
OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 23 April 1997

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, O.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 CHAN KAM-LAM

THE HONOURABLE CHAN WING-CHAN

THE HONOURABLE CHAN YUEN-HAN

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE PAUL CHENG MING-FUN

THE HONOURABLE CHENG YIU-TONG

DR THE HONOURABLE ANTHONY CHEUNG BING-LEUNG

THE HONOURABLE CHEUNG HON-CHUNG

THE HONOURABLE CHOY KAN-PUI, J.P.

THE HONOURABLE DAVID CHU YU-LIN

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE IP KWOK-HIM

THE HONOURABLE LAU CHIN-SHEK

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

DR THE HONOURABLE LAW CHEUNG-KWOK

THE HONOURABLE LAW CHI-KWONG

THE HONOURABLE LEE KAI-MING

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE BRUCE LIU SING-LEE

THE HONOURABLE LO SUK-CHING

THE HONOURABLE MOK YING-FAN

THE HONOURABLE MARGARET NG

THE HONOURABLE NGAN KAM-CHUEN

THE HONOURABLE SIN CHUNG-KAI

THE HONOURABLE TSANG KIN-SHING

DR THE HONOURABLE JOHN TSE WING-LING

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

THE HONOURABLE LAWRENCE YUM SIN-LING

MEMBERS ABSENT

THE HONOURABLE LEE CHEUK-YAN

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 CHAU TAK-HAY, C.B.E., J.P.
SECRETARY FOR BROADCASTING, CULTURE AND SPORT

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

MR NICHOLAS NG WING-FUI, J.P.

SECRETARY FOR CONSTITUTIONAL AFFAIRS

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

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

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

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

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

MISS DENISE YUE CHUNG-YEE, J.P.
SECRETARY FOR TRADE AND INDUSTRY

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

MR LEO KWAN WING-WAH, J.P.
SECRETARY FOR ECONOMIC SERVICES

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

MRS YAU TSANG KA-LAI, J.P.
SECRETARY FOR SECURITY

CLERKS IN ATTENDANCE

MR RICKY FUNG CHOI-CHEUNG, 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>
Road Traffic (Public Service Vehicles) (Amendment) Regulation 1997 (Amendment) Regulation 1997	135/97
Road Traffic (Public Service Vehicles) (Amendment) (No. 4) Regulation 1997	136/97
Tsing Ma Control Area (Tolls, Fees and Charges) Regulation.....	137/97
Ferry Services (Hongkong and Yaumati Ferry Company, Limited) (Determination of Fares) (Amendment) Order 1997	138/97
Ferry Services (The "Star" Ferry Company, Limited) (Determination of Fares) (Amendment) Order 1997	139/97
Building Management (Fees) (Amendment) Regulation 1997.....	146/97
Road Traffic (Construction and Maintenance of Vehicles) (Amendment) Regulation 1997 (Amendment) Regulation 1997	147/97
Road Traffic (Construction and Maintenance of Vehicles) (Amendment) (No. 2) Regulation 1997	148/97

Road Traffic (Public Service Vehicles) (Amendment) (No. 5) Regulation 1997	149/97
Air Navigation (Hong Kong) (Amendment of Schedule 16) Order 1997	150/97
Declaration of Mental Hospital (Consolidation) (Amendment of Schedule) Order 1997	151/97
Hospital Authority Ordinance (Amendment of Schedules) Order 1997	152/97
Official Languages (Alteration of Text Under Section 4D) (No. 12) Order 1997	153/97
Places for Post-Mortem Examination (Amendment) (No. 2) Order 1997	154/97
Public Health and Municipal Services Ordinance (Public Markets) (Designation and Amendment of Tenth Schedule) Order 1997	155/97
Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) (No. 2) Order 1997	156/97
Adoption (Amendment) Rules 1997	157/97
Toys and Children's Products Safety (Safety Standards) (Amendment) Notice 1997	158/97
Declaration of Markets in the Urban Council Area (Amendment) Declaration 1997	159/97
Whaling Industry (Regulation) Regulation (L.N. 48 of 1997) (Commencement) Notice 1997	160/97

Official Languages (Authentic Chinese Text) (Volunteer and Naval Volunteer Pensions Ordinance) Order	(C) 77/97
Official Languages (Authentic Chinese Text) (Maryknoll Sisters of St. Dominic Incorporation Ordinance) Order.....	(C) 78/97
Official Languages (Authentic Chinese Text) (Hong Kong Chinese Christian Churches Union Incorporation Ordinance) Order	(C) 79/97
Official Languages (Authentic Chinese Text) (London Missionary Society Incorporation Ordinance) Order	(C) 80/97
Official Languages (Authentic Chinese Text) (Ling Liang World-Wide Evangelistic Mission Incorporation Ordinance) Order.....	(C) 81/97
Official Languages (Authentic Chinese Text) (Hong Kong Council of the Church of Christ in China Incorporation Ordinance) Order	(C) 82/97
Official Languages (Authentic Chinese Text) (Chinese Permanent Cemeteries Ordinance) Order	(C) 83/97
Official Languages (Authentic Chinese Text) (Criminal Procedure Ordinance) Order	(C) 84/97
Official Languages (Authentic Chinese Text) (Portuguese Community Education and Welfare Foundation Incorporation Ordinance) Order	(C) 85/97
Official Languages (Authentic Chinese Text) (The Hong Kong Institution of Engineers Ordinance) Order	(C) 86/97

Official Languages (Authentic Chinese Text) (Sir Murray MacLehose Trust Fund Ordinance) Order	(C) 87/97
Official Languages (Authentic Chinese Text) (Police Children's Education Trust Ordinance) Order	(C) 88/97
Official Languages (Authentic Chinese Text) (Police Education and Welfare Trust Ordinance) Order	(C) 89/97
Official Languages (Authentic Chinese Text) (Mercantile Marine Assistance Fund Ordinance) Order	(C) 90/97
Official Languages (Authentic Chinese Text) (Scout Association of Hong Kong Ordinance) Order	(C) 91/97
Official Languages (Authentic Chinese Text) (Hong Kong Girl Guides Association Ordinance) Order	(C) 92/97
Official Languages (Authentic Chinese Text) (North Point Wharves Limited Ordinance) Order	(C) 93/97
Official Languages (Authentic Chinese Text) (Hong Kong Housing Society Incorporation Ordinance) Order	(C) 94/97
Official Languages (Authentic Chinese Text) (Hong Kong Playground Association Ordinance) Order	(C) 95/97
Official Languages (Authentic Chinese Text) (Salvation Army Ordinance) Order	(C) 96/97

Official Languages (Authentic Chinese Text) (Hong Kong Juvenile Care Centre Incorporation Ordinance) Order	(C) 97/97
Official Languages (Authentic Chinese Text) (Social Work Training Fund Ordinance) Order	(C) 98/97
Official Languages (Authentic Chinese Text) (Sir Robert Black Trust Fund Ordinance) Order.....	(C) 99/97
Official Languages (Authentic Chinese Text) (Hong Kong Export Credit Insurance Corporation Ordinance) Order	(C)100/97
Official Languages (Authentic Chinese Text) (Sir David Trench Fund for Recreation Ordinance) Order	(C)101/97
Official Languages (Authentic Chinese Text) (Television Ordinance) Order	(C)102/97

Sessional Papers 1996-97

- No. 86 — Report of changes to the approved Estimates of Expenditure approved during the third quarter of 1996-97 Public Finance Ordinance: Section 8
- No. 87 — Audited Statement of Accounts together with the Director of Audit's Report of the Sing Tao Foundation Students' Loan Fund for the year ended 31 August 1996
- No. 88 — Audited Statement of Accounts together with the Director of Audit's Report of the Hong Kong Rotary Club Students' Loan Fund for the year ended 31 August 1996

- No. 89 — Consumer Council
Annual Report 1995-1996
- No. 90 — Mass Transit Railway Corporation
Annual Report 1996
- No. 91 — Kowloon-Canton Railway Corporation
Annual Report 1996
- No. 92 — The Government Minute in response to the Report No. 27 of the Public Accounts Committee dated January 1997
- No. 93 — Special report of the Select Committee to Inquire into the Circumstances Surrounding the Departure of Mr LEUNG Ming-yin from the Government and Related Issues

ADDRESSES

PRESIDENT (in Cantonese): We will start the sitting with two address.

Under Standing Order No. 14(5), no debate may arise on the addresses, but I may allow short questions seeking elucidation on the matters raised in the addresses.

The Government Minute in response to the Report No.27 of the Public Accounts Committee dated January 1997

CHIEF SECRETARY: Mr President, laid on the table today is the Government Minute responding to Report No. 27 of the Public Accounts Committee (PAC). The minute sets out the measures the Government has taken, or is planning to take, on the conclusions and recommendations contained in the Report.

The Honourable Eric LI, the Chairman of the Public Accounts Committee, spoke in this Council on 29 January 1997 when tabling the Report. I would like to respond to some of the points he made.

Mr LI expressed concern about the progress we made on a number of the PAC's earlier recommendations and urged us to take speedier action.

I wish to assure Members that the Administration attaches great importance to the recommendations of the PAC, and I am pleased that our positive attitude is appreciated by the Committee. The pace at which we can resolve an issue depends, to a large extent, on the nature of the problem and the practicability of the solutions. On occasions, we may need to modify earlier proposals and to seek alternative remedial or improvement measures as the situations evolve.

On the management of community centres and community halls to which Mr LI referred, the intended transfer of these facilities from the Home Affairs Department to the Social Welfare Department has not yet taken place because resources have had to be devoted to other more pressing welfare needs. In the meantime, the Home Affairs Department has been working with the local communities in promoting the use of these facilities which are now generally better utilized. In the light of operating experience, we are reconsidering whether the management responsibilities of the community centres and community halls should remain with the Home Affairs Department.

We have reviewed progress on the two other outstanding issues highlighted by Mr LI, namely "police indebtedness" and "abuse of the policy governing registration and licensing of goods vehicles". Members will note from the Government Minute that we have, in fact, taken positive steps to address the problems and have achieved noticeable results.

Advances to the United Nations High Commissioner of Refugees (UNHCR). In his speech, Mr LI espoused the obligations of the British Government towards Hong Kong over the Vietnamese refugee/migrant issue. He also asked the Financial Secretary to immediately cease charging to advance accounts further expenses incurred for the care and maintenance of Vietnamese migrants (VMs), and to seek the Finance Committee's prior approval for such expenditure.

The British Government has responded to the views of the PAC on the obligations of the British Government towards Hong Kong in resolving the Vietnamese refugee/migrant problem. This is given in paragraph 64 of the Government Minute. I wish to assure Members that we shall continue to liaise

closely with the UNHCR with a view to securing full repayment of the debt as soon as possible. With a diminishing VM population, and our aim to close all VM detention centres within 1997, we see merit in retaining the status quo of meeting the expenses for the care and maintenance of VMs through advance accounts.

I now turn to Mr LI's remarks concerning the allocation of a quarter to the Commissioner of Police. We firmly believe that the present Commissioner of Police, and his successors, should live in government-owned accommodation. We made our various decisions on the allocation and designation of this quarter as a post-tied departmental quarter in full knowledge of all relevant information — the nature of the Commissioner's official duties and responsibilities, the suitability of the quarter for the purpose, and the fact that the incumbent Commissioner had received a housing allowance under the Home Purchase Scheme.

There is no question of any preferential treatment being granted or any breach of the prevention of double housing benefit policy. We note the PAC's views on this quarter. However, we consider that the action taken to allocate this quarter for use by the Commissioner of Police as a post-tied quarter is fully in line with the approved policy. We therefore do not agree that the Commissioner should be asked to vacate his quarter or pay for any double housing benefits.

Mr LI suggested that a number of the situations criticized by the Director of Audit have arisen due to a lack of co-ordination amongst government branches and departments, or of a mechanism to resolve inter-portfolio disagreements. We do, in fact, place heavy emphasis on co-ordination and lateral communication within the Administration. Apart from the less formal arrangements, we have across the Government a range of standing and ad hoc committees set up for this purpose. I myself chair a number of these committees which Policy Secretaries attend. So Members could rest assured that there are adequate and well-established fora within the Administration for co-ordinating government business and for resolving any differences in opinion. We nonetheless welcome the PAC's observations which usefully remind us to give the question of co-ordination the full attention that it deserves.

Finally, I must reiterate a point that I have put to Members before, and that is that the PAC's observation on the Government's "habitual dependency on

external consultants" is unfounded. The Administration uses consultants only when there is a demonstrable case for it. These reasons include insufficient staff to undertake work within the timeframe required, lack of certain specialist professional expertise, or a need to bring in new concepts for planning, design or operation of facilities. I wish to assure Members that departments do and will continue to look critically at the need to employ consultants and will ensure that the necessary briefs and guidance to the consultants are properly drawn up and complied with.

Mr President, the Government is committed to working closely with the Audit Department and the PAC in achieving our common objective of the more efficient use of public funds. I am confident that the measures we have taken, or are planning to take, will go a long way towards this end.

Thank you, Mr President.

PRESIDENT (in Cantonese): I have given permission for Mr IP Kwok-him to address the Council on the Select Committee to Inquire into the Circumstances Surrounding the Departure of Mr LEUNG Ming-yin from the Government and Related Issues, which he has tabled. Mr IP is the Chairman of the Select Committee appointed by the Council.

Special report of the Select Committee to Inquire into the Circumstances Surrounding the Departure of Mr LEUNG Ming-yin from the Government and Related Issues

MR IP KWOK-HIM (in Cantonese): Mr President, on behalf of the Select Committee to Inquire into the Circumstances Surrounding the Departure of Mr LEUNG Ming-yin from the Government and Related Issues (the Committee), I submit under section 62(8) of the Standing Orders to this Council a Special Report relating to the hearing process of the Committee.

When the Committee conducted the hearing on 22 January this year, it summoned the Chief Secretary to appear before the hearing and requested her to submit to the Committee a copy of the investigation report submitted by the Operations Review Committee of the ICAC (the ORC report) in respect of the ICAC's investigation into the case of Mr LEUNG Ming-yin. Afterwards, the

Committee amended its request to the effect that the copy ORC report be submitted to the Chairman of the Committee only so that he may inspect what is contained therein to tell whether there is anything in the ORC report that Committee members did not know despite what they have been told.

Earlier this month the Administration made a reply and refused to submit the ORC report. The reason it gave was that it is against public interest for the ORC report to be submitted either to the Committee or its Chairman. In addition, the Administration thought it was not necessary for the Committee or its Chairman to consider Mr LEUNG's resignation and related matters in a fair manner.

At the meeting on 15 April this year, the Committee deemed it necessary to read the ORC report and so decided to summon the Chief Secretary to be present at the hearing on 24 April and requested production of the ORC report. The relevant summons has been issued to the Chief Secretary.

On 17 April this year, the Committee received a letter from the Crown Solicitor saying that the Attorney General had decided to apply to the Supreme Court for a judicial declaration so that the court may make a ruling that it is justifiable for the Chief Secretary to make a statement declaring it is in the interest of the public for her to be exempted from submitting the ORC report. And under section 14(1) of the Legislative Council (Powers and Privileges) Ordinance and Rules 13 and 15 of Order 24, the Chief Secretary has a right to refuse to submit the ORC report to the Committee or its Chairman.

At the meeting on 18 April, the Committee decided to appoint a solicitor to represent it and its members and to appoint a barrister to prepare for judicial proceedings soon to begin. On 22 April, the Committee received the relevant originating summons and other relevant documents. A copy of the originating summons has been attached to the report submitted by the Committee.

Mr President, the Committee hereby requests this Council to note the latest development in the hearing process conducted by it.

Thank you, Mr President.

ORAL ANSWERS TO QUESTIONS**Lantau Link Fireworks Display**

1. **DR YEUNG SUM** asked (in Cantonese): *It is learnt that on 4 March this year the Executive Council endorsed the plan to hold a grand fireworks display on 27 April this year as one of the functions to mark the opening of the Lantau Link. In this connection, will the Government inform this Council:*

- (a) *of the estimated number of spectators viewing the fireworks display on site, together with the estimated number of spectators at each viewing point;*
- (b) *whether the district boards concerned, Members of this Council and members of the Regional Council as well as the local residents' organizations had been consulted before the above decision was made; if so, what their views were; if not, why not; and*
- (c) *given that the decision to hold the fireworks display has been widely criticized by the public, and following the meetings which the authorities concerned have held separately with this Council and the district boards, what improvements have been made in regard to the overall arrangements for traffic, public safety and crowd dispersal?*

SECRETARY FOR WORKS (in Cantonese): Mr President,

- (a) It is difficult to estimate the precise number of people turning up at various viewing points to watch the fireworks display. Many factors, such as the weather and other attractive events concurrently held elsewhere, may well affect the actual turnout. However, we estimate that up to 300 000 spectators may turn up at the section of Castle Peak Road between Siu Lam and Hoi On Road, which is the

prime spot for viewing the fireworks display. We will designate this section as pedestrianized section.

- (b) The application for the staging of a fireworks display as part of the Lantau Link Opening Ceremony was approved after having taken into account a number of factors including likely public reaction and safety requirements. When the proposal was first submitted to Government, our assessment was that this would be acceptable to the community as a whole, subject to satisfactory arrangements being worked out on crowd control, traffic arrangements, and transport facilities in consultation with relevant district boards and affected local residents.

We started consultation with the relevant district boards and the Airport Consultative Committee on a preliminary proposal on crowd control, traffic, and public transportation arrangements in March. We have now just completed the consultation exercise. In overall terms, the public is generally supportive of the fireworks display but would like to have further improvements to the Administration's preliminary proposal on crowd control, traffic, and public transportation arrangements, with a view to minimizing inconvenience to affected residents and to expediting the crowd dispersal after the fireworks display.

- (c) As pointed out in my answer to part (b), it has always been our intention to consult the district boards concerned on crowd control, traffic and public transportation arrangements for the fireworks display. In the light of comments received, we have now made the following arrangements to minimize inconvenience to affected residents:

- (1) Closure of Ma Wan Channel will now be deferred from 2.00 pm to 3.00 pm by one hour.
- (2) The controlled diversion of traffic from Tuen Mun Road has been deferred from 7.30 pm to 7.40 pm until the end of the fireworks display. In addition, to minimize inconvenience to residents of Tuen Mun/Yuen Long, franchised buses will still

be allowed to use Tuen Mun Road during this diversion period.

- (3) A special KMB service plying between Tuen Mun and Sheung Shui will operate from 3.00 pm, in addition to the regular Sheung Shui/Yuen Long service, to provide Tuen Mun and Yuen Long residents with another alternative route.
- (4) Green Minibuses serving Castle Peak Road will be allowed to use Tuen Mun Road so that their services can be maintained until 7.30 pm.
- (5) An additional kaito service between Ma Wan and Tsuen Wan will operate from 5.00 pm to 11.30 pm except for the period between 6.30 pm and 8.30 pm when the marine channel in the vicinity of Sham Tseng and Ting Kau north of Ma Wan has to be cleared for the fireworks display.
- (6) More than 25 000 copies of letters on detailed arrangements on traffic and public transportation have been issued through District Offices to affected residents so that they have the information necessary to plan their activities on the day well in advance.
- (7) 180 000 copies of guidance note on dispersal arrangements will be distributed to spectators when they enter the pedestrianized section of Castle Peak Road so that they can plan their return journey beforehand.
- (8) Telephone numbers have been made available for members of the public in case they have enquiries.
- (9) Emergency Centres have also been set up at the Airport Core Programme Exhibition Centre at Ting Kau and the public carpark opposite Sham Tseng Pier to offer assistance to members of the public. First Aid posts will be set up at various strategic locations on Castle Peak Road to cater for emergencies.

Mr President, promotion work will be strengthened to enable members of the public to understand fully the various arrangements on traffic and

transportation so as to minimize the potential inconvenience as far as possible.

