Honourable Bruce LIU and the Honourable Frederick FUNG have forgotten it! Dr the Honourable LAW Cheung-kwok has also forgotten it! At that time, the Honourable MOK Ying-fan was not there.

The song that we sang together in front of the Bank of China Building went like this: "LU Ping, why are you hiding from the Hong Kong people? You can hide today, you can hide tomorrow, but for how long can you hide? You have promised that you would work for the Hong Kong people, and you would listen to their opinions." Mr President, are you going to stop me from singing? **PRESIDENT** (in Cantonese): I have ruled before that Members would be allowed to sing two lines only, and there have to be lyrics.

**MR TSANG KIN-SHING** (in Cantonese): When we were fighting in the streets, we called each other brother. But now you have become rich and risen high on the social ladder. You have the ballot papers of the Selection Committee and you are ordained to make appointments. The new favourites of tomorrow, you have abandoned us this way! How quick in action you are! You made a U-turn in just a second! Tigers in sheepskins, you ADPL foxes in sheepskins! What are you doing? When the Federation of Trade Unions was "throwing pineapples", you have forgotten .....

**PRESIDENT** (in Cantonese): Mr CHENG Yiu-tong, is it a point of order?

**MR CHENG YIU-TONG** (in Cantonese): Yes, I would like to ask: What does "throwing pineapples" mean.

**MR TSANG KIN-SHING** (in Cantonese): Mr President, let me explain.

"Pineapples" are homemade bombs, "fellow countrymen should not get near".

**PRESIDENT** (in Cantonese): Mr CHENG Yiu-tong, just now you said there was a point of order. But then you asked: What does "throwing pineapples" mean. Mr TSANG Kin-shing therefore gave an explanation. Do you really have a point of order?

**MR CHENG YIU-TONG** (in Cantonese): What evidence did he have when he said the Federation of Trade Unions was "throwing pineapples"?

**PRESIDENT** (in Cantonese): This is not a point of order. Mr CHENG Yiu-tong, you can speak again after Mr TSANG Kin-shing has finished his speech, or you can ask him to clarify certain points. Mr TSANG Kin-shing, please go on with your speech.

**MR TSANG KIN-SHING** (in Cantonese): "Fellow countrymen should not get near." How did the British and the public order keepers treat us? During the Protection of the Diaoyutai Islands Campaign and the Chinese Language Campaign in the 1970s, we were all beaten up by the policemen at the Victoria Park and tried to run away like dogs. Since the "June 4" incident in 1989, the Public Order Ordinance has been relaxed. Now that you have become rich, you could not care less about others.

Mr President, I have nothing to say about such kind of people. I only hope that they will act according to their conscience. Thank you, Mr President.

**SECRETARY FOR SECURITY** (in Cantonese): Mr President, the Government strongly opposes the proposals contained in the Bill because the proposals will undermine the police's power to maintain public order and ensure public safety and the police will thus be unable to take precautions beforehand. The Bill of Rights Ordinance has already safeguarded the freedom of speech and assembly. As Hong Kong is such a small place with such a dense population, the police must possess a valid power to regulate public meetings and processions in order to prevent the occurrence of any incidents that may jeopardize the tranquillity of society and public safety. This is of utmost importance.

The essence of section 6(a) of the Public Order Ordinance lies in empowering the police a legal basis so that the police can, under a provocative situation and when the tranquillity of society will be jeopardized, take precautions beforehand by taking action expeditiously. It can be said that this has nothing to do with the vetting of speeches at all. The proposal of repealing section 6(a) will strip the police of one of its important tools for maintaining public order and ensuring public safety. If the police exercises control only when there is a contravention of public safety, it may already be too late, thereby resulting in threats to lives or properties.

Honourable Members may recall that when amending section 6(a) in July last year, we have narrowed the scope of section 6(a) in response to the concerns expressed by Members during the Committee stage. After the amendment, the Commissioner of Police can only exercise the abovesaid powers if he reasonably considers that it is for the sake of public order or public safety. The Commissioner is not allowed to exercise these powers purely as an expedient measure. Furthermore, section 52 provides that the Commissioner of Police can only delegate to any police officer of the rank of chief superintendent or above the powers conferred on him by section 6(a), thus ensuring that only senior police officers are allowed to exercise these powers. We believe these requirements can ensure that the police will exercise these powers in a proper manner.