DR YEUNG SUM (in Cantonese): *Mr President, according to paragraph 9 under part (c) of the Government's reply, first aid posts would be set up at various strategic locations on Castle Peak Road to cater for emergencies. My supplementary question is that if people living along Castle Peak Road are in a fire or suffer from an acute disease, what measures are in place to cater for such emergencies given the closure of Castle Peak Road between 5.00 pm and midnight?*

SECRETARY FOR WORKS (in Cantonese): Mr President, arrangement will be made to provide fire appliances and ambulances at various suitable locations on standby to cater for contingencies. In addition, I believe that the police will take appropriate measures depending on the circumstances. In case of emergencies, they will do their best to disperse traffic so as to allow easy access for these fire appliances and ambulances.

MR ALBERT CHAN (in Cantonese): *Mr President, the arrangement on crowd control is targeted at people turning up to watch the fireworks display. However, there are 70 000 people living along the section of Castle Peak Road all the way from Belvedere Garden to Tsing Lung Tau and some of these people have to work until 5.00 pm on that day. In devising the present arrangement, has the Government taken account of the fact that these people have to go back home after work? Under the present arrangement, they will not be able to get back home by midnight as a result of road closure. I would like to ask the Government how it can ensure that these residents can go back home within a reasonable time frame after work under its overall arrangement?*

SECRETARY FOR WORKS (in Cantonese): Mr President, we will pay attention to the overall traffic arrangement. For Belvedere Garden, as this place is served by many Green Minibuses (which will be able to use Tuen Mun Road as usual on that day as I have just said), residents in Belvedere Garden can make use of this mode of transport to go home after work. However, I believe that some residents may not be able to reach home directly by public transport and they may have to walk a short distance.

PRESIDENT (in Cantonese): Mr Albert CHAN, are you claiming that your question not been fully answered?

MR ALBERT CHAN (in Cantonese): *Mr President, what does the Government mean by saying "a short distance" and does it mean that some residents have to walk for two hours?*

SECRETARY FOR WORKS (in Cantonese): Mr President, I believe that residents in Belvedere Garden will not have to walk too long a time. However, as for those people living along the middle section of Castle Peak Road, if they must go home within that time frame, we will do our best and see if we can make further traffic arrangements in other slip roads so as to shorten as much as possible the time they need to walk home.

MR TSANG KIN-SHING (in Cantonese): *Mr President, there are plenty of slopes along Castle Peak Road and spectators watching the fireworks display may go up the slopes in order to get a better view. Will the Government inform us how it can ensure the safety of these spectators? Also, in paragraph 7 under part (c), the Administration said that it would*

PRESIDENT (in Cantonese): Will you raise one question at a time, please?

MR TSANG KIN-SHING (in Cantonese): *My first question concerns the safety of those people viewing the fireworks display up on the slopes along Castle Peak Road. My second question is*

PRESIDENT (in Cantonese): If you have a second question, you have to wait for your next turn.

SECRETARY FOR WORKS (in Cantonese): Mr President, as regards the arrangement on crowd control, we have discussed with the relevant departments and considered all possible scenarios that may jeopardize public safety. If many people go up the slopes, I believe the police will effect crowd control measures accordingly and try their best to avoid accidents by stopping people from climbing up dangerous slopes. Of course, whether the police will do so will depend on the gradients of the slopes and the danger involved. Depending on the actual circumstances, we will make appropriate arrangements.

MR WONG WAI-YIN (in Cantonese): *Mr President, my main concern also lies in the safety of residents. In his reply just now, the Secretary for Works said that fire appliances and ambulances will be stationed at various strategic locations along the way. I would like to ask how many such fire appliances and ambulances will be deployed? In case that a fire breaks out or a resident suffers from an acute illness, how long will it take for the fire appliances and ambulances to travel from the farthest location to reach the scene, having regard the need to disperse the crowd?*

SECRETARY FOR WORKS (in Cantonese): Mr President, I do not have any detailed information in hand right now. If Mr WONG so requires, we can provide supplementary information later. (Annex 1) I think as there are many interchanges along the section concerned on Castle Peak Road where vehicles can gain access to Tuen Mun Road, I believe fire appliances and ambulances will be stationed at least near those interchanges. If necessary, those vehicles can reach the scenes quickly to handle emergencies.

MR MICHAEL HO (in Cantonese): *Mr President, in his reply to Mr Albert CHAN's question, the Secretary for Works said that the Government will see if further traffic arrangements could be made in other slip roads so as to facilitate those residents who wished to go home. However, Mr President, as far as I understand, there is no access road along the section of Castle Peak Road between Tsuen Wan and Sham Tseng that leads to other roads. Will the Government give a clear reply as to how it can ensure that those people living far away need not walk home?*

SECRETARY FOR WORKS (in Cantonese): Mr President, I believe that along Castle Peak Road, residents are mostly found in the section between Ting Kau and Sham Tseng as well as the section where Belvedere Garden is located. Residents of Belvedere Garden can make use of public transport to get to the last section of Castle Peak Road and walk back home. As for people living in the section between Ting Kau and Sham Tseng, they can make use of the traffic arrangements at Sham Tseng Interchange. With these measures in place to facilitate residents who have to go home within that time frame, I believe their walking time will be minimized.

PRESIDENT (in Cantonese): Mr Michael HO, are you claiming that your question has not been fully answered? Which part ?

MR MICHAEL HO (in Cantonese): *Yes, my question is how to help the affected residents so that they do not have to walk home. But according to the Secretary for Works, the Government will only shorten their walking time as far as possible. Therefore, my question is in fact not answered.*

PRESIDENT (in Cantonese): The answer is that the affected residents have to walk home.

MR ALBERT HO (in Cantonese): *Mr President, in paragraph 2 under part (c) of his reply, the Secretary for Works mentioned the controlled diversion of traffic, pointing out that franchised buses would still be allowed to use Tuen Mun Road during this diversion period. I would like to ask the Secretary for Works whether the controlled traffic diversion measure will still be effective when buses cannot get to Tuen Mun Road because of traffic congestion. In other words, are there measures in place to ensure that buses can have easy access to Tuen Mun Road and enjoy the privilege given under this control measure?*

SECRETARY FOR WORKS (in Cantonese): Mr President, the reason why we have chosen to hold this grand fireworks display on a Sunday is that we anticipate a smaller number of people who have to work on Sundays and hence the traffic flow will not be as heavy as that on normal working days. If a

situation as mentioned by Mr Ho arises due to some reasons and the traffic becomes so crowded that it is difficult for vehicles to get to Tuen Mun Road, I believe that the police will take necessary measures accordingly to disperse traffic so that franchised buses can have priority in using Tuen Mun Road.

PRESIDENT (in Cantonese): There are still two Members waiting to raise their supplementary questions and I will draw the line there.

MR TSANG KIN-SHING (in Cantonese): *Mr President, in paragraph 7 under part (c) of his reply, the Secretary for Works mentioned that 180 000 copies of guidance note on crowd dispersal arrangements would be distributed to spectators when they entered the pedestrianized section. However, I believe that it will be dark by then and the lighting is inadequate along Castle Peak Road. In this connection, will the Secretary for Works inform us how he can ensure that spectators can read the guidance notes clearly? Is this arrangement environmentally unfriendly and wasteful?*

SECRETARY FOR WORKS (in Cantonese): Mr President, I believe that it is not wasteful to issue copies of guidance note if they are of use to the public. I hope that most people who turn up to watch the fireworks display will not be presbyopic like me and cannot read well under dim light. However, although the lighting is not too strong, I believe the public at large can read our guidance notes clearly.

MR TSANG KIN-SHING (in Cantonese): *Mr President, I in fact would like to ask the Secretary for Works whether he will enhance the lighting along the road. With enhanced lighting, the public can read the leaflets more clearly. So, will the Government do so?*

PRESIDENT (in Cantonese): Mr TSANG Kin-Shing, are you raising a question or providing an answer?

MR TSANG KIN-SHING (in Cantonese): *Mr President, this is a very important question.*

PRESIDENT (in Cantonese): Secretary for Works, are you willing to enhance the lighting?

MR TSANG KIN-SHING (in Cantonese): *Mr President, this question is very important as far as the 300 000 spectators are concerned.*

PRESIDENT (in Cantonese): Mr TSANG Kin-Shing, I have rephrased your answer to a question.

SECRETARY FOR WORKS (in Cantonese): Mr President, although the lighting currently provided along Castle Peak Road will not be as bright as day light, I believe the street lamps in some sections will be sufficient to enable the public to read the information leaflets. As such, I consider it unnecessary to spend money on enhancing the existing street lighting system.

MR WONG WAI-YIN (in Cantonese): *Mr President, on various occasions within one month, the Government provided us with seven different figures in respect of the number of police officers who will be present at the venue on that day. At first, it was said that the number of police officers deployed was 5 000. After we have pointed out that this number represents one sixth of the police force in the territory, the number was amended to 2 500. Will the Secretary for Works explain to us why seven different figures were provided to us within one month and how the Government has concluded that 2 500 police officers are adequate?*

PRESIDENT (in Cantonese): I cannot recall the content of the reply. The only thing I remember is that the question referred to the number of police officers. Mr WONG, did you hear the figures provided by the Government on other occasions?

MR WONG WAI-YIN (in Cantonese): *Yes, Mr President. This question concerns the safety of the public on that day.*

SECRETARY FOR WORKS (in Cantonese): Mr President, at first, we only made a preliminary arrangement for the fireworks display and the Opening Ceremony, so the figure provided then was only a very rough estimate. Recently, we made another estimate on the manpower need for the event according to confirmed overall arrangements on traffic and layout. Of course, the estimate is not 100% accurate but it is the latest estimate we have made having taken into account the experience in past events of a similar scale as well as past traffic arrangements. I believe the latest figure is more accurate.

Tai Ho Wan and Yum O Reclamation Works

2. **DR SAMUEL WONG** asked (in Cantonese): *At the time the Mass Transit Railway Corporation (MTRC) was given the go ahead for the construction of the Airport Railway, the MTRC indicated that in respect of the Lantau Line from Kowloon to Tung Chung, two new stations would be built at Tai Ho Wan and Yam O on Lantau, and that reclamation works would start soon to facilitate the development of two new towns on Lantau. As the Lantau Line is scheduled to become operational by June 1998, will the Government inform this Council whether plans to carry out the reclamation works in these two areas have been implemented?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): Mr President, in accordance with the recommendations of the Lantau Port Development Study and the North Lantau Development Study, there will be four Mass Transit Railway stations, respectively, at Yam O, Tai Ho, Tung Chung Town Centre and Tung Chung West to serve the port and non-port facilities at Northeast Lantau and the Tung Chung-Tai Ho New Town.

The Yam O station will serve the port and non-port facilities at Northeast Lantau whereas the Tai Ho station will be part of Phase Four of the New Town development.

When the Lantau Line from Central to Tung Chung is commissioned in June 1998, only one station on Lantau Island will be required, namely the Tung Chung Town Centre station. The Tung Chung West, Yam O and Tai Ho stations will not be required. Nevertheless, advanced works for Yam O and Tai Ho stations including reclamation, site formation and the laying of tracks have been completed.

Further studies for the remaining phases of the Tung Chung-Tai Ho New Town and Yam O will soon commence to investigate into and plan for the development of these two areas. The programme of construction of the Tung Chung West, Tai Ho and Yam O stations will tie in with the residential and working population build-up to be recommended in the studies, and subject to the agreement between Government and the MTRC.

DR SAMUEL WONG (in Cantonese): *Mr President, it is mentioned in the reply of the Secretary for Planning, Environment and Lands that the advanced works for Yam O and Tai Ho stations including reclamation, site formation and the laying of tracks have been completed. Will the Government clarify whether the "reclamation" refers only to providing the land required for the construction of the expressway and the railway, instead of providing any land for housing construction? If the answer is in the affirmative, may I ask the Government whether it has any plan to carry out reclamation works around these two stations for the purpose of new town construction?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): Mr President, according to our existing targets, the areas of land to be reclaimed for Tung Chung and Tai Ho will be 210 hectares (ha) and 150 ha respectively. So far, 105 ha and 45 ha of land have been reclaimed respectively for these two stations. The reclaimed areas will include sites reserved for the construction of Tai Ho station and an MTR depot. As far as development is concerned, the land reclaimed for Tung Chung Town will of course be used for catering the needs of the new town. As for the land reclaimed for Tai Ho

station, it will be used for the construction of a railway depot. We also plan to construct residential housing units on the podium of the depot, and related facilities will also be provided in the vicinity.

Unemployment Figures

3. **MR CHAN WING-CHAN** asked (in Cantonese): *Mr President, regarding the unemployment rate data and relevant information released by the Government each quarter, will the Government inform this Council:*

- (a) *of the reasons for the big discrepancies between the Government's unemployment figures and the findings of surveys conducted by a number of academic institutions and non-government organizations;*
- (b) *how the terms "unemployed persons among the economically active population" and "persons wishing to find employment among the economically inactive population" are defined, and what the differences between the two terms are;*
- (c) *whether the unemployment figures in narrow terms (U1) and the unemployment figures in broad terms (U2, that is, with persons wishing to find employment among the economically inactive population taken into account) will be released on a regular basis, so that the public can have a better understanding of the actual employment situation; and*
- (d) *whether the Government will carry out studies on the employment situation and the quality of life of the low-income groups in the territory?*

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Mr President,

- (a) Results of certain surveys on labour force and unemployment conducted recently by some academic institutions and non-government organizations showed that there were considerable discrepancies between their findings and the official unemployment statistics published by the Government. The Census and Statistics

Department (C & SD), as the department responsible for compiling official statistics, is naturally interested in these surveys and would like to obtain more details on their methodology and various technical details, because the validity of survey findings hinges crucially upon the methodology used. Nonetheless, such details were often not provided in the survey reports. Also, they could not be readily obtained from the researchers concerned even upon our enquiry. This is the case for the recent survey conducted by the three academic researchers. Thus, in the absence of sufficient information, at the present moment it is difficult for us to provide precise comments on these surveys and their results.

- (b) The population can be divided into two sub-groups according to their economic activity status, that is, the labour force and the economically inactive population.

The labour force comprises the employed population and the unemployed population.

The employed population comprises all employed persons. In the General Household Survey (GHS), a person aged 15 or over who was at work for pay/profit or has had formal job attachment during the seven days before enumeration is classified as employed.

On the other hand, a person aged 15 or over will be classified as unemployed if the person concerned fulfils the following three criteria simultaneously:

- (1) has not had a job and has not performed any work for pay or profit during the seven days before enumeration; and
- (2) has been available for work during the seven days before enumeration; and
- (3) has sought work and (must have taken active steps to seek work and not just passively "wishing (or willing) to take up a job") during the 30 days before enumeration.

Notwithstanding the above, a person aged 15 or over without a job, has been available for work but has not sought work because he/she believed that work was not available is also classified as unemployed. In this case, the person is regarded as a "discouraged worker."

Persons not meeting the criteria for classification as employed or unemployed are classified as "economically inactive."

Given the above definitions, economically inactive persons are not to be confused with unemployed persons. It is reckoned that there could be certain people amongst the economically inactive population who might consider entering the labour force if jobs of relatively favourable terms to themselves (for example, high pay, flexible working hours and proximity of workplace to home) were offered. But these requirements are, more often than not, not based on locally prevailing terms and hence cannot be met in the labour market. According to the guidelines of the International Labour Organization (ILO), these economically inactive persons whose willingness to work is conditional upon the offer of specific terms and conditions of employment are still within the "economically inactive population." As such, they should not be classified as part of the "labour force", nor should they be classified as unemployed. This treatment is in line with the international standard and is likewise adopted by other statistically advanced countries.

- (c) The Government has no plan to compile another set of unemployment statistics. In fact, there is no such need. As I explained in part (b) above, the so-called "unemployment figures in broad terms" are not unemployment figures, and as such the term "unemployment" should not be used, otherwise it would cause confusion and misinterpretation by the general public. I would like to stress that the definition currently adopted by the Government for measuring unemployment follows closely those recommended by the ILO and is in line with the international standard. In this way, we can ensure that our survey methodology and results so obtained are objective, neutral and can maintain continuity over time. The statistics so compiled will also be reliable and useful.

- (d) The C&SD conducts on a continuous basis the GHS and also on a regular basis the population census/by-census and the Household Expenditure Survey. Questions asked include those related to socio-economic characteristics of the population, such as age, marital status, educational attainment, industry, income, occupation, type of living quarters, degree of sharing, household size and so on. As such, the data are not only confined to household income and employment earnings, and the coverage of information in these surveys is in fact already very comprehensive and sufficient. Thus, to undertake in-depth studies on the various aspects of different income groups - of course including the lower-income group, it only requires cross-tabulating the available data on the various socio-economic characteristics according to income range of households.

Thank you, Mr President.

MR CHAN WING-CHAN (in Cantonese): *Mr President, I am disappointed that in reply to part (c) of my question, the Secretary for Financial Services indicated no plan to compile another set of unemployment statistics, namely the "unemployment figures in broad terms". I have with me a survey report compiled by a local university. It is a preliminary study on the unemployment crisis faced by local workers. The report clearly states that the simple unemployment statistics currently released by the Government cannot reflect the unemployment crisis faced by local workers and represent an underestimate of unemployment. It also points out that the Administration has neglected hidden unemployment. And now, the Government has indicated its refusal to further look into the employment and unemployment situation of local workers. I would like to ask the Government whether it is afraid of looking seriously into the employment and unemployment situation of local workers, or the issue is not worth mentioning at all.*

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Mr President, of course the Government is not afraid of doing so. Rather, it adopts a pragmatic attitude in the collection and processing of these statistical figures. As explained in my main reply, the Census and Statistics Department always attaches great importance to surveys and is very careful in handling them. The

survey methodology and definitions adopted must not only up to professional and international standards, but also in line with those adopted by other advanced countries. Under these circumstances, the methodology employed in a certain survey is taken seriously. We will look into matters such as how the sampling frame is obtained, what the sampling size is, how sampling is conducted, how questionnaires are designed and what the interviewing procedures are. As such, we will adopt a professional, objective and neutral attitude in dealing with each and every procedure. In other words, we are of the view that the statistical data released by the Census and Statistics Department, not only those on unemployment, but also those on all other government policies, are reliable and credible. The methodology used in our surveys is totally transparent.

In this connection, I would like to respond to the Honourable CHAN Wing-chan regarding the surveys conducted by some academic researchers. As explained in my main reply, we in fact hope very much that these academic researchers will disclose their survey methodology and various details as soon as possible. We are not making light of the surveys concerned. I have the information which they have provided and of course the methodology adopted is mentioned therein but only in nine sentences. There are a lot of details which we do not understand. We hope to call upon these academic researchers through Mr CHAN to disclose the methodology used in their surveys as soon as possible as findings of their surveys are closely related to the survey methodology adopted.

Thank you, Mr President.

MR CHENG YIU-TONG (in Cantonese): *Mr President, the number of unemployed persons, especially those who are economically active, has increased considerably in recent years with the labour force participation rate dropping from 63.4% in 1991 to 61.7% at the end of 1996. Do these figures reveal worsening unemployment in Hong Kong?*

PRESIDENT (in Cantonese): Sorry, I am afraid that what you asked has gone beyond the ambit of the original question and reply.

MISS CHAN YUEN-HAN (in Cantonese): *Mr President, I have reservation about your ruling. The Honourable CHENG Yiu-tong was asking the Government in an indirect way.*

PRESIDENT (in Cantonese): Miss CHAN Yuen-han, I have already made a ruling. Need I explain to you the grounds of my ruling?

MISS CHAN YUEN-HAN (in Cantonese): *No, I do not want to waste time on that.*

PRESIDENT (in Cantonese): The original question is about how the unemployment figures are collected instead of the seriousness of unemployment. Questions about methodology can be raised and they are acceptable. I do not mean that unemployment is not serious and should not be mentioned but the question we are now pursuing is about the methodology adopted. Miss CHAN, please go on.

MISS CHAN YUEN-HAN (in Cantonese): *I would like to raise my supplementary question. Just now, the Government stated that the unemployment figures obtained by many academic researchers and the Hong Kong Federation of Trade Unions (FTU) differ from those obtained by the Government. In its opinion, the discrepancies are attributable to the different methodologies adopted. Under the so-called international standards currently adopted by the Government, persons are classified as unemployed if they fulfil the following criteria. Firstly, they have not had a job during the seven-day period before enumeration. Secondly, they are readily available for work before enumeration and thirdly, they have tried to find work during the 30-day period before enumeration. In fact, these criteria were also adopted in recent surveys conducted by some academic researchers but their findings somehow differ from the Government's figures. The Government's survey revealed a group of people who, as mentioned by the Secretary for Financial Services just now, are willing to work but are not included in the labour force. These people, as many as 160 000 in number, are actually willing to work but they are not satisfied with the terms and conditions of employment offered. In view of*

the presence of 160 000 people who are willing to work, what measures does the Government have in place to encourage them to re-enter the labour force?

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Mr President, Miss CHAN's question concerns policy issues. I am not very confident that I can give a comprehensive answer to this question as it is about labour policy. Anyway, I will do my best.

First of all, let me give the simplest answer. The Government's established policy is to create the most favourable environment possible to facilitate further development of the economy of Hong Kong so that the labour market can absorb as many workers as possible. The most basic condition is of course to develop our economy, which will in turn bring about more job opportunities.

Secondly, I would like to respond to the Honourable Miss CHAN Yuen-han regarding the 160 000 people she mentioned just now. According to the definition adopted by the International Labour Organization which is also used in the General Household Survey, these people are classified as economically inactive, that is, they are not part of the labour force. The terms of employment they are asking for are different from the prevailing terms offered in the labour market at the time when the survey is conducted. Their willingness to work is therefore presumptive and conditional. In other words, they may consider entering the labour force upon the offer of more favourable terms of employment such as higher pay, flexible working hours and proximity of workplace to their homes. If the economy is robust as it was in 1992 when a non-regular survey on labour mobility was conducted, many people's requirements can be met because of the tight supply in the labour market. However, it does not mean that everyone will be able to take up jobs as some people may have to look after their families, attend to household chores, and so on. When the supply in the labour market eases off, more people will naturally be classified as economically inactive. This is in line with international standards.

I am afraid I do not have anything to add, Mr President.

PRESIDENT (in Cantonese): Miss CHAN Yuen-han, are you claiming that your question has not been fully answered?

MISS CHAN YUEN-HAN (in Cantonese): *Mr President, he has not answered my question. My question is what government policies are in place to assist these economically inactive persons.*

PRESIDENT (in Cantonese): I allow this question to be raised. Just now, the Secretary for Financial Services said that he might not be able to answer questions concerning policy issues. Since the original question is actually about how statistics are computed, will you rephrase your question as "Does the Government consider it appropriate to classify these people as economically inactive?".

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Mr President, the answer is very simple: yes, it does. This treatment is in line with international standards. However, setting policy issues aside and looking at the matter purely from the perspective of obtaining statistics, if the community considers it necessary to better understand the situation of this group of economically inactive persons and to gather more information about them for research and discussion, we can consider putting more efforts to surveys and researches.

DR LAW CHEUNG-KWOK (in Cantonese): *Mr President, according to the last paragraph of the reply, data collected from the population census every five years are sufficient for undertaking studies on various aspects of different income groups including the lower-income group. I think it is not correct. Let me cite a simple example for the Government to consider. If I have taken an interest in the data collected from the 1991 Census regarding the lowest 10% of the population in terms of income, and would like to see whether there is any improvement in their income and economic conditions and whether unemployment worsens, will I be able to find the answer by referring to the data*

from the 1996 By-census, which will be published soon, concerning the same income group? If not, what should I do?

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Mr President, if I remember correctly, this question has been put to us in this Council before. First of all, given its existing priorities and resource constraints, the Census and Statistics Department is not able to follow up every one of such type of cases. However, as I pledged in my reply to the question at that time, Members' views would be conveyed to relevant policy branches or departments such as the Social Welfare Department which could follow up some of these cases on a long-term basis. However, the data collected from the Census/By-census or the General Household Survey are not appropriate for conducting the kind of studies you have in mind. It is because what you are referring to is longitudinal studies on a segment of the population which can reveal the overall change in various aspects of a certain income group such as the level of income and the number of people. Therefore, the kind of studies you have in mind is of a different nature. In this regard, I have referred Members' suggestions made at that time to my colleagues for consideration. As for the present situation, I am more than willing to ask the colleagues concerned on behalf of the Honourable LAW Cheung-kwok whether there is any progress in the matter or whether they intend to take any follow-up action before giving Mr LAW a reply to this question in writing. Thank you, Mr President. (Annex II)

MR CHOY KAN-PUI (in Cantonese): *Mr President, is there any discrepancy in the methodology adopted by Hong Kong and other places in computing the unemployment figures?*

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Mr President, let me cite certain examples. As it is very important for us to make definitions, they should be in line with international standards. Therefore, terms such as "employment", "unemployment", "the labour force" and "the economically inactive population" are defined strictly in accordance with the criteria and guidelines laid down by the International Labour Organization. Hong Kong is not the only place that has adopted such guidelines. To my understanding, countries such as the United States of America, Australia and Canada have also adopted the same definitions. Moreover, terms such as "underemployment" is

defined in line with the international standards used in Australia and the United States of America.

Police ID Card Checks in Central

4. **MR ANDREW CHENG** asked (in Cantonese): *Recently, I have received many complaints from white-collar workers in the Central District about frequent police checks on their Identity Cards (ID Cards). In one case, a lady even had her ID Card checked by the same police officer four times in the same district. In this connection, will the Government inform this Council:*

- (a) *of the district which had the highest number of ID Card checks carried out by the police during the past year, and the reasons thereof;*
- (b) *whether the police have any mechanism to guard against police officers abusing their authority in carrying out ID Card checks, so as to prevent such checks from becoming a harassment to the public; and*
- (c) *whether, in the past three years, there were cases in which police officers were the subject of complaints about abuse of their authority in carrying out ID Card checks and were disciplined; if so, of the number of such cases?*

SECRETARY FOR SECURITY (in Cantonese): Mr President, in Hong Kong, the requirement to carry an ID Card arises from the necessity to combat the ongoing problem of illegal immigration, a matter of great concern to the community. Apart from other measures, for example, close liaison with the Chinese side to prevent the entry of illegal immigrants (IIs), we believe that ID Card checks serve as a strong deterrent to tackle the problem of illegal immigration. It sends a clear signal that no IIs will go unnoticed in Hong Kong. Our measures have been very effective. The total number of IIs arrested has continued to drop since 1993. When compared with 1995, the total number of IIs arrested in 1996 dropped by 13.6%.

Against the above background, the answers to the three parts of the question are as follows:

- (a) The police only keep statistics on the number of ID Card checks according to Police Regions. In 1996, the Hong Kong Island Police Region had the highest number of ID Card checks.

The number of checks in a particular Police Region depends on a number of factors including the crime situation, job opportunities for IIs, illegal immigration trend and transient population. In the case of Hong Kong Island, the large population together with good job opportunities and many popular spots for burglary contribute to the high number of ID Card checks.

- (b) The Police Force senior management takes a serious view on abuse of authority and emphasizes the importance of professionalism from time to time in their orders. This is supplemented by the enhancement of quality of police officers through careful recruitment and training. The percentage of Police Constable recruits who are academically qualified for Probationary Inspectors rose from 18.4% in 1988-89 to 33.6% in 1996-97.

In addition, the police have well established guidelines and safeguards to ensure that ID Card checks are carried out properly:

- (i) incorporating ID Card checks in the curriculum of the Police Training School, emphasising that only relevant questions should be asked;
- (ii) a police officer conducting the ID Card check has to explain to the person why he has been stopped if asked;
- (iii) a police officer is required to record details of the ID Card check in his police notebook;
- (iv) apart from checking the validity of the ID Card, the other information available to a police officer conducting ID Card check through the police's computer system is restricted to only whether there is an outstanding arrest warrant for the

- person stopped, the person stopped is likely to be violent, or the person stopped has been reported as missing;
- (v) the police's computer system also captures any information requested by the police officer when conducting the ID Card check which provides a trail for investigation whenever a complaint against a police officer is lodged;
 - (vi) in accordance with the Personal Data (Privacy) Ordinance, a police officer has to explain to the person checked that he has the right to obtain a copy of the personal information recorded from the relevant police station; and
 - (vii) if a person is aggrieved by a police officer during the ID Card check, he can lodge a complaint to the Complaints Against Police Office (CAPO).
- (c) During the past three years, the CAPO received 146 cases of complaint against 220 police officers on matters related to ID Card check. Fifty-four cases were resolved through communications between the complainants and the police to the mutual satisfaction of the parties involved. For the remaining 92 cases, they were mostly classified as "unsubstantiated", "withdrawn" and "not pursuable". No disciplinary action was instituted by the Police Force.

MR ANDREW CHENG (in Cantonese): *Mr President, I wish to talk about paragraph (b) of the main reply. I suppose most ordinary people will think that the official channel of complaints is just too remote as a means of monitoring front-line police officers. Therefore, very often, the man in the street may simply not bother to approach the Complaints Against Police Office. That is why a very sound system should be put in place to prevent police officers from abusing their powers. In this connection, and in order to effectively prevent police officers from abusing their power of checking identity cards, has the Government ever considered the implementation of a post-identity card check confirmation procedure, under which the member of public concerned is required to confirm, via the police radio communication equipment, whether he wants to lodge any complaint against the identity card check? If not, why not?*

SECRETARY FOR SECURITY (in Cantonese): Mr President, we have never considered the proposal made by the Honourable Andrew CHENG. We are of course always prepared to consider any relevant opinions. However, I must point out that identity card checks are in fact an indispensable task necessary for the purpose of effectively intercepting illegal immigrants. This is a task which involves as many as more than one million checks a year. Therefore, whether this proposal can really be adopted in actual practice should require very careful studies.

MR SZETO WAH (in Cantonese): *Mr President, I was also once stopped for an identity card check. Will the Government inform this Council whether this was because I looked like an illegal immigrant?*

SECRETARY FOR SECURITY (in Cantonese): Mr President, it is indeed very difficult for me to answer this question here. I do not know whether the Honourable SZETO Wah was at that time as famous as he is now, and how long ago and under what circumstance this happened. I cannot provide any concrete answer unless I have all this information.

PRESIDENT (in Cantonese): *Has anyone else here been stopped for an identity card check before? (Laughter)*

Car Park Spaces in Private Development Projects

5. **MR ALBERT CHAN** asked (in Cantonese): *A number of property owners have recently complained to me that at the time they bought flats from the private developers, the sales brochures indicated that the developers would provide car park spaces for rent. However, after the flats had been occupied for some time, the developers withdrew all such car park spaces and put them up for sale, thus depriving the property owners of their right to rent car park spaces. In this connection, will the Government inform this Council:*

- (a) *what measures the Government has in place to protect the rights of property owners in the above situation; and*
- (b) *whether the Government will stipulate in the conditions of land grant a requirement that the developer should provide a fixed number of car park spaces for rent in a development project; if so, when such a measure will be implemented; if not, why not?*

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

- (a) the Administration agrees that the quality and reliability of information contained in the sales brochures of local residential flats should be improved to better protect the interests of home purchasers. We are taking steps to regulate the sales descriptions of local uncompleted flats by legislation and aim to introduce a bill for this purpose into the Legislative Council before the end of this year. The proposed legislation will impose statutory obligation and liabilities on developers to provide adequate and reliable information in their sales brochures. In respect of car park spaces, the proposed legislation will require that the sales brochure contains a description of the car park spaces within the development, including the respective numbers for sale, for rent, and for visitors. If the developer has not yet decided on these matters when he prints the sales brochure, the proposed legislation will require that this fact be stated clearly in the sales brochure.

- (b) we have no intention of introducing land grant clauses requiring the provision of car park spaces for rental. Our considerations are:

First, the existing car park clause under the lease conditions already restricts the use of car parks by residents inside the lot and bona fide visitors only.

Second, the proposed measure has its drawbacks. The number of car parks available for sale would be reduced as a result, thereby

further driving up their prices. Ownership of car parks would be more discriminatory. Moreover, requiring a developer to provide car parking spaces only for rental is a measure which imposes a financial burden, that is, the commitment of funds, on the developer over an indefinite period and needs very careful thinking.

To strike a balance, we are considering to restrict, in future residential land grants, the sale or underletting of car parks to building owners of the development only.

Thank you, Mr President.

MR ALBERT CHAN (in Cantonese): *Mr President, I am on the whole satisfied with the reply of the Government and I welcome it. However, I still hope that the Government will consider one more point in detail. For the residents in some especially remote housing estates, the absence of any hourly or monthly car parks will create immense inconvenience. Even if the Government really finds it inadvisable to introduce land grant clauses requiring fixed proportions of hourly or monthly parking spaces, can it put in place some other measures, such as reaching a tacit understanding or consensus with the Association of Real Estate_Developers, so as to ensure that fixed proportions of hourly or monthly car parks are always available in some comparatively remote housing estates?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): Mr President, I understand fully the purpose behind the Honourable Albert CHAN's proposal. However, we must also consider the actual practices. On the one hand, we are not really supposed to require real estate developers to lay down any fixed proportions of parking spaces designated either for sale or for rental. This is in fact a sale arrangement decision, and it should be left to real estate developers when they complete their development projects. On the other hand, from the perspective of overall planning, the adequacy of public transport facilities must be considered, and private cars should not be relied upon as the only means of transportation.

MR ALBERT CHAN (in Cantonese): *Mr President, I am referring to those housing estates located in remote areas, where transportation is not convenient.*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): Mr President, it will be very difficult for us to answer this question in the abstract, because in the very first place, if there were really such areas, we would certainly not draw up any plans for large residential settlements there. In general, the residential settlements in the New Territories are of the low-density type. If high-density residential settlements are to be developed there, we will of course provide adequate transportation support. That is why we need to consider whether the situation described would really emerge.

DR YEUNG SUM (in Cantonese): *Mr President, I also wish to discuss the problem raised by the Honourable Albert CHAN. Recently, I have received quite a number of complaints from some residents living in a large private housing estate in Southern District. According to them, the developer has decided to sell all the parking spaces in the housing estate. They complain that if no parking space is reserved for hourly rental, their relatives and friends who come to visit them will it very inconvenience. They are also afraid that this will result in speculation and boost the prices of parking spaces. Should this happen, they say, not many of them can afford the parking spaces despite their wish to do so. Actually, Mr Albert CHAN has raised a very serious problem. Since the Government is now considering a new piece of legislation, will it take this opportunity to conduct detailed studies with property developers on this particular matter?*

PRESIDENT (in Cantonese): Dr YEUNG SUM, please state your question.

DR YEUNG SUM (in Cantonese): *Since the Government is working on a new piece of legislation, will it take this opportunity to conduct detailed studies with property developers on this particular matter?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): Mr President, we can of course conduct detailed studies with property developers on this particular matter. Actually, whenever we draw up

any legislation, we will invariably conduct a consultation exercise, and we do take different opinions in the course of doing so.

MR HOWARD YOUNG (in Cantonese): *Mr President, the Secretary for Planning, Environment and Lands has pointed that the Government is considering to restrict the sale of car parks to building owners of the development only. Will the restriction being considered apply only to first-hand sales? Or, will it apply to all subsequent transactions? I wish to ask these questions because some first-hand purchasers who do not have any parking needs may subsequently decide to sell their parking spaces to the residents of neighbouring buildings. This may in fact balance out demand and supply.*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): *Mr President, this is precisely one of the reasons why we must be very cautious when considering any land grant clauses which seek to prescribe how developers are to sell their properties. If we really introduce land grant clauses requiring a property developer to sell car parking spaces to building owners of the development only, then land grants for car parks and residential units will have to be approved as a lot. In other words, the owner may be unable to sell his residential unit and car parking space separately in future. Such land grant clauses will probably affect the flexible buying and selling of an entire property development. Therefore, detailed consideration is required when drafting the relevant legislation.*

MR ANDREW CHENG (in Cantonese): *Mr President, the Honourable Albert CHAN rarely praises the Government. I hope that his approving comments this time will encourage the Government to amend the ordinance as quickly as possible. On the whole, the reply of the Government seems to suggest that the problem cannot be solved until after the ordinance has been amended. However, Mr President, as the Honourable YEUNG Sum has rightly mentioned, many individual property owners are facing a big crisis in the interim, because speculators are trying to drive up the prices of car parking spaces continuously. The Government has put in place many measures to curb property speculation. That being the case, what measures will the Government put in place to protect the individual property owners concerned? A moment ago, Dr YEUNG Sum referred to the victims of this problem in the Southern District. I must say that I am one of them.*

PRESIDENT (in Cantonese): Are you declaring your interests because you are an owner?

MR ANDREW CHENG (in Cantonese): *No, I was just trying to increase the force of my question*

PRESIDENT (in Cantonese): Are you a parking space owner?

MR ANDREW CHENG (in Cantonese): *No, I am not , but I used to rent one. As the parking space has been sold now, I cannot rent any.*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): Mr President, it will be very difficult for me to comment on individual cases here. I am not a legal expert. However, I may as well raise one point on the basis of the legal advice which I have obtained. For buildings and car parks which have already been completed, it will be very difficult for the Government to take any actions to prescribe how the owners concerned should handle their properties. However, for cases described in the main question, where car parking spaces for rental are subsequently withdrawn despite previous indication in sales brochures, if an individual housing unit owner can prove that he actually bought his housing unit with parking space rental as part of the contract, or if he can establish that the developer concerned actually gave people the impression that car park rental would constitute part of or a condition of the contract, then, according to the legal advice we have obtained, the individual owner concerned can consider instigating legal actions. That said, I must add that since we have not studied the documents relating to the specific cases mentioned, I can only make comments in general.

WRITTEN ANSWERS TO QUESTIONS

Operating Costs of Commemorative Stamps Sales

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

- (a) *of the additional operating costs borne by the Post Office as a result of the sale of various commemorative stamps during the past 12 months; and*
- (b) *whether arrangements have been made to enable civil servants and certain members of the public to have priority in purchasing commemorative stamps; if so, what the reasons are?*

SECRETARY FOR ECONOMIC SERVICES (in Chinese): Mr President, the additional operating costs borne by the Post Office as a result of the sale of various commemorative stamps during the past 12 months amounted to \$112 million. The estimated revenue generated from selling commemorative stamps amounted to \$1,142 million during the said period.

Until recently, there have been special arrangements for the sale of special stamps, souvenir sheets and stamp sheetlets for staff of the Post Office, who could generally not take leave on the first day of sale to purchase stamps over the counter. The sales quota for staff has been generally lower than the public quota. For customer relations purposes, customers with whom the Post Office has close working relationships, and organizations which provide service support to the Post Office could also order stamps in advance, subject to the same quota as for members of the public. Organizations related to the theme of a special stamp issue can also order stamps in advance.

The Post Office has introduced an enhanced local advance order service for the next special stamp issue on 27 April and future issues. Through this service anyone can place orders for mint stamps and serviced covers about two weeks before the issue date, with no limit on purchases. With the introduction of this new service, the sales arrangements for staff and customer relations purposes have ceased.