Regarding the requirement relating to prior notification given under section 7(2)(b), I would like to emphasize that the requirement is not intended for controlling or interfering with the freedom to hold peaceful meetings in private places. Prior notification does not mean that the meetings have to seek prior approval before they can be held. Prior notification is essential as it allows the police to plan the necessary contingency measures and provides an opportunity for the police and the organizers of these large-scale meetings to discuss what preventive measures should be taken to ensure public safety. Moreover, a meeting which is not held in private places where the attendance at the meeting exceeds 500 persons is required to give the police prior notification. Under section 2 of the Public Order Ordinance, the holding of meetings in private places for social, recreational, cultural, academic, educational, religious or charitable purposes can be exempted from the requirement of giving prior notification. Repealing the requirement for giving the police prior notification by meetings held in private places where the attendance exceeds 500 persons will, therefore, deprive the police of the opportunity to plan before the meetings are held and to discuss with the organizers beforehand. At present, no other legal

provision empowers the police to take precautions in advance. If only after the occurrence of some unhappy incidents does the police learn about the holding of such large-scale meetings, it will be too late.

I would like to draw Members' attention to the fact that, at present, a proper mechanism is already in place for handling the appeals lodged in response to the decisions made by the police in respect of the holding of meetings. If under section 7(2)(b), the police decides to impose any conditions or, under extraordinary circumstances, prohibit the holding of the relevant meetings, the affected persons may, before the meetings are held, appeal to the Appeal Board on Public Meetings and Processions, objecting to the condition imposed or prohibition made by the police. The Appeal Board, which shall be presided by a former judge, shall conduct a hearing in accordance with legislation to ensure the relevant meeting will not be delayed because of the failure of the Appeal Board to make a decision before the holding of the meeting.

Some Members criticized the action taken by the police this morning when delivering their speeches just now and used this as a reason for supporting the amendment Bill.

Mr President, regarding the action taken by the police or demonstrators this morning, different Members may hold different views. However, this has no direct bearing on the issue dealt with by the Bill. Section 6(a) and 7(2)(b) of the Public Order Ordinance were not applied during the action taken by the police this morning. In fact, since the amendment of the Public Order Ordinance in July last year, these two provisions have not been applied.

Mr President, we firmly believe that the provisions contained in the existing Public Order Ordinance have already achieved balance. Not only can the provisions safeguard an individual's freedom of speech and assembly, it take the needs of maintaining public order and safety into account as well. The aim of these provisions is to safeguard Hong Kong society's safety and good order. To this end, the police must preserve the powers conferred by section 6(a) and the notification requirement as mentioned by section 7(2)(b) so as to fulfil its statutory obligation to enable meetings and demonstrations to be conducted in an orderly manner. For this reason, I would like to urge Members to vote against the Second Reading of the Bill.



**PRESIDENT** (in Cantonese): Is there any other Member who would like to speak? Mr CHEUNG Man-kwong, you will have no chance to speak if you do not do so now.

**MR CHEUNG MAN-KWONG** (in Cantonese): Mr President, I do not wish to speak at the moment.

**MR JAMES TO** (in Cantonese): Mr President, if we are to amend the Public Order Ordinance seriously, there are a lot of places that are far from adequate. But taking the society's situation into account, the Democratic Party considers that two sections need to be amended with regard to the present circumstances. They are section 6 and section 7.

Maybe I should talk about section 7 first because some of my honourable colleagues were not present during the Second Reading. Therefore, let me say that once again. Why must we amend section 7? It is a matter of principle. Just now the Secretary for Security and the Honourable IP Kwok-him also mentioned this point. The Secretary for Security said: The requirement to give prior notification only aims at allowing the Administration to plan and take contingency measures. It does not mean that prior approval has to be sought. Furthermore, even meetings held in private places where the attendance exceeds 500 persons are not required to give notification if the meetings are for social, recreational, cultural, academic, religious or charitable purposes. In other words, this section is totally inapplicable. However, if we think about it carefully on the assumption that the Secretary and Mr IP Kwok-him were really talking about the safety problem, then what shall we do if, in other words, chaos suddenly breaks out in a meeting where more than 500 persons attend? If so, why is the holding of such other meetings for social, recreational, cultural, academic, educational, religious, charitable or funeral purposes not having any problems because of the attendance or the venues' fire preventive measures or the structure of the premises and is granted total exemption? In those cases, the police will have failed to provide those meetings with contingency measures. To tell the truth, obviously this provision is in fact targetted at political meetings where the attendance exceeds 500 persons. Not all meetings are required to give notification. Only political meetings are required to do so.