One-way Exit Permit Holders

7. **MR LAU CHIN-SHEK** asked (in Chinese): *Regarding the arrival in the territory of One-way Exit Permit holders from mainland China, will the Government inform this Council:*

- (a) *of the following information on the One-way Exit Permit holders coming to the territory in each of the past three years;*
 - (i) *a breakdown of the categories of their relationship with their family members/relatives in the territory;*
 - (ii) *a breakdown of the length of waiting time (by number of years) in obtaining approval of their applications;*
 - (iii) *a breakdown of their places of origin;*
- (b) *of the estimated number of children of Hong Kong permanent residents, who meet the requirements under the Basic Law and have the right of abode in Hong Kong but are not yet able to come to settle in the territory; and how such an estimated number is arrived at; and*
- (c) *whether, according to the existing legislation, any person who has the right of abode in Hong Kong shall have the absolute right to enter and settle in the territory at any time?*

SECRETARY FOR SECURITY (in Chinese): Mr President, various types of information are collected from one-way permit holders for monitoring and planning purposes. The number of one-way permit holders entering Hong Kong each year is not necessarily the same as the size of the agreed quota, because one-way permit holders may not enter Hong Kong immediately after the issue of the permit. Since 1995, we have refined the breakdown of certain items of information and added new items of information to be obtained from new immigrants.

- (a) The requested figures on One-way Exit Permit holders entering Hong Kong are as below.

- (i) Breakdown of legal immigrants from China entering Hong Kong in 1994 by categories of their relationship with their family members in the territory

	<i>1994</i>
With only parents in Hong Kong	18 241
With only spouse in Hong Kong	16 129
With only child(ren) in Hong Kong	798
	<i>1994</i>
With spouse and parent and child(ren) in Hong Kong	473
With no next-of-kin in Hong Kong	2 577
Total	38 218

Breakdown of legal immigrants from China entering Hong Kong from 1995-96 by categories of their relationship with their family members in the territory

	<i>1995</i>	<i>1996</i>
With spouse or spouse and child(ren) in Hong Kong	18 836	25 231
With parent or parent and child(ren) in Hong Kong	22 603	31 774

With child(ren) only in Hong Kong	685	634
With spouse and parent or spouse and parent and child(ren) in Hong Kong	1 168	1 198
With no next-of-kin in Hong Kong	2 694	2 342
Total	45 986	61 179

Note:

- Compiled based on data provided by the immigrants
- (ii) Breakdown of legal immigrants from China entering Hong Kong in 1995 and 1996 by waiting time for approval

<i>Waiting time</i>	<i>1995</i>	<i>1996</i>
less than 1 year	7 906	8 829
1 - <2 years	14 999	21 478
2 - <3 years	6 295	13 088
3 - <4 years	6 431	8 888
4 - <5 years	2 385	3 248
5 - <6 years	2 696	1 221
6 - <7 years	1 116	1 298
7 - <8 years	773	568
8 - <9 years	700	529
9 - <10 years	653	344
10 - <11 years	751	450
11 - <15 years	925	804
15 - <20 years	279	349
20 - <25 years	57	64
25 years and over	12	20
Unknown	8	1

Total	45 986	61 179
-------	--------	--------

Note:

- Compiled based on data provided by the immigrants
- Waiting time = Date of entry — Date of application
- Figures on waiting time prior to 1995 are not available.

(iii) Breakdown of legal immigrants from China entering Hong Kong from 1994 to 1996 by place of origin

	<i>1994</i>	<i>1995</i>	<i>1996</i>
Fujian Province	10 716	8 758	9 565
Guangdong	19 804	29 381	43 532
Guangxi Zhuangzu	1 002	899	1 050
A.R.			
Hainan Province	988	1 074	1 147
Shanghai Municipality	1 018	1 229	1 129
Yunnan Province	687	702	480
Zhejiang Province	662	644	854
Others	3 341	3 299	3 422
Total	38 218	45 986	61 179

Note:

- Compiled based on data provided by the immigrants

(b) According to our latest projected estimate, as at 1 July 1997, around 35 000 children of Hong Kong permanent residents who meet the requirements under Basic Law Article 24(2)(3) will still be in China.

In the General Household Survey conducted from late 1995 to early 1996 by the Census and Statistics Department, special questions were included to collect information on Hong Kong residents with spouses in China and these couples' fertility. The survey enumerated over 9 000 households randomly drawn from all domestic households in Hong Kong.

Our forecasts into the future are based on the results from the General Household Survey and a number of assumptions such as that the composition of the one-way permit quota would remain the same; and the number of Hong Kong residents who will get married in China each year in the future will follow the pattern derived from the General Household Survey.

- (c) Under the existing provisions of the Immigration Ordinance (Cap. 115), a person who now has the right of abode in Hong Kong has the right:
 - (a) to land in Hong Kong;
 - (b) not to have imposed upon him any condition of stay in Hong Kong, and any condition of stay that is imposed shall have no effect;
 - (c) not to have a deportation order made against him; and
 - (d) not to have a removal order made against him.

Regulation of Preparation and Sale of Sushi, Sashimi and Raw Oysters

8. **MR NGAN KAM-CHUEN** asked (in Chinese): *The Regional Council and the Urban Council introduced new measures for regulating the preparation and sale of sushi, sashimi and raw oysters in February and March this year respectively. In this connection, does the Government know:*

- (a) *of the total number of food establishments selling sushi, sashimi and raw oysters in the territory prior to the introduction of the above measures;*
- (b) *of the respective numbers of such food establishments inspected by the Regional Services Department and the Urban Services Department, as well as the numbers of food establishments which have been granted permission by the Regional Council and the Urban Council respectively for the sale of restricted foods such as sushi, sashimi and raw oysters, since the introduction of the above measures; and*
- (c) *whether any prosecutions have been instituted against food establishments for selling such foods without permission, since the introduction of the above measures?*

SECRETARY FOR BROADCASTING, CULTURE AND SPORT (in Chinese): Mr President, according to information provided by the Regional Services Department and the Urban Services Department:

- (a) before the relevant legislation came into operation, there were 335 food establishments selling sushi, sashimi and raw oysters in Hong Kong, of which 132 were in the Regional Council area and 203 were in the Urban Council area;
- (b) since then, the two municipal services departments have inspected all the 335 food establishments. Up to early April 1997, the two Municipal Councils had given approval to 254 food establishments for the sale of such food, among which 69 were in the Regional Council area and 185 were in the Urban Council area; and
- (c) so far, 63 prosecutions have been instituted against food establishments for the sale of these restricted food items without a licence or permission, of which 21 are in the Regional Council area and 42 are in the Urban Council area.

Education-related Special Grants for Young Drug Abusers under Treatment

9. **MR LAW CHI-KWONG** asked (in Chinese): *The Education Department (ED) currently provides grants to voluntary agencies which organize educational courses for young drug abusers undergoing treatment and rehabilitation, so as to ensure that these young people can receive proper education during the treatment and rehabilitation period. However, it is learnt that no education-related special grants, such as textbook and stationery grants, are included in the Comprehensive Social Security Assistance (CSSA) allowance received by these young people. In this connection, will the Government inform this Council:*

- (a) *of the number of young drug abusers undergoing treatment and rehabilitation who applied for education-related special grants from the Social Welfare Department (SWD) in the past two years, together with the number of such applications which were approved;*
- (b) *whether the SWD provides financial assistance to these young people to meet their educational needs; if so, of the categories and rates of such grants; if not, why not; and*
- (c) *whether the SWD will consider reviewing its existing policy on providing education-related special grants to these young people, so as to satisfy their educational needs?*

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

- (a) The special grant for selected items of school-related expenses are payable under the CSSA Scheme to school children (from pre-primary to upper secondary) attending institutions providing full-time education certified by the ED. Drug withdrawal centres are not such institutions. The SWD does not therefore have statistics on applications for such special grants from young drug abusers undergoing treatment and rehabilitation in these centres.
- (b) To provide for the educational needs of young drug abusers undergoing treatment/rehabilitation in confinement in these centres, the ED introduced the Educational Programme for Rehabilitating Young Drug Abusers (the Programme) in September 1995. The

Programme provides education in the three basic subjects of Chinese, English and Mathematics, as well as training in some practical/technical skills.

In 1996-97, the Programme provided funding to nine Christian agencies for running 21 units (each covering 10 youngsters aged 18 and below) totalling \$5.01 million. The funding involved a block grant in the amount of \$21,525 per unit per month (at 1996-97 level) and a one-off grant of \$10,500 per location.

The block grant aims to cover the salary of the teacher as well as the costs for relevant educational materials such as books, reference materials and small equipment for use by teacher(s). The one-off grant is for the purchase of general classroom furniture and equipment and a television cum video recorder. A learning package for each centre can also be obtained from the ED free of charge.

The Programme should be able to address to a large extent the educational needs of the youngsters when they are in these centres. The ultimate objective is to reintegrate them into mainstream education as soon as possible.

In addition, these centres may propose and the ED will follow up on, suitable school placements for relevant youngsters.

Separately, in the event that the families of such young drug abusers are unable to support them financially, they would be able to apply for financial assistance under the CSSA Scheme.

- (c) The educational needs of these youngsters during their treatment and rehabilitation are catered for under ED's Programme. Nevertheless, the SWD is evaluating the service provided by these drug withdrawal centres in the treatment and rehabilitation of young drug abusers with a view to considering what assistance could be provided to relevant agencies.

Workload of Language Teachers

10. **DR DAVID LI** asked: *The findings of a survey conducted by the Professional Teachers' Union reveal that 90% of language teachers are under an enormous workload and that they have to spend on average 35 hours a week after school in marking students' assignments. In this connection, will the Government inform this Council whether the Education Department has any plan to increase the number of language teachers and reduce the number of teaching sessions of these teachers?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, arising from the recommendation of the Education Commission Report No. 6, the Education Department has set up a working group to review the workload of language teachers in primary and secondary schools in Hong Kong. In this connection, the Department has commissioned the Hong Kong Institute of Education to conduct a consultancy study of the workload of language teachers in the light of existing curriculum, examinations, teaching methods and resource materials available in schools. The consultancy study is scheduled to be completed in July 1997. We will consider taking appropriate action in the light of the findings of the consultancy study and any recommendations from the working group.

Collection of Airport Departure Tax by Airline Check-in Counters

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

- (a) *it has received any complaints or opinions from the airlines that the current practice of relying on the airlines to collect the airport departure tax is detrimental to their provision of an efficient customer service at the check-in counters; and*
- (b) *it will consider adopting the practice in other international airports and using vending machines or special counters at the new airport at Chek Lap Kok to collect airport departure tax and other related charges direct from passengers?*

SECRETARY FOR THE TREASURY: Mr President,

- (a) We have received views from the airlines that the current method of collecting air passenger departure tax at the airline check-in counters in the airport should be improved so that the airlines can provide a more efficient service to passengers at their counters.
- (b) We have set up a working group within the Administration to examine possible alternatives for the collection of air passenger departure tax. In this process, we will examine all possible alternatives including the installation of vending machines and the setting up of special counters in the new airport for the purpose. Apart from the departure tax, there are no other related charges which have to be collected direct from passengers.

Official and Non-official Justices of the Peace

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

- (a) *of the current respective numbers of Official Justices of the Peace (JPs) and Non-official Justices of the Peace, as well as their respective powers and functions; and*
- (b) *how long the existing system for the appointment of Justices of Peace will remain in force?*

CHIEF SECRETARY (in Chinese): Mr President,

- (a) As at April 1997, there are 279 Official JPs and 613 Non-official JPs. The categorization of Official and Non-official JPs is purely an administrative practice; there are no differences in powers and functions between them.

Historically, the office of JP was a judicial one. Over the years, JPs in Hong Kong have accumulated a wide range of judicial and

quasi-judicial powers under various local ordinances. These powers include the issue of summons, arrest warrants, search warrants, warrants to effect entry to certain premises to carry out duties, and abatement of fire hazard and nuisance orders. With the development of a professional judiciary, these powers are no longer exercised by lay JPs. JPs also have the power to administer oaths and declarations, witness the signing of documents, confirm information under certain statutes and other miscellaneous powers.

Today, the main function of JPs is to pay visits to certain institutions including prisons, detention centres, reformatory schools and hospitals to ensure that these institutions are operated efficiently and that no individuals residing in the institutions are deprived of their rights. JPs are also required to perform other duties as directed by the Governor, such as to monitor the repatriation of Vietnamese migrants and carry out ad hoc enquiries.

- (b) JPs are at present appointed by the Governor under Article XIV of the Letters Patent, which will lapse after 30 June. We consider that the institution of JP has proved its value over the years and has earned the respect of the community. In order to enable the system to continue after 30 June, we have drafted a Bill to provide a local statutory basis for the appointment of JPs. The JP Bill was introduced into this Council on 19 March and is now being scrutinized by a Bills Committee.

Air Quality Objectives

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

- (a) *the average air quality objective level in each of the districts in the territory;*
- (b) *the worst air quality objective level and the district in which it occurs;*

- (c) *the districts which are expected to suffer an obvious decline in the air quality in the coming three years, and the reasons for the decline; and*
- (d) *the measures in place to improve the air quality in the territory?*

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

- (a) The average concentrations of four major air pollutants measured in 1996 by the Environmental Protection Department's air monitoring stations are shown at the Annex.
- (b) The highest air pollution levels were recorded at busy roadsides and in Yuen Long, Kwun Tong and Sham Shui Po.
- (c) We do not envisage significant deterioration in general air quality in the next few years. Instead, the implementation of various air pollution control measures in recent years has substantially reduced the ambient concentrations of air pollutants such as lead and sulphur dioxide and improved the air quality in localized areas adjacent to pollution sources. Nonetheless, the high concentration of respirable suspended particulates from diesel vehicle emissions remains a major concern.
- (d) Air pollution from industrial activities are already subject to very stringent licence control. We also aim to implement the Construction Dust Regulation, now being examined by the Legislative Council, later this year to reduce emissions of dust particles from construction activities. The main source of Hong Kong's air pollution problem is diesel vehicle emissions. To abate vehicular pollution, we are working on an integrated vehicle emission control strategy which comprises five main elements:

- (i) explore clean alternatives to diesel fuel; trial to use liquefied petroleum gas is being planned;
- (ii) adopt the most stringent practicable vehicle emission and fuel standards;
- (iii) strengthen the control of smoky vehicles by adopting better smoke testing procedures;
- (iv) step up the vehicle inspection programme to enhance maintenance of vehicles; and
- (v) launch more intensive education programmes targeted at both the community and drivers.

Annex

Average Concentrations of Four Major Air Pollutants
Measured at EPD's Air Monitoring Stations in 1996

<i>Air Quality Monitoring Station</i>	<i>Sulphur Dioxide ($\mu\text{g}/\text{m}^3$)</i>	<i>Nitrogen Dioxide ($\mu\text{g}/\text{m}^3$)</i>	<i>Respirable Suspended Particulates ($\mu\text{g}/\text{m}^3$)</i>	<i>Total Suspended Particulates ($\mu\text{g}/\text{m}^3$)</i>
Air Quality Objective (Annual Average)	80	80	55	80
Central/Western	15	47	48	81
Sham Shui Po	19	66	56	95
Kwun Tong	19	66	58	96
Tsuen Wan	22	62	51	82

Kwai Chung	21	43	44	70
Sha Tin	13	45	40	61
Tai Po	not measured	46	47	69
Yuen Long	18	52	58	101
Mong Kok Roadside	31	77	73	136

Monopoly of Lift Maintenance Services

14. **DR HUANG CHEN-YA** asked (in Chinese): *Will the Government inform this Council whether:*

- (a) *it has undertaken any study on the situation concerning the monopoly of lift maintenance services by lift suppliers in the territory; if so, of the findings of the study; and*
- (b) *it will consider bringing in more competition, so that customers have a greater number of lift maintenance companies to choose from, thus bringing down the maintenance cost; if not, why not?*

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

- (a) The records kept by the Electrical and Mechanical Services Department show that there are about 41 000 lifts in the territory being serviced by 35 registered lift contractors. All the registered lift contractors are also eligible for being lift suppliers. The percentages of lifts maintained by the 10 largest registered lift contractors were about 87%, 86% and 85% for 1994, 1995 and 1996 respectively; and
- (b) with 35 registered lift contractors in the market, reasonable competition already exists. Building owners can select the

maintenance agents suitable for their purpose, having regard to factors including the service charges and the quality and reliability of maintenance service.

Average Nominal and Real Earnings of Local Employees

15. **MR CHAN WING-CHAN** asked (in Chinese): *According to government statistics in recent years, the rate of increase in the average earnings of employees has been higher than the rate of wage increase, which indicates that employees in some industries have to rely on overtime pay and irregular earnings to increase their income. In this connection, will the Government provide the information relating to items (a) to (c) below, in regard to the past three years:*

- (a) *a breakdown by industry and occupation of:*

 - (i) *the respective rates of change in the average nominal and real earnings as well as in the wages of local employees;*
 - (ii) *the respective proportions of overtime pay and irregular earnings to the average nominal earnings;*
 - (iii) *the respective proportions of overtime pay and irregular earnings to the average real earnings;*

- (b) *the major industries and occupations in which employees receive overtime pay more frequently, and the respective numbers of normal and overtime working hours of the employees concerned;*
- (c) *the major industries and occupations in which employees receive irregular earnings more frequently, and the main forms of payment for such earnings;*

if not, what the reasons are; and whether the Government will consider collecting such information and publishing on a regular basis?

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

- (a) (i) The Census and Statistics Department publishes, on a half-yearly basis, the wage indices, and on a quarterly basis, the payroll indices, for selected industry groups. The wage indices for individual major industry groups are further broken down by broad occupational categories up to the supervisory level.

Statistics on the rates of change in the nominal and real wage indices over the past three years, broken down by main sector and by broad occupational group, are given in Tables 1 and 2 respectively.

Statistics on the rates of change in the nominal and real indices of average payroll, broken down by main sector, are given in Tables 3 and 4 respectively.

- (ii) and (iii)

Statistics are not available specifically on the proportion of overtime pay in total payroll. To simplify the data collection process within the limit of resources and also having due regard to the reporting burden on employers, at present the Census and Statistics Department requires employers to report on the payroll data with a broad delineation into the regular and irregular components only.

Statistics on the proportion of the irregular component in the total payroll, analysed by major sector, are given in Table 5.

- (b) Data on overtime work have been collected only from a special topic enquiry conducted via the General Household Survey during October - November 1996. The statistics relate to the total number of working hours of employees and their overtime worked, analysed by main sector and by main occupational group. These statistics are shown in Table 6. It shows that the transport, storage and communications sector, as well as the manufacturing sector had

overtime work more frequently than the other sectors during the survey period.

- (c) As indicated in (a)(ii) above, a further breakdown of the irregular component of total payroll by form of payment is not available. Table 5 nevertheless shows that employees in the financing, insurance, real estate and business services sector, as well as those in the transport, storage and communications sector had a greater proportion of their payroll in the form of irregular earnings than those in the other sectors in 1996.

The Census and Statistics Department will continue to consider the possibility of obtaining finer breakdowns of the payroll data, in the light of demand for such additional data, but also necessarily having regard to the extra reporting burden on employers and the extra cost of collecting the data.

Table 1: Changes in Wage Levels in Nominal Terms for Workers up to the Supervisory Level as Measured by Nominal Wage Indices by Economic Sector and by Occupation Group, 1994 to 1996

	<i>Year-on-year change in nominal wage index (%)</i>		
	<i>September 1994</i>	<i>September 1995</i>	<i>September 1996</i>
<i>(A) Manufacturing Sector</i>			
Occupation group			
All selected occupations	8.1	5.6	7.5
<i>of which:</i>			
Supervisory and technical workers	12.4	6.9	8.2
Clerical and secretarial workers	10.4	7.3	6.6
Craftsmen	6.1	7.0	7.6
Operatives	6.3	3.8	7.5
Service workers	N.A.	N.A.	N.A.
Miscellaneous non-production workers	8.7	6.1	7.1

(B) *Wholesale, Retail and Import/Export Trades,**Restaurants and Hotels Sectors*

Occupation group

All selected occupations	9.9	7.2	5.0
<i>of which:</i>			
Supervisory and technical workers	10.7	7.9	6.3
Clerical and secretarial workers	9.3	9.2	6.3
Craftsmen	N.A.	N.A.	N.A.
Operatives	N.A.	N.A.	N.A.
Service workers	9.5	5.1	2.5
Miscellaneous non-production workers	9.6	5.4	3.4

Year-on-year change in nominal wage index (%)

September 1994 September 1995 September 1996

(C) *Transport Services Sector*

Occupation group

All selected occupations	10.6	6.7	7.0
<i>of which:</i>			
Supervisory and technical workers	14.0	9.0	8.0
Clerical and secretarial workers	15.1	7.4	7.9
Craftsmen	5.8	4.1	5.4
Operatives	5.9	7.6	9.6
Service workers	24.9	11.4	0.3
Miscellaneous non-production workers	8.0	8.8	10.6

(D) *Financing, Insurance, Real Estate and Business**Services Sector*

Occupation group

All selected occupations	8.8	8.2	8.4
<i>of which:</i>			
Supervisory and technical workers	6.9	9.3	11.5
Clerical and secretarial workers	12.4	8.2	7.6
Craftsmen	2.8	10.3	6.8
Operatives	N.A.	N.A.	N.A.

Service workers	6.8	-3.2	10.2
Miscellaneous non-production workers	7.8	12.6	-0.6
<i>(E) Personal Services Sector</i>			
Occupation group			
All selected occupations	11.5	7.9	6.1
<i>of which:</i>			
Supervisory and technical workers	11.5	12.5	6.4
Clerical and secretarial workers	4.2	15.5	10.3
Craftsmen	4.2	10.1	7.4
Operatives	N.A.	N.A.	N.A.
Service workers	12.6	3.7	5.1
Miscellaneous non-production workers	14.3	5.0	5.4

Note : N.A. Not Applicable.

Source : Labour Earnings Survey, Census and Statistics Department.

Table 2 : Changes in Wage Levels in Real Terms for Workers up to the Supervisory Level as Measured by Real Wage Indices by Economic Sector and by Occupation Group, 1994 to 1996

	<i>Year-on-year change in real wage index (%)</i>		
	<i>September 1994</i>	<i>September 1995</i>	<i>September 1996</i>
<i>(A) Manufacturing Sector</i>			
Occupation group			
All selected occupations	-0.4	-2.9	2.2
<i>of which:</i>			
Supervisory and technical workers	3.6	-1.7	2.9
Clerical and secretarial workers	1.7	-1.3	1.4
Craftsmen	-2.3	-1.5	2.3
Operatives	-2.1	-4.5	2.2
Service workers	N.A.	N.A.	N.A.
Miscellaneous non-production workers	0.2	-2.4	1.8

(B) *Wholesale, Retail and Import/Export Trades,**Restaurants and Hotels Sector*

Occupation group

All selected occupations	1.3	-1.4	-0.1
<i>of which:</i>			
Supervisory and technical workers	2.0	-0.7	1.1
Clerical and secretarial workers	0.7	0.4	1.0
Craftsmen	N.A.	N.A.	N.A.
Operatives	N.A.	N.A.	N.A.
Service workers	0.9	-3.4	-2.6
Miscellaneous non-production workers	1.0	-3.1	-1.7

Year-on-year change in real wages index (%)

September 1994 September 1995 September 1996

(C) *Transport Services Sector*

Occupation group

All selected occupations	1.9	-1.9	1.7
<i>of which:</i>			
Supervisory and technical workers	5.0	0.3	2.7
Clerical and secretarial workers	6.0	-1.3	2.6
Craftsmen	-2.5	-4.3	0.2
Operatives	-2.4	-1.0	4.2
Service workers	15.1	2.5	-4.7
Miscellaneous non-production workers	-0.5	#	5.1

(D) *Financing, Insurance, Real Estate and**Business Services Sector*

Occupation group

All selected occupations	0.3	-0.5	3.0
<i>of which:</i>			
Supervisory and technical workers	-1.5	0.6	6.0
Clerical and secretarial workers	3.6	-0.4	2.3
Craftsmen	-5.3	1.5	1.5
Operatives	N.A.	N.A.	N.A.
Service workers	-1.6	-11.0	4.7
Miscellaneous non-production workers	-0.7	3.5	-5.5

(E) Personal Services Sector

Occupation group

All selected occupations	2.7	-0.7	0.9
<i>of which:</i>			
Supervisory and technical workers	2.8	3.5	1.1
Clerical and secretarial workers	-4.0	6.2	4.9
Craftsmen	-4.0	1.3	2.1
Operatives	N.A.	N.A.	N.A.
Service workers	3.7	-4.6	-0.1
Miscellaneous non-production workers	5.3	-3.4	0.2

Notes: N.A. Not Applicable.

Less than 0.05%.

Source: Labour Earnings Survey, Census and Statistics Department.

Table 3: Changes in Nominal Indices of Payroll Per Person Engaged by Economic Sector, 1994 to 1996

<i>Economic Sector</i>	<i>Year-on-year change in nominal index</i>		
	<i>(%)</i>		
	<i>3Q</i>	<i>3Q</i>	<i>3Q</i>
	<i>1994</i>	<i>1995</i>	<i>1996</i>
Mining and Quarrying	3.6	5.9	7.8
Manufacturing	11.9	12.9	4.4
Electricity and Gas	15.6	11.4	2.9
Wholesale, Retail and Import/Export Trades, Restaurants and Hotels	5.4	11.5	10.8
Transport, Storage and Communications	12.5	11.4	6.5

Financing, Insurance, Real Estate and Business Services	8.7	12.7	8.1
Community, Social and Personal Services	16.6	10.9	8.4

Source: Labour Earnings Survey, Census and Statistics Department.

Table 4: Changes in Real Indices of Payroll Per Person Engaged by Economic Sector, 1994 to 1996

<i>Economic Sector</i>	<i>Year-on-year change in real index (%)</i>		
	<i>3Q 1994</i>	<i>3Q 1995</i>	<i>3Q 1996</i>
Mining and Quarrying	-4.6	-2.2	2.3
Manufacturing	3.1	4.2	-0.9
Electricity and Gas	6.4	2.8	-2.3
Wholesale, Retail and Import/Export Trades, Restaurants and Hotels	-3.0	2.9	5.2
Transport, Storage and Communications	3.7	2.8	1.1

Financing, Insurance, Real Estate and Business Services	0.1	4.0	2.6
Community, Social and Personal Services	7.4	2.3	2.9

Source: Labour Earnings Survey, Census and Statistics Department.

Table 5: Irregular Payroll As a Proportion of Total Payroll by Economic Sector, 1994 - 1996

<i>Economic Sector</i>	<i>Proportion of irregular payroll (%)</i>		
	<i>1994</i>	<i>1995</i>	<i>1996</i>
Mining and Quarrying	5.0	5.9	7.1
Manufacturing	8.4	7.9	8.1
Electricity and Gas	7.1	8.6	7.0
Wholesale, Retail and Import/Export Trades, Restaurants and Hotels	8.7	8.0	7.9
Transport, Storage and Communications	8.3	7.2	8.7
Financing, Insurance, Real Estate and	9.5	9.5	9.4

Business Services

Community, Social and Personal Services	4.8	4.5	4.1
---	-----	-----	-----

Source: Labour Earnings Survey, Census and Statistics Department.

Table 6: Average Overtime Working Hours as a Proportion of Average Working Hours by Economic Sector by Occupation Group, October - November 1996

	<i>Average working hours</i>	<i>Average overtime working hours</i>	<i>Average overtime working hours as a proportion of average working hours (%)</i>
<i>(A) Manufacturing Sector</i>			
Occupation group			
All occupations	45.2	0.8	1.8
<i>of which:</i>			
Managers and administrators, professionals and associate professionals	45.7	0.4	0.9
Clerks	43.4	0.6	1.4
Service workers and shop sales workers	42.2	1.1	2.6
Craft and related workers	46.3	1.2	2.6
Plant and machine operators and assemblers	45.7	1.2	2.6
Elementary occupations	43.8	0.6	1.4

(B) Construction Sector

Occupation group

All occupations	44.1	0.5	1.1
<i>of which:</i>			
Managers and administrators, professionals and associate professionals	47.4	0.9	1.9
Clerks	42.0	0.4	1.0
Service workers and shop sales workers	N.A.	N.A.	N.A.
Craft and related workers	43.5	0.4	0.9
Plant and machine operators and assemblers	47.8	2.2	4.6
Elementary occupations	42.8	0.2	0.5
			<i>Average overtime working hours as a proportion of average working hours (%)</i>
	<i>Average working hours</i>	<i>Average overtime working hours</i>	
Occupation group			
All occupations	47.5	0.3	0.6
<i>of which:</i>			
Managers and administrators, professionals and associate professionals	44.7	0.3	0.7
Clerks	42.2	0.2	0.5
Service workers and shop sales workers	53.9	0.2	0.4
Craft and related workers	47.4	0.8	1.7
Plant and machine operators and assemblers	51.2	1.8	3.5
Elementary occupations	47.1	0.4	0.8
<i>(D) Transport, Storage and Communications Sector</i>			
Occupation group			
All occupations	46.5	1.1	2.4
<i>of which:</i>			
Managers and administrators, professionals and associate professionals	44.4	0.7	1.6

Clerks	44.3	0.9	2.0
Service workers and shop sales workers	43.9	1.6	3.6
Craft and related workers	47.3	2.3	4.9
Plant and machine operators and assemblers	50.9	1.6	3.1
Elementary occupations	45.0	0.5	1.1

Average overtime

working

hours as a proportion

of average

working hours (%)

Average

working

hours

Average

overtime

working hours

(E) *Financing, Insurance, Real Estate and Business*

Services Sector

Occupation group

All occupations	45.1	0.6	1.3
<i>of which:</i>			
Managers and administrators, professionals and associate professionals	44.5	0.5	1.1
Clerks	40.3	0.6	1.5
Service workers and shop sales workers	35.1	@	#
Craft and related workers	45.1	0.8	1.8
Plant and machine operators assemblers	46.6	1.6	3.4
Elementary occupations	57.5	0.5	0.9

(F) *Community, Social and Personal Services*

Sector

Occupation group

All occupations	48.1	0.2	0.4
-----------------	------	-----	-----

of which:

Managers and administrators, professionals and associate professionals	40.8	0.3	0.7
Clerks	39.1	0.2	0.5
Service workers and shop sales workers	49.3	0.2	0.4
Craft and related workers	46.8	0.4	0.9
Plant and machine operators and assemblers	48.6	0.6	1.2
Elementary occupations	54.7	0.1	0.2

Occupation group	Average working hours	Average overtime working hours	Average overtime working hours as a proportion of average working hours (%)
(G) Others			
All occupations	47.1	0.6	1.3
<i>of which:</i>			
Managers and administrators, professionals and associate professionals	41.2	0.1	0.2
Clerks	41.9	0.4	1.0
Service workers and shop sales workers	31.5	@	#
Craft and related workers	47.3	1.3	2.7
Plant and machine operators and assemblers	47.3	3.9	8.2
Elementary occupations	42.0	0.4	1.0
Others	64.4	@	#

- Notes: 1. The above figures refer to working hours of private sector employees (excluding civil servants).
2. The number of average working hours and number of average overtime worked refer to the number of hours worked during the seven days before enumeration.
3. Average working hours include normal working hours, plus paid and unpaid overtime worked, but exclude meal breaks.

4. Average overtime worked refer to paid overtime working hours.

N.A. Not Applicable.

@ Less than 0.05 hour.

Less than 0.05%

Source: General Household Survey, Census and Statistics Department.

Demolition of Vacant Squatter Huts

16. **MR ALBERT CHAN** asked (in Chinese): *It is learnt that the involvement of the clearance units under the Housing Department in the squatter area non-development clearance programmes is only confined to rehousing affected residents. The clearance units will inform the District Lands Office to proceed with the demolition of the squatter huts concerned after the affected residents have moved out. However, I have received a number of complaints from the residents in squatter areas accusing the departments concerned of failing to demolish the squatter huts promptly after the affected residents have moved out, thus allowing undesirable elements to occupy the vacant huts illegally, and this has caused nuisance to the residents nearby. In this connection, will the Government inform this Council whether the Lands Department has any plan to rectify the above situation; if so, what the details are; if not, why not?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Chinese): Mr President, the vacated structures mentioned in the Question are squatter huts affected by Category II non-development clearances, that is the squatter huts are not subject to immediate and obvious slope danger. We do not compulsorily clear the squatters concerned. In practice, although the Administration encourages the squatters to leave for their own safety, they move out at their own pace, and hence the clearance often spans a number of years. We are aware of the problem of squatter huts left unattended after the squatters have moved out. In the last financial year, we spent about \$1 million on the demolition of such structures. In the current financial year, we will step up our demolition work by spending about \$8 million for this purpose. Departments

concerned also patrol the areas to prevent reoccupation of vacant squatter structures or new squatting.

Payment of Airport Departure Tax at Hotels

17. **MR HOWARD YOUNG** asked: *Regarding the arrangement under which departing passengers can pay the airport departure tax at hotels, will the Government inform this Council:*

- (a) *of the number of passengers paying the airport departure tax at hotels since the introduction of the above arrangement;*
- (b) *whether the patronage of this arrangement is concentrated in certain hotels; and*
- (c) *whether it will consider introducing a similar arrangement to other operators in the tourism industry such as travel agents or coach operators?*

SECRETARY FOR THE TREASURY: Mr President,

- (a) The number of passengers who bought air passenger departure tax coupons at participating hotels since the introduction of the arrangement in May 1996 and up to the end of March 1997 is about 38 000.
- (b) These departure tax coupons were mainly sold in several hotels located in Central, Queensway, Tsim Sha Tsui and Mong Kok.
- (c) We have set up a working group within the Administration to examine possible alternatives for the collection of air passenger departure tax. In this process, we will consider the feasibility of extending the hotel arrangement to include other operators in the tourism industry.

Centralized Liquefied Petroleum Gas Systems in Public Housing Estates

18. **MR WONG WAI-YIN** asked (in Chinese): *Does the Government know of:*

- (a) *the public housing estates or Home Ownership Scheme (HOS) estates under the management of Housing Authority which are still using centralized liquefied petroleum gas (LPG) systems; and*
- (b) *the results of the study carried out by the Housing Department on the use of centralized LPG systems in public housing and HOS estates, and the improvement measures recommended in the study?*

SECRETARY FOR HOUSING (in Chinese): Mr President, there are 27 estates (16 public rental housing estates and 11 Home Ownership Scheme estates) with gas supplied from 22 centralized LPG systems. Details are at Annex A.

According to the risk guidelines for potentially hazardous installations issued by the Electrical and Mechanical Services Department, four out of the 22 systems are either classified as potentially hazardous or as being in close proximity to residents. Following studies on these four systems, remedial measures have been taken or are being taken. Details are at Annex B.

Although risk assessment studies are not required of the remaining 18 systems, studies were also conducted. Recommendations include review of the condition of storage vessels and replacement of storage vessels where necessary; reduction in refuelling frequency and level of stock; application of corrosion protection and fire-resistant coating to storage vessels; verification of structural integrity of storage vessel supports; imposition of speed limits on traffic near storage areas; and installation of gas detection systems with direct links to the Fire Services Department. Most of the precautionary measures have been taken, and the remainder will be completed by the end of 1997.

Annex

A

Public Rental Housing and Home Ownership Scheme Estates with
gas supplied from centralized LPG systems

Area

Public Rental Housing Estates

Home Ownership Scheme

Estates

Tuen Mun	On Ting Estate Sam Shing Estate Yau Oi Estate Shan King Estate Phases 1, 2 and 3 Butterfly Estate Wu King Estate	Siu On Court Siu Hong Court Phases 1,2,3 and 4 Siu Hei Court Siu Shan Court
Kwai Chung		Ching Lai Court
Yuen Long	Shui Pin Wai Estate	
<i>Area</i>	<i>Public Rental Housing Estates</i>	<i>Home Ownership Scheme Estates</i>
Aberdeen	Wah Fu Estate	
Ho Man Tin	Oi Man Estate	
Lantau Island	Ngan Wan Estate	
Tai Po	Tai Yuen Estate Kwong Fuk Estate Fu Shin Estate	Ting Nga Court Wang Fuk Court Ming Nga Court
Fanling	Cheung Wah Estate	
Sheung Shui	Choi Yuen Estate Tin Ping Estate Phases 1,2 and 3	Yuk Po Court Choi Po Court On Shing Court
Total	16	11

Annex B

Remedial works for four centralized LPG systems

subject to risk assessment studies

<i>Location</i>	<i>Remedial works recommended</i>	<i>Progress on remedial works</i>
Butterfly Estate	To be relocated	Relocation was completed in May 1996
Kwong Fuk Estate	To be relocated	Relocation work is in progress and will be completed by end June 1997

<i>Location</i>	<i>Remedial works recommended</i>	<i>Progress on remedial works</i>
Sam Shing Estate	Risk mitigation measures to be implemented	All the risk mitigation measures were completed in June 1996
Wah Fu Estate	To be relocated	Land acquisition is in progress. Relocation will be completed in early 1998

Cardiac Bypass Operations in Public Hospitals

19. **DR HUANG CHEN-YA** asked (in Chinese): *Does the Government know of:*

- (a) *the number of coronary bypass operations performed in various public hospitals in the past three years, as well as the complication rate and the survival rate of patients within one year after the operation; and*
- (b) *the current number of patients awaiting such operations, as well as the average and longest waiting time for these patients to receive their operations?*

SECRETARY FOR HEALTH AND WELFARE (in Chinese): Mr President, during the past three years from 1994-96, the Hospital Authority (HA) carried out 189, 225 and 260 coronary bypass operations respectively. Information on complication rate and one-year survival rate are not readily available as they are not captured in HA's computerized Medical Record Abstract System.

Collating information manually on the complication rate requires significant professionals' time and effort to retrieve the medical records of the patients concerned and to identify whether another co-existing disease is co-incidental or is a result of the disease itself or of the treatment given. To obtain the survival rate, hospitals have to verify the status of each patient who has received coronary bypass operation on a regular basis and this is not being carried out as a routine.

There are currently 98 patients awaiting coronary bypass operations. While the average waiting time is four months, the actual waiting time for individual patient depends on medical assessment of the urgency of his/her medical condition, such as severity of ischaemic heart disease, anatomical pathology and other associated co-morbidity. The patients who are diagnosed as clinically stable are normally operated on within six months.

Quarterly Unemployment and Underemployment Rates

20. **MR LEE CHEUK-YAN** asked (in Chinese): *Will the Government inform this Council of:*

- (a) *the respective quarterly unemployment rates and underemployment rates in each of the three-digit major industry groups classified according to the Hong Kong Standard Industrial Classification over the past two years; and*
- (b) *the reasons for the high unemployment rate in the three industry groups which had the highest unemployment rate last year?*

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

- (a) Statistics on the quarterly unemployment rates and underemployment rates by major two-digit industry group for the past two years are given in Tables 1 and 2. Further breakdowns by three-digit industry group are however not available, as estimates for such detailed breakdowns are subject to relatively large sampling errors. Estimates for unemployment and underemployment rates for industries which account for only a very small share in total employment are also not available, in view of the relatively large sampling errors against a small sample size.
- (b) In 1996, storage, decoration and maintenance, and clothing and footwear were the three sub-sectors which recorded relatively higher unemployment rates than the others.

The estimates for unemployment rate in the storage sub-sector tend to exhibit great volatility. It rose from 0% in the first and second quarters of 1995 to around 7% in the second quarter of 1996, falling to around 4% in the third quarter before rising to around 8% in the fourth quarter of 1996. Despite these volatilities, the numbers unemployed in this sub-sector remained at a low level of around 300 or below throughout the past two years, representing less than 0.5% of the total numbers unemployed. It is thus reckoned that the erratic movements in these unemployment rate estimates for the storage sub-sector are very likely to have been caused by sampling errors.