There is one point the Secretary for Security has not mentioned— political meetings are particularly prone to danger. He did not say so because he did not have the guts to say so. If he says so, he will be regarded as discriminating against political meetings. Mr IP Kwok-him did not say so either. This proves that what we are talking about is not purely a safety issue. Rather, we are treating political meetings, or the holding of political meetings in private places where the attendance exceeds 500 persons, in a special manner. In other words, the holding of political meetings in private places where the attendance exceeds 500 persons will be particularly prone to danger. Yet at the same time, such meetings are particularly safe. But how safe are they?

What we are talking about are not issues concerning fire prevention or contingency. So let us not distort the issues in question. This is because it is not written like this in law. I hope Members will not take this as a trivial matter by thinking that this is only a matter of notification. Maybe Honourable Members may think in this way. What we are talking about is a matter of principle. It does not help even, as the Honourable Bruce LIU said, the attendance can be increased to say 800, 1 000 or even 2 000 persons. This is because the problem does not hinge on the number of people. Rather, it hinges on why political meetings should be differentiated from other meetings. The issue we are discussing is why other meetings, even where the attendance exceeds 20 000 persons, can be granted special exemption while political meetings where the attendance exceeds 500 persons will need to give notification even the meetings are held in private places. With respect to section 6, which we have just mentioned, the Government said the power of the police would be undermined. Mr IP Kwok-him also said so but Mr Bruce LIU has given part of the explanation for me. In fact, Members could see that the rationale of my motion has also included this point. I do not mind taking all the trouble to read out three of the sections. In fact, the Government will have sufficient power if something really happens. Section 17B(2) of the original Ordinance provides: "Any person who in any public place behaves in a noisy or disorderly manner, or uses, or distributes or displays any writing containing threatening, abusive or insulting words, with intent to provoke a breach of the peace, or whereby a breach of the peace reads likely to be caused .....". Please bear in mind that it is read "likely to be caused". It is not, as the Secretary for Security said, that the Government only has such power when there is a breach of public order because someone has broken the law. For this reason, when a breach of the peace is "likely to be caused", it will already be regarded as guilty of an offence and the

Government essentially has sufficient power to deal with it. Furthermore, if the Second Reading is passed, the section in question will in fact carry the same implication as the "imminent threat" mentioned in the amendment to be moved by the Secretary for Security. Mr Bruce LIU has mentioned this aspect already.

As regards section 18, the police is empowered by this section to convict those who conduct themselves in a disorderly or provocative manner likely to commit a breach of the peace. Again, this is another "likely to commit a breach of the peace". But it is not the same as what the Secretary for Security said — that there is a breach of the peace. Therefore, we need to examine this point seriously. Section 26 also specifies that the making of any statement at any public gathering and the avocation of the use of violence shall be regarded as illegal conduct. Therefore, by virtue of this section, coupled with the "breach of the peace" noted in the common law, the police should have sufficient power. To tell the truth, there can be a host of supporting reasons if we are to support the Bill. At the same time, there are also a lot of political reasons if we are to oppose it. However, if we really support in principle that the Bill should pass the Second Reading, I personally have examined the clause on the so-called "imminent threat" contained in the amendment to be moved by the Secretary for Security. We have also listened to the speech delivered by the Honourable Miss Margaret NG and thought about it seriously. In fact, in case there is an "imminent threat", I think the restriction imposed by sections 17B(2) and 18 is stricter than that imposed by section 26. Even without the amendment, sections 17B(2) and 18 are already applicable. Nevertheless, I feel that section 26, if amended, will not be narrower in scope than the existing provision. In view of the fact that the Government has made the proposal, the Democratic Party, after discussion, reluctantly agrees that it is acceptable. The Party also hopes that more Members will support the passage of the Bill so that it will lead the way to reform. If I have not moved an amendment, the Government will not even make this proposal. Therefore, this has also succeeded in pushing the Government to give its consent indirectly through the letter it gave us. At present, section 6 has in fact given the police enormous power. For this reason, I hope that Members will support the Second Reading. Reluctant though we are, I still feel that we can support the Government's proposed amendment to go through the Committee stage. With regard to section 7, however, obviously as a matter of principle, we can do nothing at all to give our support, particularly to the point that prior contingency plan needs to be made for political meetings. In principle, it is still hard for us to support it even the number of people is increased to 2 000. This is a matter of principle.