In the decoration and maintenance sub-sector, employment conditions tend to be more closely linked to the level of activity in the property market. As trading in the property market picked up noticeably along with the improved sentiment in 1996, both the unemployment and underemployment rates in the decoration and maintenance sub-sector fell steadily over the course of the year. But as employment conditions in the early part of last year were still

affected by the earlier sluggishness in the property market, for 1996 as a whole, the decoration and maintenance sub-sector still recorded a relatively higher unemployment rate of 4.9%.

In the clothing and footwear sub-sector, the relatively higher unemployment rate primarily reflects the on-going relocation of the more labour-intensive and lower value-added production processes outside Hong Kong, which has the effect of dampening local employment opportunities. In 1996, employment conditions in this sub-sector were aggravated by the slack export performance.

Table 1 Unemployed persons with a previous job by Previous industry (Detailed group)

Previous industry	1995		1995		1995		1995		1996		1996		1996		1996	
	Q1		Q2		Q3		Q4		Q1		Q2		Q3		Q4	
	No.	Rate	No.	Rate	No.	Rate	No.	Rate	No.	Rate	No.	Rate	No.	Rate	No.	Rate
	('000)	(%)	('000)	(%)	('000)	(%)	('000)	(%)	('000)	(%)	('000)	(%)	('000)	(%)	('000)	(%)
Manufacturing	20.7	3.7	20.4	3.6	27.9	5.0	24.3	4.5	21.4	4.1	20.7	4.0	15.4	3.2	16.8	3.5
Food and beverage	0.1	0.5	0.6	2.4	0.6	2.6	0.6	2.7	0.8	3.4	0.5	2.0	0.4	1.9	0.4	2.1
Clothing and footwear	11.1	5.5	9.4	4.8	14.2	7.5	11.7	6.4	9.4	5.2	9.0	5.1	6.5	4.0	6.9	4.4
Paper and printing	1.8	2.8	2.7	3.8	2.1	2.9	1.9	2.7	2.2	3.2	1.7	2.6	2.5	3.9	1.6	2.4
Other manufacturing industries	7.7	2.8	7.6	2.8	11.1	4.1	10.1	3.9	9.0	3.5	9.4	3.7	6.0	2.6	7.9	3.4
Construction	13.4	5.8	15.1	6.2	13.9	5.6	13.4	5.4	15.4	5.9	9.8	3.5	10.0	3.5	8.2	2.8
Foundation and superstructure	7.7	5.2	7.2	4.4	7.5	4.4	7.2	4.3	8.9	4.9	6.1	3.2	6.7	3.3	5.1	2.5
Decoration and maintenance	5.7	7.2	8.0	9.7	6.4	8.3	6.1	7.5	6.6	8.1	3.7	4.3	3.2	3.8	3.1	3.5
Wholesale, retail and import/export trades, restaurants and hotels	21.0	2.6	25.6	3.0	27.0	3.1	30.6	3.5	25.7	2.9	29.5	3.3	23.0	2.5	27.7	2.9

Wholesale/retail	7.2	2.1	9.2	2.7	10.3	3.0	11.5	3.2	10.5	2.9	13.4	3.7	9.2	2.4	10.6	2.8
Import/export trades	4.4	1.8	5.2	2.0	4.6	1.7	5.7	2.1	5.4	2.0	5.3	1.9	5.0	1.7	6.7	2.1
Restaurants/hotels	9.3	4.0	11.2	4.8	12.0	4.9	13.4	5.5	9.8	3.8	10.8	4.3	8.8	3.5	10.4	4.3
Transport, storage and communication	5.1	1.6	7.8	2.3	8.3	2.5	10.8	3.1	8.4	2.5	10.3	3.0	6.6	1.9	6.8	2.0
Transport	4.8	1.7	7.5	2.6	7.3	2.5	9.2	3.1	7.8	2.7	8.3	2.8	5.9	2.0	6.1	2.1
Storage	0	0	0	0	0.2	4.0	0.3	5.5	0.2	5.7	0.3	6.6	0.2	4.4	0.3	8.1
Communication	0.3	0.8	0.3	0.8	0.8	1.9	1.2	2.9	0.4	1.0	1.6	3.6	0.5	1.1	0.4	0.8
	<i>1995</i>	<i>1995</i>	<i>1995</i>	<i>1995</i>	<i>1995</i>	<i>1995</i>	<i>1995</i>	<i>1995</i>	<i>1996</i>	<i>1996</i>	<i>1996</i>	<i>1996</i>	<i>1996</i>	<i>1996</i>	<i>1996</i>	<i>1996</i>
	<i>Q1</i>	<i>Q2</i>	<i>Q3</i>	<i>Q4</i>	<i>Q1</i>	<i>Q2</i>	<i>Q3</i>	<i>Q4</i>	<i>Q1</i>	<i>Q2</i>	<i>Q3</i>	<i>Q4</i>	<i>Q1</i>	<i>Q2</i>	<i>Q3</i>	<i>Q4</i>
<i>Previous industry</i>	<i>No.</i>	<i>Rate</i>	<i>No.</i>	<i>Rate</i>	<i>No.</i>	<i>Rate</i>	<i>No.</i>	<i>Rate</i>	<i>No.</i>	<i>Rate</i>	<i>No.</i>	<i>Rate</i>	<i>No.</i>	<i>Rate</i>	<i>No.</i>	<i>Rate</i>
	<i>('000)</i>	<i>(%)</i>	<i>('000)</i>	<i>(%)</i>	<i>('000)</i>	<i>(%)</i>	<i>('000)</i>	<i>(%)</i>	<i>('000)</i>	<i>(%)</i>	<i>('000)</i>	<i>(%)</i>	<i>('000)</i>	<i>(%)</i>	<i>('000)</i>	<i>(%)</i>
Financing, insurance, real estate and business services	3.7	1.1	4.9	1.4	5.6	1.6	5.9	1.7	4.7	1.4	5.7	1.6	5.9	1.6	4.6	1.2
Financing	1.3	1.1	0.9	0.8	1.8	1.5	0.9	0.8	1.1	1.0	1.4	1.2	1.2	1.0	1.4	1.1
Insurance	0	0	0.4	1.7	0.8	2.7	0.7	3.0	0.2	0.9	0.2	0.9	0.4	1.4	0.4	1.5
Real estate and business services	2.4	1.2	3.5	1.7	3.1	1.5	4.2	2.1	3.4	1.7	4.0	1.9	4.2	2.0	2.8	1.3
Community, Social and personal services	6.0	1.0	7.3	1.2	7.7	1.3	7.3	1.1	9.1	1.4	7.6	1.2	6.3	1.0	5.6	0.8
Public administration	0.9	0.8	0.5	0.4	0.2	0.2	0.2	0.2	0.3	0.3	0.4	0.3	0.4	0.3	0.7	0.5
Education, medical and other health and welfare services	1.2	0.5	1.8	0.8	2.5	1.1	2.6	1.1	1.9	0.8	2.2	0.9	2.0	0.8	1.5	0.6
Other services	3.9	1.5	5.0	1.8	5.0	1.9	4.4	1.6	6.9	2.4	5.0	1.8	3.9	1.4	3.5	1.2
Others	0.4	1.1	0.3	0.8	0.1	0.3	0.3	1.0	0	0	0	0	0.2	0.7	0.5	1.4

Overall#	77.3	2.6	88.6	2.9	111.0	3.7	105.6	3.5	91.8	3.0	90.5	2.9	80.9	2.6	81.2	2.6
		(2.8)		(3.1)		(3.5)		(3.5)		(3.2)		(3.1)		(2.6)		(2.6)

Notes: # Covering all unemployed persons, including first-time job-seekers and re-entrants into the labour force.

Owing to the limited sample size of the General Household Survey, the refined statistics provided in the table are subject to relatively large sampling error. Hence, they should be interpreted with caution.

Since all estimates in the table are subject to sampling error, a zero figure may mean a non-zero figure of a small magnitude.

Figures in brackets are the seasonally adjusted unemployment rates. "Seasonally adjusted" refers to adjustment for seasonal variations in the proportion of first-time job-seekers in the labour force.

Table 2 Underemployed persons by Industry (Detailed group)

Industry	1995		1995		1995		1995		1996		1996		1996		1996	
	Q1		Q2		Q3		Q4		Q1		Q2		Q3		Q4	
	No.	Rate	No.	Rate	No.	Rate	No.	Rate	No.	Rate	No.	Rate	No.	Rate	No.	Rate
	('000)	(%)	('000)	(%)	('000)	(%)	('000)	(%)	('000)	(%)	('000)	(%)	('000)	(%)	('000)	(%)
Manufacturing	11.4	2.0	14.4	2.5	13.6	2.4	13.2	2.4	10.5	2.0	11.6	2.2	7.7	1.6	10.7	2.2
Food and beverage	0.2	0.6	0	0	0.2	0.9	0.4	1.8	0.2	0.9	0.1	0.3	0.3	1.2	0	0
Clothing and footwear	9.5	4.7	11.4	5.8	8.8	4.6	9.4	5.1	7.9	4.4	8.3	4.7	4.5	2.8	7.4	4.7
Paper and printing	0.1	0.2	0.7	1.0	0.4	0.5	0.3	0.4	0.3	0.5	0.5	0.7	0.3	0.5	0.6	0.9
Other manufacturing industries	1.6	0.6	2.2	0.8	4.2	1.6	3.0	1.2	2.0	0.8	2.7	1.1	2.6	1.1	2.7	1.2
Construction	17.8	7.8	32.2	13.1	40.2	16.1	35.2	14.1	29.7	11.4	26.6	9.5	20.5	7.1	21.1	7.1
Foundation and superstructure	8.6	5.7	16.4	10.1	21.2	12.3	17.4	10.4	14.5	8.0	15.5	8.1	11.1	5.5	9.9	4.8
Decoration and maintenance	9.2	11.7	15.8	19.2	19.0	24.4	17.7	21.6	15.2	18.9	11.0	12.9	9.4	11.1	11.2	12.6
Wholesale, retail and import/export trades,	3.3	0.4	5.0	0.6	4.0	0.5	5.4	0.6	5.1	0.6	4.5	0.5	4.2	0.5	5.8	0.6

restaurants and hotels																	
Wholesale/retail	1.0	0.3	1.6	0.5	1.4	0.4	1.5	0.4	1.4	0.4	1.8	0.5	1.6	0.4	2.8	0.7	
Import/export trades	0.3	0.1	0.3	0.1	0.1	#	0.5	0.2	0.3	0.1	0.2	0.1	0.6	0.2	0.5	0.2	
Restaurants/hotels	2.0	0.9	3.1	1.3	2.5	1.0	3.3	1.4	3.4	1.3	2.5	1.0	2.1	0.8	2.5	1.0	
Transport, storage and communication	5.7	1.8	7.1	2.1	11.2	3.3	10.5	3.1	10.1	3.0	7.7	2.3	6.1	1.8	6.8	2.0	
Transport	5.4	1.9	6.7	2.3	10.9	3.8	10.2	3.5	9.2	3.2	7.3	2.5	5.9	2.0	6.7	2.3	
Storage	0.3	4.4	0.2	2.2	0.2	4.2	0.1	1.8	0	0	0.2	3.5	0	0	0	0	
Communication	0	0	0.3	0.7	0.1	0.2	0.1	0.2	0.8	2.0	0.3	0.6	0.3	0.6	0.2	0.4	
	1995	1995	1995	1995	1995	1995	1995	1995	1995	1996	1996	1996	1996	1996	1996	1996	
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	
<i>Industry</i>	<i>No.</i>	<i>Rate</i>	<i>No.</i>	<i>Rate</i>	<i>No.</i>	<i>Rate</i>	<i>No.</i>	<i>Rate</i>	<i>No.</i>	<i>Rate</i>	<i>No.</i>	<i>Rate</i>	<i>No.</i>	<i>Rate</i>	<i>No.</i>	<i>Rate</i>	
	(<i>'000</i>)	(<i>%</i>)	(<i>'000</i>)	(<i>%</i>)	(<i>'000</i>)	(<i>%</i>)	(<i>'000</i>)	(<i>%</i>)	(<i>'000</i>)	(<i>%</i>)	(<i>'000</i>)	(<i>%</i>)	(<i>'000</i>)	(<i>%</i>)	(<i>'000</i>)	(<i>%</i>)	
Financing, insurance, real estate and business services	0.2	#	0.3	0.1	0.5	0.2	0.6	0.2	0.2	0.1	0.5	0.1	0.2	#	0.6	0.2	
Financing	0	0	0	0	0	0	0.1	0.1	0	0	0.2	0.1	0	0	0.1	0.1	
Insurance	0	0	0	0	0.1	0.4	0	0	0	0	0	0	0	0	0	0	
Real estate and business services	0.2	0.1	0.3	0.1	0.4	0.2	0.5	0.3	0.2	0.1	0.3	0.1	0.2	0.1	0.5	0.2	
Community, social and personal services	3.7	0.6	4.5	0.7	5.0	0.8	6.2	1.0	4.4	0.7	4.2	0.6	3.1	0.5	4.4	0.7	
Public administration	0	0	0.2	0.2	0	0	0.2	0.2	0	0	0	0	0	0	0	0	
Education, medical and other health and welfare services	0.6	0.3	0.2	0.1	0.6	0.3	2.0	0.8	0.8	0.3	0.9	0.4	0.7	0.3	0.9	0.4	
Other services	3.1	1.2	4.2	1.5	4.4	1.6	4.0	1.4	3.5	1.2	3.3	1.2	2.5	0.9	3.5	1.2	
Others	0	0	0	0	0.1	0.3	0	0	0.1	0.3	0	0	0.1	0.2	0.1	0.2	

Overall	42.0	1.4	63.5	2.1	74.6	2.5	70.9	2.3	60.1	2.0	55.1	1.8	42.0	1.4	49.5	1.6
---------	------	-----	------	-----	------	-----	------	-----	------	-----	------	-----	------	-----	------	-----

Notes: Owing to the limited sample size of the General Household Survey, the refined statistics provided in the table are subject to relatively large sampling error. Hence, they should be interpreted with caution.

Since all estimates in the table are subject to sampling error, a zero figure may mean a non-zero figure of a small magnitude.

Less than 0.05%.

GOVERNMENT MOTIONS**WESTERN HARBOUR CROSSING ORDINANCE AND
INTERPRETATION AND GENERAL CLAUSES ORDINANCE*****THE SECRETARY FOR TRANSPORT to move the following motion:***

"That the Western Harbour Crossing Bylaw made by the Western Harbour Tunnel Company Limited on 3 April 1997, subject to the following amendments, be approved -

- (a) in section 11, by deleting "tunnel tubes" and substituting "tunnel";
- (b) in section 13(1)(j), by deleting "擾亂" and substituting "干預";
- (c) in section 20(2), by deleting "汽車" and substituting "車輛";
- (d) in section 23(h) (iii), by deleting "在公司的任何財產上攀爬" and substituting "爬上";
- (e) in Figure No. 4 of the Schedule, by deleting "本訊號可適用於不設琥珀色燈光訊號的隧道費收費亭。" and substituting "本訊號可在不設琥珀色燈光訊號的情況下在隧道費收費亭使用。".

SECRETARY FOR TRANSPORT (in Cantonese): I move the motion as set out in the Order Paper.

The Western Harbour Crossing will be opened to traffic on 30 April 1997. Under section 32 of the Western Harbour Crossing Ordinance, the Western Harbour Tunnel Company Limited can make bylaws for the day-to-day operation and management of the tunnel.

The Bylaw proposed by the Company is similar to the Tate's Cairn Tunnel By-laws and the Eastern Harbour Crossing Road Tunnel By-laws. There are 27 sections in the Western Harbour Crossing Bylaw, most of which relate to the control of traffic. For example, sections 4, 5 and 6 require persons in the tunnel area to comply with directions of tunnel officers and to use indicated entrances and exits. Sections 7, 8, 9 and 10 require persons in the tunnel area to comply with the requirements of speed limits and other specified traffic signs and road

markings. Other provisions deal with the payment of tolls and the prohibition and restriction of certain types of vehicles. If passed, the Bylaw will enable the Company to operate and manage the tunnel efficiently, and ensure the safe passage of vehicles through the tunnel.

After the Bylaw is introduced into this Council, the Legislative Advisor of this Council proposed to the Government a number of amendments. These amendments aim to improve the drafting of the Bylaw and would enhance the clarity of its provisions. I would like to express my gratitude towards the suggestions of the Legal Advisor. The amendments in question are contained in today's motion by myself.

Mr President, I beg to move and ask Honourable Members to support the Bylaw and the associated amendments.

Question on the motion proposed, put and agreed to.

BANKRUPTCY ORDINANCE

THE SECRETARY FOR FINANCIAL SERVICES to move the following motion:

"That the Bankruptcy (Fees and Percentages) (Amendment) Order 1997, made by the Acting Chief Justice on 25 March 1997, be approved."

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

The Bankruptcy (Fees and Percentages)(Amendment) Order 1997, and the next three motions that I am going to move, namely, the Bankruptcy (Amendment) Rules 1997, the Companies (Fees and Percentages)(Amendment) Order 1997, and the Companies (Winding-up)(Amendment) Rules 1997, have all been made by the Chief Justice. These are to increase the fees payable to the Official Receiver's Office in relation to proceedings in bankruptcy under the Bankruptcy Ordinance and in the winding-up of companies under the Companies Ordinance.

The Bankruptcy (Fees and Percentages)(Amendment) Order 1997 deals with 13 fees and charges in respect of bankruptcies. Most of them were last revised in February 1996. With a few exceptions, we propose to revise them generally in line with the increase in costs due to inflation over the period as calculated by the movement of the Government Consumption Expenditure Deflator (GCED). The actual fee revisions will in some cases differ slightly from the relevant rate of 8.2% due to the need to round fees up or down so as to facilitate collection. It should be stressed that the size of the increases when expressed in dollar terms is small.

Last year, we proposed to deal with one or two fees that had at that time not been increased since 1988 by bringing them up to date in phases over five years. In this second year, we therefore propose increasing by 20% the maximum fee payable to the Official Receiver in each bankruptcy for specified payments of money out of the Bankruptcy Estates Account.

The expected revenue from the fee items being revised represents only around 13% of the Official Receiver's total revenue. This is because the majority of his revenue is derived from fees which are calculated according to fixed percentages, based on the realization of assets, dividends paid out and interest on bank deposits. The total amount of additional income from the proposed increases in bankruptcy fees and charges is estimated to be about \$0.33 million per annum. This represents an average increase of just 1.7% when expressed as a percentage of the total bankruptcy income, estimated to be \$20.2 million for 1997-98.

Due to the nature of insolvencies, the amount of fees and charges collected presently falls far short of the costs incurred by the Official Receiver's Office. In the financial year 1997-98, the total revenue is estimated to be \$75.5 million at current fee levels, representing only 36.8% of the total expenditure. The estimated cost recovery rate will be increased only marginally to 37.2% even after the proposed fee increases. The low cost recovery rate is due mainly to the fact that approximately 72% of insolvency cases have realizable assets of less than \$50,000, which is insufficient to meet the costs involved.

The level of fee increases proposed takes careful account of the ability of those who are required to pay the fees to bear additional charges. For this reason, I am not recommending more substantial revisions which might

otherwise be justified, and, as I have already indicated, the proposed increases are mainly to prevent, in general, the current level of cost recovery from further deterioration, rather than to enhance, in any significant way, the proportion of cost recovery.

Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

BANKRUPTCY ORDINANCE

THE SECRETARY FOR FINANCIAL SERVICES to move the following motion:

"That the Bankruptcy (Amendment) Rules 1997, made by the Acting Chief Justice on 25 March 1997, be approved."

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

The Bankruptcy (Amendment) Rules 1997 revise the amount of deposit payable upon the presentation of a bankruptcy petition and in respect of compositions or schemes of arrangements put forward by debtors. The amounts of deposit were last revised in February 1996 and we propose to revise them generally in line with inflation this year.

Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

COMPANIES ORDINANCE

THE SECRETARY FOR FINANCIAL SERVICES to move the following motion:

"That the Companies (Fees and Percentages) (Amendment) Order 1997, made by the Acting Chief Justice on 25 March 1997, be approved."

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

The Companies (Fees and Percentages)(Amendment) Order 1997 deals with 11 fees and charges applicable to company windings-up. All of them were last revised in February 1996. As with the related fees under the Bankruptcy (Fees and Percentages)(Amendment) Order 1997, we propose to increase these fees generally in line with inflation to cover increases in costs. The one exception relates to the maximum fee for payments of money out of the Companies Liquidation Account. As in the case of payments from the Bankruptcy Estates Account, we propose to increase the ceiling by 20% as part of a five-year phased programme to bring this item up to date, as prior to last year, it had not been revised since 1988.

The total amount of additional fee income from the proposed increase in fees and charges for company windings-up is estimated to be \$0.36 million per annum. This represents an average increase of just 0.8% when expressed as a percentage of the total liquidation income, estimated to be \$46.8 million for 1997-98.

Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

COMPANIES ORDINANCE

THE SECRETARY FOR FINANCIAL SERVICES to move the following motion:

"That the Companies (Winding-up) (Amendment) Rules 1997, made by the Acting Chief Justice on 25 March 1997, be approved."

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

The Companies (Winding-up)(Amendment) Rules 1997 revise the amount of deposit for the presentation of a petition for the winding-up of a company and

the cost of summoning a meeting of creditors or contributories. Both amounts were last revised in February 1996 and we propose to revise them generally in line with inflation this year.

Mr President, I beg to move.

Question on the motion proposed, put and agreed to.

GOVERNMENT BILLS

First Reading of Bills

SMOKING (PUBLIC HEALTH) (AMENDMENT) (NO. 2) BILL 1997

PUBLIC HOLIDAY (SPECIAL HOLIDAYS 1997) BILL

MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BILL

BUILDINGS (AMENDMENT) BILL 1997

WEAPONS OF MASS DESTRUCTION (CONTROL OF PROVISION OF SERVICES) BILL

FAMILY STATUS DISCRIMINATION BILL

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

Second Reading of Bills

SMOKING (PUBLIC HEALTH) (AMENDMENT) (NO. 2) BILL 1997

THE SECRETARY FOR HEALTH AND WELFARE to move the Second Reading of: "A Bill to amend the Smoking (Public Health) Ordinance."

She said (in Cantonese): Mr President, I move that the Smoking (Public Health) (Amendment) (No. 2) Bill 1997 be read the Second time.

The Bill aims to introduce further restrictions on tobacco advertising as well as on the use, sale and promotion of tobacco products. This represents a further step in the Government's anti-smoking initiatives.

We propose to ban tobacco display advertisements, which include posters, painted or photographic displays on walls, hoardings and public transport, signs on rooftops and projections from buildings, lightboxes on-street and inside MTR stations and so on. This kind of advertisement is prominent, pervasive and has a long-term visual effect on passers-by. The ban will help to reduce public exposure to images which induce smoking. We propose a two-year grace period before implementation to allow existing contracts to run out.

We propose to introduce a new mechanism to facilitate the setting up of statutory no smoking areas in restaurants, department stores, shopping malls, supermarkets and banks. Any manager of such premises can, if he so wishes, designate any part of the premises under his control as a statutory no smoking area by displaying a prescribed sign. The manager will then have power under the law to stop people from smoking in the designated areas.

To make tobacco products less accessible to young people, we intend to prohibit the sale of cigarettes in packets of less than 20 sticks or through the use of vending machines.

To follow the trend overseas, we propose to lower the maximum permissible tar yield in cigarettes from 20 mg to 17 mg. At the same time, we will change the existing requirement to indicate the tar group on cigarette packets and advertisements to requiring indication of the tar and nicotine yields instead. This again follows overseas practice. In addition to these, use of words like "mild", "light", "low tar" and so on which suggest that the cigarette has a low tar yield will be prohibited for any brand which has a tar yield higher than 9 mg.

Apart from advertising, tobacco promotion can also take the form of giving cigarettes out as free samples, attaching free or discounted-price items to tobacco products or exchange of empty packages for gifts or entry to various events. We propose to ban all such forms of tobacco promotion.

Subject to the passage of the Bill, I will amend the Smoking (Public Health) (Notices) Order to provide for stronger and more prominent health warnings.

The Government believes that with all these measures in place, the public's exposure to the tobacco industry's persuasion to smoke will be reduced. This will translate into reduced death and ill-health from smoking-related illness. Public health will also be enhanced through reduction of tar in cigarettes and the establishment of no smoking areas.

Mr President, I beg to move.

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

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

PUBLIC HOLIDAY (SPECIAL HOLIDAYS 1997) BILL

THE SECRETARY FOR EDUCATION AND MANPOWER to move the Second Reading of: "A Bill to declare 1 July 1997 and 2 July 1997 to be public holidays."

He said (in Cantonese): Mr President, I move the Second Reading of the Public Holiday (Special Holiday 1997) Bill.

The sole purpose of this Bill is to provide advance legal backing for 1 July 1997 and 2 July 1997, being respectively the establishment day of the Hong Kong Special Administrative Region, and the day following the establishment day, to be additional general holidays for the purposes of the Holidays Ordinance, and additional statutory holidays for the purposes of the Employment Ordinance.

Members will note from the very detailed explanatory memorandum that forms part of the Bill the reasons why such legal backing is required. I should like to highlight just two areas which underline the need for early legislative backing to be provided for these additional holidays.

Employment matters

In respect of employment matters, the Bill will provide employers and employees with the necessary certainty regarding their respective obligations and entitlements under the Employment Ordinance in respect of the holidays on 1 July 1997 and 2 July 1997. These include:

- (a) an employer must grant a holiday to his employee on these two days;
- (b) an employer must pay holiday pay to the employee in respect of these two days if the employee has been employed by his employer under a continuous contract for a period of three months immediately preceding these two days;
- (c) an employer who without reasonable excuse, fails to grant an employee such a statutory holiday, or fails to pay holiday pay, commits an offence.

This Bill will also allow time for an employer, who may require his employees to work on 1 July 1997 and 2 July 1997, to make prior arrangements with his employees for substituted holidays to be granted as provided for in the Employment Ordinance.

Commercial activities

Turning to commercial activities, it is important that the Bill be passed to put beyond doubt that commercial activities such as the clearing and settlement of banking and securities transactions and payment relating to negotiable instruments will not take place on 1 July and 2 July 1997. Such certainty is in the interests of Hong Kong as an international financial centre. The Bill, if passed, will have, inter alia, the following legal consequences:

- (a) no banks will be open on these days; and
- (b) it will not be necessary for any person to make any payment or to do any other act relating to any negotiable instrument on these days. All obligation to make such payment or to do any such other act will apply to the next following day not being itself a general holiday.

Conclusion

We have given this matter serious thought, and we have spent considerable time and effort on examining the legal arguments. Hence we have not been able to introduce this Bill earlier. However, we now believe, for the reasons which I have explained, that there is a genuine and urgent need for legal backing to be provided in advance of the two holidays on 1 July and 2 July 1997. I hope that Members will carefully consider the grounds put forward by the Government for introducing this Bill and the practical need for it.

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).

MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BILL

THE SECRETARY FOR SECURITY to move the Second Reading of: "A Bill to regulate the provision and obtaining of assistance in criminal matters between Hong Kong and places outside Hong Kong; and for matters incidental thereto or connected therewith."

She said: Mr President, I move that the Mutual Legal Assistance in Criminal Matters Bill be read a Second time.

Concerns about the escalation of transnational crime and the need for greater international co-operation to combat serious crime have resulted in a movement towards the establishment of mutual legal assistance in criminal matters (MLA) arrangements. Such arrangements, embodied in bilateral or multilateral agreements, ensure reciprocity and greatly enhance international co-operation for the control of criminality. With the agreement of the Chinese side in the Joint Liaison Group (JLG), we are establishing a network of bilateral agreements on mutual legal assistance in criminal matters which will remain in force beyond 30 June 1997. So far, we have signed agreements with Australia and the United States.

The Bill provides the appropriate legal framework to enable Hong Kong to respond to a full range of requests for assistance comprehended by the new MLA agreements. The purpose is to enhance our co-operation with third countries in the investigation and prosecution of criminal offences including proceedings relating to confiscating the proceeds of crime. Specifically, the Bill covers the following kinds of assistance:

- taking of evidence;
- searching for and seizing items which are relevant to criminal matters;
- producing documentary evidence relevant to criminal matters;
- transferring persons (including prisoners) to other jurisdictions to provide assistance (for example, by giving evidence);
- confiscating the proceeds of crime;
- serving documents.

The Bill contains provisions to safeguard the rights of the persons involved in criminal proceedings. The Bill stipulates the following grounds for refusing requests for assistance:

- the request relates to an offence of a political character;
- the request relates to an offence only under military law;
- the request will result in a person being prejudiced on account of his race, religion, nationality or political opinions;
- the request relates to the prosecution of a person for an offence in respect of which the person has been convicted, acquitted or pardoned in the requesting party, that is, double jeopardy;

- the criminal conduct in question would not have constituted an offence in Hong Kong if it had occurred there, that is, double criminality.
- Assistance may also be refused if the offence for which assistance is requested is punishable by death under the law of the requesting jurisdiction, unless satisfactory assurances are given that the death penalty will not be carried out.

Mr President, I would like to stress that the Bill is the key to the implementation of the MLA programme in criminal matters. The Bill is important in order that we can bring our new agreements into operation upon enactment. We could not introduce the Bill earlier than 9 April while the necessary consultations were being conducted in the JLG. Now that the Chinese side in the JLG have confirmed their agreement to the Bill at the JLG XXXIX on 21 March 1997, our immediate task ahead is to ensure that the Bill can be enacted as soon as possible before the handover. The early enactment of the Bill would send a powerful message to our law enforcement partners that we are committed to fighting international crime by strengthening co-operation in matters of criminal justice and international law enforcement. I therefore urge Members' urgent consideration and support for the Bill.

Thank you, Mr President.

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

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

BUILDINGS (AMENDMENT) BILL 1997

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

He said: Mr President, I move the Second Reading of the Buildings (Amendment) Bill 1997.

The Bill seeks to improve in a number of ways the appointment and composition of the disciplinary boards for authorized persons, registered

structural engineers, registered general building contractors and registered specialist contractors under the Buildings Ordinance.

First, the proposed amendment seeks to remove any perception of unfairness arising from the dual role served by the Building Authority in relation to disciplinary proceedings against building professionals and contractors. The current practice is that the Building Authority is the chairman of, and appoints members to, the disciplinary boards. He is also responsible for submitting cases to the boards. It is proposed that the Secretary for Planning, Environment and Lands will take up the appointment function. Furthermore, the boards should be chaired by persons elected from among members of the disciplinary boards.

Second, the proposed amendment will modernize the administration of the disciplinary boards. Apart from the proposed election of the chairman, we propose that a lay person be nominated to each disciplinary board to widen the perspective of the board. As a result of the detachment of the Building Authority from the composition of the boards, self-regulation among building professionals will be encouraged.

I am aware of Members' concern over the introduction of Bills of this nature at this stage of the Legislative Council Session. However, I hope Members would appreciate that our briefing to the relevant building professional institutes and contractors' associations on the proposals could not be completed until late March. We were therefore unable to introduce the Bill to the Council earlier.

Mr President, I should be grateful if Members would give the Bill their favourable consideration and support it.

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).

WEAPONS OF MASS DESTRUCTION (CONTROL OF PROVISION OF SERVICES) BILL

THE SECRETARY FOR TRADE AND INDUSTRY to move the Second Reading of: "A Bill to control the provision of services that will or may assist the development, production, acquisition or stockpiling of weapons capable of

causing mass destruction or that will or may assist the means of delivery of such weapons."

She said: Mr President, I move that the Weapons of Mass Destruction (Control of Provision of Services) Bill be read the Second time.

At present, Hong Kong imposes licensing controls on the import, export, transshipment, and in some cases, transit of strategic commodities. These commodities cover weapons, including weapons of mass destruction, and also a wide range of dual-use high-technology goods capable of, but not specifically designed for, military purposes. Examples of these goods are integrated circuits, high-performance computers, telecommunication and information security equipment. The main objective of our control system is to monitor the inflow and outflow of strategic commodities and to ensure that they are used only for legitimate purposes. The Import and Export Ordinance and the Import and Export (Strategic Commodities) Regulations under the Ordinance provide the legal basis for such controls.

The undisrupted supply of high-technology goods to Hong Kong is essential for maintaining our status as a regional centre of finance, banking, telecommunications and trade, and for the on-going technological upgrading of our manufacturing industries. So far, our performance in the area of strategic trade controls has been regarded as exemplary by our trading partners and we have gained relative easy access to high-technology products. In order to maintain their effectiveness in this fast-changing field, we have to keep our system and legislation under constant review and follow closely the highest standard of control accepted by the international community.

In view of the risks of proliferation of weapons of mass destruction, a number of international regimes have been established to prevent their proliferation. In addition to control over the import and export of these weapons, some key members of these regimes have introduced legislation on the provision of services which assist the proliferation of these weapons. We have studied their examples and come to the conclusion that legislation on the brokerage of deals of weapons of mass destruction is an essential element of a comprehensive system of strategic trade controls.

The Weapons of Mass Destruction (Control of Provision of Services) Bill makes it an offence for a person to provide services in Hong Kong if he believes

or reasonably suspects that the services may or will assist the development, production, acquisition or stockpiling of weapons of mass destruction in Hong Kong or elsewhere. Provision of services is defined broadly to cover different sorts of assistance including the provision of work of a professional nature and the provision of financial assistance. The term "weapons of mass destruction" is defined to cover biological, chemical and nuclear weapons and their means of delivery. Our proposed scope of control is similar to that provided in the legislation of our trading partners. Committing an offence under the Bill will incur a maximum penalty of imprisonment of seven years and unlimited fine.

With the introduction of the Weapons of Mass Destruction (Control of Provision of Services) Bill, we are moving one further step to perfect our system of control, necessary to ensure the supply of high-tech goods to support our commerce and industry. I hope Members will support what we are aiming to achieve through this Bill.

Thank you, Mr President.

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

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

FAMILY STATUS DISCRIMINATION BILL

THE SECRETARY FOR HOME AFFAIRS to move the Second Reading of: "A Bill to render unlawful discrimination against persons on the ground of family status and to extend the jurisdiction of the Equal Opportunities Commission to include such discrimination and for connected purposes."

SECRETARY FOR HOME AFFAIRS (in Cantonese): Mr President, I move the Second Reading of the Family Status Discrimination Bill.

In line with our step-by-step approach in promoting equal opportunities for all, we conducted a public consultation exercise last year to solicit public views on the extent of the problem of discrimination on the ground of family status and the measures which could be taken to enhance equal opportunities between

persons of different family status. A total of 8 895 submissions were received with an overwhelming support for the legislative option.

The present Bill is a direct response to these opinions of the community. When enacted, it will enhance equal opportunities for persons of different family status, for example, single parents and any persons who have responsibility for the care of an elderly or a disabled family member.

After the Sex Discrimination Ordinance (SDO) and the Disability Discrimination Ordinance, this is the third anti-discrimination Bill. As with the two ordinances, our objective is to draw up a piece of legislation which best serves the needs of Hong Kong and at the same time, is readily acceptable by the public.

"Family status" is defined, under Clause 2 of the Bill, as the status of having the responsibility for the care of an immediate family member. An immediate family member must be related to the person concerned by blood, marriage, adoption or affinity. The proposed definition, therefore, applies to relationship between husband and wife, parent and child as well as near relatives. Co-habitation, however, would fall outside the definition. This takes into account of the strong public objection received, during the public consultation, to giving legal recognition to de facto spouse relationship.

By virtue of its Clause 5, the Bill renders it unlawful to discriminate against any person, on the ground of his or her family status, in specified area of activity similar to those covered by the SDO. These areas include employment, education, the provision of goods and services, as well as the disposal and management of premises.

To administer the proposed legislation, we propose in Clause 44 of the Bill to extend the remit of the Equal Opportunities Commission to handle complaints of discrimination on the ground of family status and to promote equal opportunities for persons with family status. On the judicial mechanism, the court may exercise similar powers as provided for under the SDO. Like the SDO, by virtue of Clause 54 of the Bill, civil claims for damages can be filed through district court proceedings. We believe that the measures proposed in the Bill would provide an efficient and accessible avenue of redress for the aggrieved.

We are conscious that for any anti-discrimination legislation to be acceptable to the community, we have to strike a balance between equality for all on the one hand and the practical needs of the society on the other. Therefore, like the SDO, we have provided for exceptions in respect of certain matters which might otherwise be rendered unlawful by the Bill. In relation to employment matters, employers would be allowed to afford special benefits to suit the special needs of employees with a particular family status. As a result of the special measures provided for under Clause 36 of the Bill, an employer is allowed to provide, for example, an education allowance for married employees with children to suit their special needs.

In order to give small employers time to familiarize with the legislation and if necessary, to adapt their existing practices to comply with the legislation, Clause 8 of the Bill also provides for a three-year grace period for business establishment with not more than five employees.

Also, we have proposed in Clause 42 and 18 of the Bill that the New Territories Ordinance and the Primary One Admission System be exempted from the operation of the Bill.

The Family Status Discrimination Bill materializes the community's aspirations on how we should proceed to achieve equal opportunities for persons of different family status. We have neither moved hastily nor tried to go beyond the levels which the community at large want us to go. We have prepared a bill which is suitable for Hong Kong and equally important, we have proposed to extend the jurisdiction of the Equal Opportunities Commission, — an independent statutory body, — to ensure the effective implementation of the legislation.

The enactment of the Bill will provide the means by which members of the community, irrespective of family status, will be able to make the most of their potential to participate fully in all areas of activity. We are convinced that this Bill, which is our considered response to demonstrated public demand, will serve Hong Kong's needs well.

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

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

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

Resumption of Second Reading Debate on Bill

CORONERS BILL

Resumption of debate on Second Reading which was moved on 7 February 1996

DR LEONG CHE-HUNG: Mr President, I rise to speak in my capacity as the Chairman of the Bills Committee formed to study the Coroners' Bill. This Bill seeks to repeal and replace the existing Coroners Ordinance (Cap. 14) in order to give effect to the majority of the recommendations contained in the Report on Coroners issued by the Law Reform Commission. The Bills Committee has held 10 meetings with the Administration and has met deputations from the Hospital Authority, the Hong Kong Medical Association and the Hong Kong Patients Rights Association. Members also visited the Coroner's Office in April last year to further understand the work of the Coroner. I shall highlight the major issues considered by the Bills Committee.

As a start, Mr President, members were puzzled why this Bill only surfaced so late — nine years after the Law Reform Commission issued the Report on Coroners; furthermore, whether the recommendations issued some nine years ago were still applicable today.

Regrettably, the reasons given by the Administration did not really hold water and left members in a more confused state. Reasons given included: the Bill was very complicated, it needed longer time to be drafted and to have extensive consultation with government departments and policy branches — nine years, and that the Administration Wing of the Chief Secretary's Office did not give top priority to this Bill till recently because of other urgent commitments. Nevertheless, members do recognize the need for certain issues within this Bill, perhaps with major modifications.

The list of reportable death was a specific and typical example. Members felt that the list was unnecessarily wide and produced implementation problems for the medical profession and raise mental and psychological hardship to the

families in grief. To this end, the Bills Committee sought the Hong Kong Medical Association's and the Hospital Authority's assistance in identifying the unnecessary and borderline cases. This was also agreed by the Hong Kong Patients Rights Association. We are glad that after repeated and, perhaps, heated debate, the Administration finally saw the light, took on board the concerns expressed and will be amending the list of reportable deaths accordingly.