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

*Voice vote taken.*

Mr James TO claimed a division.

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

**PRESIDENT** (in Cantonese): I would like to remind Members that the question I now put to you is: That the Public Order (Amendment) Bill 1996 be read the second time.

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

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

Mr Martin LEE, 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 Eric LI, 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, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr LEE Kai-ming, Mr LEUNG Yiu-chung, Mr Bruce LIU, Mr MOK Ying-fan, Miss Margaret NG, 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 LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr Henry TANG, Dr Philip WONG, Mr Howard YOUNG, Mr James TIEN, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Paul CHENG, Mr CHENG Yiu-tong, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr David CHU, Mr IP Kwok-him, Mr Ambrose LAU, Mr LO Suk-ching and Mr NGAN Kam-chuen voted against the motion.

THE PRESIDENT announced that there were 32 votes in favour of the motion and 23 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 Bill**

Council went into Committee.

### **PUBLIC ORDER (AMENDMENT) BILL 1996**

Clause 1

*Question on clause 1 put.*

*Voice vote taken.*

**CHAIRMAN** (in Cantonese): The Committee shall now proceed to a division.

**CHAIRMAN** (in Cantonese): I would like to remind Members that the question I now put to you is: That clause 1 be made part of the Public Order (Amendment) Bill 1996.

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

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

Mr Martin LEE, 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 Eric LI, 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, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr LEE Kai-ming, Mr LEUNG Yiu-chung, Mr Bruce LIU, Mr MOK Ying-fan, Miss Margaret NG, 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 LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr Henry TANG, Dr Philip WONG, Mr Howard YOUNG, Mr James TIEN, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Paul CHENG, Mr CHENG Yiu-tong, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr David CHU, Mr IP Kwok-him, Mr Ambrose LAU, Mr LO Suk-ching and Mr NGAN Kam-chuen voted against the motion.

THE CHAIRMAN announced that there were 32 votes in favour of the motion and 23 against it. He therefore declared that the motion was carried.

Clause 1 was agreed to.

Clause 2

**SECRETARY FOR SECURITY** (in Cantonese): Mr Chairman, I move that clause 2 of the Bill be amended as set out in the paper circulated to Members. I suggest that it should be more clearly specified that the Commissioner of Police should only exercise the power conferred on him under section 6(a) if he "reasonably considers it to be necessary to prevent an imminent threat to public safety or public order". The clause as so amended can clarify our original

intention and our existing practice, as well as clear up all doubts about the scope of the power under section 6(a). I urge Members to support my amendment.

Mr Chairman, I so move.

*Proposed amendment*

**Clause 2**

That clause 2 be amended —

(a) in the proposed section 6, by adding -

"(1A) The Commissioner of Police may, if he reasonably considers it to be necessary to prevent an imminent threat to public safety or public order, in such manner as he may think fit, control and direct the extent to which music may be played, or to which music or human speech or any other sound may be amplified, broadcast, relayed, or otherwise reproduced by artificial means, in -

(a) public places; or

(b) places other than public places if such music, human speech or sound is directed towards persons in public places."

(b) in the proposed section 6(2), by deleting "subsection (1)" and substituting "subsections (1) and (1A)".

*Question on the amendment proposed.*

**MR JAMES TO** (in Cantonese): Although we, the Democratic Party, accept the amendment with much reservation, we feel that the amended provisions are much clearer than the present ones. This is particularly so when we consider the so-called "imminent threat". We are in fact asking for a balance, just as what the Honourable Miss Margaret NG said, an objective approach rather than the present subjective one. Besides, what it triggers is also closer or very close to

what we have in mind and it has also allowed for what has been originally contained in section 17B and section 18, which is "is likely to cause or lead to a breach of the peace", which we have not amended for the time being. The effect of the latter is basically similar, thus we think that this amendment proposed by the Government is acceptable under such circumstances.

**MR FREDERICK FUNG** (in Cantonese): Mr Chairman, the Hong Kong Association for Democracy and People's Livelihood agrees with the Government's amendment. But if the amendment is passed, I hope the Government can, in enforcing the legislation, explain to the public openly the objective factors governing the so-called "threat".

**MR BRUCE LIU** (in Cantonese): Mr Chairman, I am grateful that the Honourable James TO subscribes to my point of view. I think he was not convinced by me, but he had a clearer picture later and felt that the "imminent threat" and some other clauses, though different in approach, actually have the same effect. As I have said just now, if we are to make amendments, we may have to consider amending this clause together with other clauses in the future. I hope this would be so. I urge my honourable colleagues to support this amendment by the Government. Thank you.

*Question on the amendment put.*

*Voice vote taken.*

**CHAIRMAN** (in Cantonese): Committee will now proceed to a division.

**CHAIRMAN** (in Cantonese): I would like to remind Members that they are now called upon to vote on the question that the amendment moved by the Secretary for Security be carried.

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



**CHAIRMAN** (in Cantonese): Before I declare the result, Members may wish to check their votes. Are there any queries? We are still one short of the head count. The result will now be displayed.

Mr Allen LEE, Mrs Selina CHOW, Mr Martin LEE, Mr SZETO Wah, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Dr LEONG Che-hung, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Miss Emily LAU, Mr LEE Wing-tat, Mr Eric LI, Mr Fred LI, Mr Henry TANG, Mr James TO, Dr YEUNG Sum, Mr Howard YOUNG, Mr WONG Wai-Yin, Miss Christine LOH, Mr James TIEN, Mr LEE Cheuk-Yan, Mr Andrew CHENG, Dr Anthony CHEUNG, Mr Albert HO, Mr LAU Chin-shek, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr LEE Kai-ming, Mr LEUNG Yiu-chung, Mr Bruce LIU, Mr MOK Ying-fan, Miss Margaret NG, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE and Mr YUM Sin-ling voted for the amendment.

Mr NGAI Shiu-kit, Mr LAU Wong-fat, Dr Philip WONG, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Paul CHENG, Mr CHENG Yiu-tong, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr David CHU, Mr IP Kwok-him, Mr Ambrose LAU, Mr LO Suk-ching and Mr NGAN Kam-chuen voted against the amendment.

THE CHAIRMAN announced that there were 40 votes in favour of the amendment and 15 against it. He therefore declared that the amendment was carried.

*Question on clause 2, as amended, proposed and put.*

*Voice vote taken.*

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

Mr IP Kwok-him claimed a division.

**CHAIRMAN** (in Cantonese): Committee will now proceed to a division.

**CHAIRMAN** (in Cantonese): I would like to remind Members that they are now called upon to vote on the question that clause 2, as amended, be made part of the Bill.

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

**CHAIRMAN** (in Cantonese): Before I declare the result, Members may wish to check their votes. Are there any queries? We are still one short of the head count. The result will now be displayed.

Mr Allen LEE, Mrs Selina CHOW, Mr Martin LEE, Mr SZETO Wah, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Dr LEONG Che-hung, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Miss Emily LAU, Mr LEE Wing-tat, Mr Eric LI, Mr Fred LI, Mr Henry TANG, Mr James TO, Dr YEUNG Sum, Mr Howard YOUNG, Mr WONG Wai-Yin, Miss Christine LOH, Mr James TIEN, Mr LEE Cheuk-Yan, Mr Andrew CHENG, Dr Anthony CHEUNG, Mr Albert HO, Mr LAU Chin-shek, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr LEE Kai-ming, Mr LEUNG Yiu-chung, Mr Bruce LIU, Mr MOK Ying-fan, Miss Margaret NG, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE and Mr YUM Sin-ling voted for the motion.

Mr NGAI Shiu-kit, Mr LAU Wong-fat, Dr Philip WONG, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Paul CHENG, Mr CHENG Yiu-tong, CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr David CHU, Mr IP Kwok-him, Mr Ambrose LAU, Mr LO Suk-ching and Mr NGAN Kam-chuen voted against the motion.

THE CHAIRMAN announced that there were 40 votes in favour of the motion and 15 against it. He therefore declared that the motion was carried.

Clause 2, as amended, was agreed to.

Clause 3

*Question on the motion put.*

*Voice vote taken.*

**CHAIRMAN** (in Cantonese): Committee will now proceed to a division.

**CHAIRMAN** (in Cantonese): I would like to remind Members that they are now called upon to vote on the question that clause 3 be made part of the Bill.

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

**CHAIRMAN** (in Cantonese): Before I declare the result, Members may wish to check their votes. Are there any queries? We are still one short of the head count. The result will now be displayed.

Mr Martin LEE, Mr SZETO Wah, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Michael HO, Dr HUANG Chen-ya, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-Yin, 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 and Mr YUM Sin-ling voted for the motion.

Mr Allen LEE, Mrs Selina CHOW, Mr NGAI Shiu-kit, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr CHIM Pui-chung, Mr Frederick FUNG, Mr Henry TANG, Dr Philip WONG, Mr Howard YOUNG, Mr James TIEN, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Paul CHENG, Mr CHENG Yiu-tong, Mr CHEUNG Hon-chung,

Mr 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 against the motion.

Dr LEONG Che-hung and Mr Eric LI abstained.

THE CHAIRMAN announced that there were 25 votes in favour of the motion and 29 against it. He therefore declared that the motion was negatived.

Council then resumed.

### **Third Reading of Bill**

MR JAMES TO reported that the

### **PUBLIC ORDER (AMENDMENT) BILL 1996**

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

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

*Voice vote taken.*

**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 Public Order (Amendment) Bill 1996 be read the Third time and passed.

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? Still one short of the head count. The result will now be displayed.

Mr Allen LEE, Mrs Selina CHOW, Mr Martin LEE, Mr SZETO Wah, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Dr LEONG Che-hung, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Frederick FUNG, Mr Michael HO, Dr HUANG Chen-ya, Miss Emily LAU, Mr LEE Wing-tat, Mr Eric LI, Mr Fred LI, Mr Henry TANG, Mr James TO, Dr YEUNG Sum, Mr Howard YOUNG, Mr WONG Wai-Yin, Miss Christine LOH, Mr James TIEN, Mr LEE Cheuk-Yan, Mr Andrew CHENG, Dr Anthony CHEUNG, Mr Albert HO, Mr LAU Chin-shek, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr LEE Kai-ming, Mr LEUNG Yiu-chung, Mr Bruce LIU, Mr MOK Ying-fan, Miss Margaret NG, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE and Mr YUM Sin-ling voted for the motion.

Mr NGAI Shiu-kit, Mr LAU Wong-fat, Mr CHIM Pui-chung, Dr Philip WONG, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Paul CHENG, Mr CHENG Yiu-tong, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr David CHU, Mr IP Kwok-him, Mr Ambrose LAU, Mr LO Suk-ching and Mr NGAN Kam-chuen voted against the motion.

THE PRESIDENT announced that there were 40 votes in favour of the motion and 16 against it. He therefore declared that the motion was carried.

Bill read the Third time and passed.

## **ADJOURNMENT AND NEXT SITTING**

**PRESIDENT** (in Cantonese): In accordance with Standing Orders, I now adjourn the Council until 2.30 pm on Wednesday, 18 December 1996.

*Adjourned accordingly at twenty-eight minutes past ten o'clock.*

*Note:* The short titles of the Bills/motion listed in the Hansard, with the exception of the Securities and Futures Commission (Amendment) (No. 3) Bill 1996, Whaling Industry (Regulation) Bill, Landlord and Tenant (Consolidation) Ordinance and the Public Order (Amendment) Bill 1996, have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.