At present, Mr President, all investigations related to coroner's cases are done by the police and that when the Bill is passed, police officers seconded to the Coroner's Office to assist in the deliberation of causes of death are still accountable to the Commissioner of Police. Members of the Bills Committee held the strong view that the Coroners should be given the complete independent autonomy to investigate where necessary. This is especially so in the case where the reportable death involved the police or under police custody. This is not only in line with public interests but also ensures that the work is open and transparent.

Regrettably, this is one area of many that the Administration does not and will not see eye to eye with members, and will only advise that such cases involving the police will be dealt with at a higher level and be investigated by a separate police division. Furthermore, since separate investigation is also held by a forensic pathologist, the Administration considered that comprehensive checks and balances are already in place. Nevertheless, the Administration has acceded to members' request to include a provision to empower the Coroner to ask the Commissioner of Police to take such measure as necessary to ensure that the investigation into the deaths involving police are conducted independently and impartially. This is by no means ideal and the Bills Committee could only consider this as a consolation prize.

Another area where the Bills Committee and the Administration are worlds apart concerns the extension of legal aid to Coroner's inquest. Whilst members appreciate the resources implications involved if legal aid is extended to Coroner's inquest, nevertheless, it is against the public interest to exclude those aggrieved families without financial support from legal assistance from the final chance of clarifying their suspicion and concern. This is supported by the Hong Kong Patients Rights Association. Regrettably again, the Bills Committee could only be given the assurance that the Administration will consider the matter in the next overall revision of the whole issue of legal aid.

With regards to the criteria used by the Coroner in deciding whether an inquest should be held with or without a jury, the Administration has held that it would not be appropriate for all inquests to be held with a jury as it would greatly lengthen the time for Coroners' inquests. Nevertheless, the Administration has, in response to concerns raised by members, agreed to move amendments to specify that a Coroner shall not hold an inquest without a jury unless he has taken into account the representations made by any properly interested person and he is satisfied that the holding of the inquest without a jury is not a less just manner of disposing the inquest.

The Bills Committee was concerned that witness statements, technical or medical reports are not available to properly interested persons prior to an inquest. As a result, solicitors are not able to study them before the inquest or to seek expert opinion. The Administration has agreed that such information could be provided by the Coroner upon request.

As for cases where the Coroner has decided not to hold an inquest, members are of the view that family members of the deceased person should also have the right of access to the death report. The Administration has no objection in principle to release the death report, provided that the personal particulars of witnesses are deleted from the copy of the report to protect their privacy. The Administration has agreed to introduce a new clause 12A to allow for the release of death report on the condition that in doing so, the Coroner shall delete the personal particulars of the witness from the copy to be supplied, unless that person has expressed consent. The clause proposed would also include the provision that witnesses would be advised that their statements will be made available to properly interested persons.

Mr President, while agreeing that witnesses should be properly advised before the giving of statements, members find the proposed deletion of personal particulars unacceptable because if an inquest is held, the personal particulars of the witness will be revealed to the court and there should be no difference on this point whether an inquest is held or not. The overriding principle should be that family members should have access to the same relevant information and therefore the identity of the witness should not be withheld. As members find that the new clause 12A proposed by the Administration has not addressed their concern, it was agreed that the Bills Committee should move an amendment to have its own version of new clause 12A, which was basically the same as that

proposed by the Administration, except that it would not provide for the deletion of personal particulars.

I understand that the Attorney General has written to members to allay his concern in this amendment that I will be moving on behalf of the Bills Committee. I am sure Members and I will have more to say on this when I move the amendment, if I have the chance.

I would like to take this opportunity to thank the organizations concerned for their constructive comments and suggestions to the Bills Committee in the course of our deliberation. I would also like to thank the Administration for taking on board at least a number of members' suggestions to improve the Bill.

Mr President, I would like to say a few words and turn on to express my own views on behalf of the medical and dental professions.

Mr President, I started my debate today to say that the Bill was based on the report of the Law Reform Commission nine years ago. During that time, the medical profession was asked to comment and make recommendation on the list of reportable deaths. Dutifully we did. Yet the list of reportable deaths in this Bill, nine years later, has shown no consideration whatsoever for what the medical profession has expressed, many of which are considered as for the public interest. Are these consultation exercises just a lip service or autocracy in democratic disguise?

Mr President, during the deliberation of this Bill, it was brought to the attention of members that a set of guidelines very similar to the list of reportable deaths in this Bill, and on the procedure for reporting has already been in existence within the Hospital Authority. Yet, because these are guidelines, they are only followed with discretion and flexibility.

Regrettably, this has brought on the Administration to respond that "since doctors did not have to follow guidelines, it strengthened the Government's belief that laws must be established". Such lack of trust of a profession by the Administration leaves a lot to be desired. I would therefore like to raise my strongest objection to such remark and the implication behind it as it amounts to a defamation against the constituents I represent.

The profession, however, is most grateful and to the Honourable Miss Margaret NG — I am sorry that she is not here — for pointing out that guidelines are different from codes of practice and should be followed with flexibility. She further stated rightly that the Administration should not prejudge any representation of professions as necessarily a representation of self interest.

Mr President, with these remarks, I recommend the Bill to Members subject to the amendments we shall move at Committee stage.

MR ALBERT HO (in Cantonese): Mr President, the Democratic Party supports the resumption of the debate on the Second Reading of the Coroners Bill as well as its Third Reading. We also support the amendments proposed by the Government except one, and that is the one mentioned by the Bills Committee Chairman Dr LEONG Che-hung about the release of the written death report in the event that an inquest is not held. Instead, we will support the amendment to be moved by the Bills Committee providing that the Coroner must release the complete written death report. Later, during the debate on the amendments, I will state our reasons in detail.

First of all, I would like to say that we should recognize the importance of the passage of this Bill. The Bill represents a major reform, which is the modernization of the extremely out-dated, crude Coroners Ordinance and the introduction of a sound mechanism, in order to provide the people concerned with more safeguards and ensure that they have greater right of access to information.

Mr President, in a modern civilized society, the life of every individual is valuable and should be equally respected. If anyone should die tragically and the death circumstances are suspicious, we certainly need an autonomous and fair mechanism and independent persons in charge of this mechanism to investigate the circumstances, causes of death and the identity of the deceased, in order to decide whether to hold an independent inquest. In the course of the inquest, it will transpire whether the authorities have carried out an impartial investigation into the causes of death.

Mr President, only in uncivilized, backward societies which hold human lives cheap will there be situations where people die without anyone knowing

where they die, and the identity of the dead may not be known. Maybe their bodies are buried in unmarked burial-mounds and nobody even cares. Of course, it would also be impossible to have a system to monitor the burial of the dead.

Therefore, we feel that in a developed society like Hong Kong where the rule of law prevails, it is extremely important to have a good Coroner's inquest system. During the deliberation of the Coroners Bill, we had very detailed discussions and heard the views of the organizations concerned. As Dr the Honourable LEONG Che-hung said, we are grateful to government officials for providing us with information, responses and answers. I have to point out several important points where improvement is necessary.

The first thing is to legislate to define more clearly the circumstances under which the relevant persons have to make the so-called "death report" to the Coroner. In scrutinizing the Bill, the first question we had to ask was: under what circumstances should the Coroner be notified? Naturally, medical organizations, patients rights groups and certain human rights organizations were most concerned about this point. After discussion, we were pleased to see that the medical profession and the Administration were able to reach a consensus so that some vague and unreasonable definitions were clarified.

One point that I insisted on adding is that we must not only take into account deaths that occur during arrests made by persons with the power of arrest or custodial power, but also deaths that occur in the course of exercising powers by those persons with the power of arrest or custodial power. Such cases should be reported to the Coroner as soon as possible and he should decide whether to conduct further inquiries or hold a public inquest. Why is this point so important? I recall some complaints which I received alleging that while the police were chasing some illegal immigrants or suspected illegal immigrants in a construction site, some of the pursued climbed up some structures and fell to their death, for which the dangerous surroundings were probably to blame. Unfortunately, only a long time after the event did someone come to my office with the complaint that the police's pursuit might have led to the deaths. The fact that they were chasing so hard caused those people to climb up very high structures, from where they fell. Therefore, Mr President, some circumstances might be worth our examining to see whether the police have to take some safety measures when they pursue or arrest illegal immigrants in construction sites in future, so that people would not suspect that the police arrest action might have

caused deaths. In other cases, someone might die of his illness during an arrest. However, this might only be the superficial cause of death. Might it not have something to do with the way in which the arrest was made and the surroundings as well? Thus I feel there should be legislation providing that such cases must be reported to the Coroner, who would decide whether an inquest is required.

During the deliberation of this Bill, we proposed many major amendments which the Administration agreed to. These amendments guarantee that properly interested persons have the right to know and the right to give their views where appropriate. Just now the Chairman Dr LEONG Che-hung also mentioned that before holding the inquest, the Coroner might decide whether to have a jury or not. After discussion, we felt that the discretion should be left to the Coroner. However, the affected persons and family members or properly interested persons should be informed of the Coroner's decision so that in the meeting prior to the inquest, they can voice their opinions. Even if the Coroner does not hold a meeting prior to the inquest and decides privately to hold the inquest without a jury, I feel that family members should still be informed and if they are dissatisfied, be given the opportunity to apply to the High Court for a review. Besides, prior to an inquest, properly interested persons or family members who might attend the inquest must be given access to sufficient information for studying.

I myself have attended such inquests before. Formerly, the relevant reports were not available until right before the inquest or before the witnesses gave their statements. Those reports were sometimes very technical in nature. Some of them were medical reports, others were engineering reports. In cases of industrial accidents, there would be a huge pile of reports which we would receive only at the last minute. As lawyers, we had no time to seek expert opinion. As a result, the legal representatives of family members could not ask very pertinent questions and do their job. I am glad that after the amendment to the Ordinance, family members or properly interested persons who will attend the inquest will have access to reports and witness statements. I consider this a major improvement.

I would also like to thank government officials, especially the Judiciary Administrator for making interim arrangements before the amending ordinance comes into effect, that is, when the Bill was still in the process of deliberation. Earlier, the court already started supplying family members and properly interested persons with these statements and reports prior to holding the inquests. I appreciate this very much and I thank them now.

There is another important improvement. Mr President, just now Dr LEONG Che-hung, chairman of the Bills Committee, also mentioned that even if an inquest is not held, family members of the dead still have the right to know. An important amendment has been introduced so that in cases where an inquest is not held, the Coroner still has to supply the relevant information to the family members so that they can know about the death circumstances. He also has to supply the witness statements, in order that they can decide what they must do, be informed about the circumstances, or even have some of their doubts clarified or derive some consolation therefrom. Thus if an inquest is not held, it is absolutely necessary to furnish family members and properly interested persons with the information.

Mr President, Dr LEONG Che-hung also mentioned just now that during the deliberation, several issues aroused great controversy, including the issue of police investigation. We strongly demanded to have independent investigators during the Coroner's inquiry, especially in relation to deaths occurring under police custody. Such independent investigators may be seconded from the police or from other disciplined services, in order to ensure that their investigation is completely independent of the police. Regrettably, the Administration steadfastly refused our demand all the way. Mr President, even if we had proposed the amendment, you would not have allowed it on account of the financial implications. Under these circumstances, we could only seek a compromise and ask for an amendment to provide that the Coroner can issue a guideline to the Commissioner of Police to take certain measures in order to ensure that the investigation is really conducted independently. Under the circumstances, we had no choice but to accept this amendment, which the Administration also agreed to.

I want to stress again that legal aid is needed for Coroner's inquests. Of course, I know that the Administration holds a different view. After studying the case in many countries in the world, it has found that legal aid is not extended to Coroner's inquests in these countries. However, the Patients Rights Association has presented many cases to us where a lot of people who had lost their family members had no money to hire a lawyer, nor could they obtain legal aid. As a result, when they attended the inquests, due to ignorance of the procedures, a lot of misunderstanding was created, which sometimes led to much grief. We feel that many things can in effect be avoided. In the past, while interested parties, such as hospitals or doctors (since doctors have associations),

or construction companies in the case of industrial injuries or deaths, all had the means to hire a lawyer, family members of the deceased had not. This resulted in an unfair situation. While one party of the inquest had a lawyer to tell them how to answer many questions, the family members of the deceased had no one to help them and explain to them, which led to misunderstanding and unnecessary pain. This problem need to be dealt with and solved. I have repeatedly asked the Legal Aid Department to consider whether legal aid should be extended to Coroner's inquests when they carry out their overall revision. We, the Democratic Party, demand that legal aid be extended to Coroner's inquests.

The last point is about autopsy. The Patients Rights Association stressed that family members of the deceased have the right to have an independent autopsy performed or hire a pathologist at their own cost to attend the autopsy. The Administration explained and reiterated that family members of the deceased and properly interested persons could hire a pathologist to attend the autopsy. However the autopsy has to be performed by a forensic pathologist specified by the Administration or the Coroner. I have accepted the Administration's explanation. I feel that this arrangement can guarantee family members' right to know and it allows the pathologist to give his advise on the spot.

Mr President, in the light of the above, I urge colleagues to support the passage of this Bill. Thank you, Mr President.

ATTORNEY GENERAL: Mr President, as I explained when I introduced this Bill into Council in February last year, the objective of this Bill is to repeal and replace the existing Coroners Ordinance in order to give effect to the majority of the recommendations contained in the report on coroners issued by the Law Reform Commission in 1987.

I would first of all like to thank members of the Bills Committee, especially its chairman, Dr the Honourable LEONG Che-hung, for their very hard work and thorough examination of this important Bill, and I would also like to say that I have listened very carefully and have taken note of the remarks put to the Council this afternoon by Dr LEONG and by the Honourable Albert HO, and will reflect on them to the extent that they are not already covered in this Bill in the Committee stage amendments.

Mr President, the Administration has responded positively to most of the ideas put forward by members of the Bills Committee and by the medical and the legal professions, and as a result, I will be moving a number of Committee stage amendments later this afternoon. There is, Mr President, only one amendment in respect of which agreement has not been reached between the Administration and some members of the Bills Committee. I have listened with particular care to the arguments advanced by Dr LEONG and Mr Albert HO, but I have to say that I remain wholly unconvinced of the need for their amendment.

The amendment relates to the situation where a coroner has decided not to hold an inquest into the death of a person, and I would just ask Members to bear in mind that situation. This is a situation where the coroner has decided not to hold an inquest. And in that situation, a person with a proper interest in the death, such as a family member, wishes to obtain a copy of the police report about the death. Now, the Administration agrees with the suggestion that in such circumstances the coroner should supply a copy of the death report. We do not have a problem with that. However, when this is done, it is important that the privacy of witnesses is protected, and Mr President, for this reason, the Committee stage amendment that I will move later this afternoon, adding a new clause 12(A) to the Bill, provides that the coroner must delete the personal particulars of any witness from the copy of the death report supplied unless the witness has expressly consented to the disclosure of those particulars.

Provision is also made for the police to advise a witness who is making a statement in relation to the death of a person that the statement may be provided to properly interested persons.

As we have heard, the Chairman of the Bills Committee, Dr LEONG, will propose a Committee stage amendment to add a new clause 12(A) which mirrors the Administration's, except that it contains no requirement to delete the personal particulars of a witness if no express consent is given to their disclosure.

Dr LEONG has argued that family members of the deceased person should be entitled to ascertain the personal particulars of witnesses, even if they have not agreed to those particulars being disclosed. It is contended that those particulars may help the family members to assess whether the witness statements are reliable, to contact the witnesses if they need further information, to judge the fairness of the decision not to hold an inquest, and, if necessary, to persuade the Attorney General to require an inquest to be held.

Mr President, the Administration accepts that the disclosure of the personal particulars of witnesses to family members of the deceased or to other properly interested persons would be helpful to them, or could be helpful to them. However, one must not overlook the legitimate interests of the witnesses themselves. Whilst they may be willing to give a statement for the purpose of the coroner's investigation into the death, they may not wish to become involved with family members of the deceased. There may be good reasons for this, for example, in some situations, witnesses might fear for their personal safety if their identity is revealed to family members of the deceased; and, Mr President, this is not a fanciful or theoretical thought. What if the deceased were killed by a family member? If the witness's personal particulars were to be disclosed in such a situation, this would undermine all the progress in respect of witness protection that has been achieved in recent years.

It has also been argued that if an inquest had been ordered, the personal particulars of the witness would have been revealed publicly so that the witness cannot complain if they are disclosed where no inquest is held. But, Mr President, the personal particulars of a witness at a coroner's inquest are not always publicly revealed. If, for example, the witness fears for his or her personal safety, the coroner can take steps to protect the anonymity of the witness. The same applies if a criminal trial is held in respect of the death.

The situation under consideration is similar to that where witness statements are obtained for the purposes of criminal or civil litigation involving the Administration. If the case proceeds to trial, if the case proceeds to trial, personal particulars of witnesses may be revealed publicly. But if the case does not proceed to trial, witness statements would not be released by the Administration to a third party for other purposes, except with the consent of the witness or by order of the court, for example, by way of discovery.

The Administration believes that it is important that the personal privacy of a witness is adequately protected and that a person has a right to give or not to give consent to his personal data being disclosed otherwise than for the purpose of an inquest. The Administration cannot, therefore, support Dr LEONG's proposal and I urge Members to support the Committee stage amendment that I will shortly be moving.

Mr President, with these remarks and subject to the Committee stage amendments proposed by the Administration, I commend this Bill to Honourable Members.

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).

ADMINISTRATION OF JUSTICE (MISCELLANEOUS PROVISIONS) (NO. 2) BILL 1997

Resumption of debate on Second Reading which was moved on 9 April 1997

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).

SOCIAL WORKERS REGISTRATION BILL

Resumption of debate on Second Reading which was moved on 26 June 1996

MR MICHAEL HO (in Cantonese): Mr President, I am speaking in the capacity of Chairman of the Bills Committee responsible for studying the Bill. The Bills Committee has held a number of meetings to discuss the issues connected to the Bill. We also received a submission from the Hong Kong Social Welfare Personnel Registration Council. The purpose of the Bill is to establish a system for the registration of professional social workers and lay down provisions for the professional activities and disciplinary control over registered social workers.

Several important issues were taken up in our discussions. They include the constitution of the Social Workers Registration Board (the Board), the use of the title "social worker", and arrangements for the application for registration of persons convicted of a crime and for disciplinary hearings.

As regards the constitution of the Board, the Bills Committee agreed unanimously that the requirement that two public officers on the Board as specified in the original Bill should be deleted. We feel that this amendment should be able to ensure that there are sufficient and balanced opinions in the Board.

The Bills Committee has also reached unanimous agreement about the restriction of the use of the title "social worker". Our major consideration was that most social workers serve people who are elderly and weak or those who have difficulty in taking care of or protecting themselves. We must protect them. We must not allow anyone to take money by deceitful means from the elderly in the name of 'social workers', as often found in the past.

Because the Government has slightly different ideas about the two amendments I proposed, I will put forward further amendments at the committee stage in my capacity as Chairman of the Bills Committee. The Government has indicated that it will not oppose to these amendments.

Other issues including applications for registration by people convicted of an offence and arrangements for the setting up of a disciplinary committee have been agreed upon unanimously and accepted by the Government. The Government will propose some amendments in respect of these matters.

Mr President, as Chairman of the Bills Committee, I recommend the Bill to Members and hope that it will receive support later.

MR LAW CHI-KWONG (in Cantonese): Mr President, the Social Workers Registration Bill, which resumes Second Reading debate today in the Legislative Council, is a bill which social workers have been pressing for during the past 15 years. I myself have also been involved in these efforts for 14 years. I hope

this Bill will be supported by all my colleagues in this Council and passed into law smoothly today.

The proposal to legislate for the registration of social workers was first raised by the Hong Kong Social Workers Association Limited in 1982 with the aims of enhancing self-discipline among social workers and safeguarding the interests of recipients of social service. But the proposal received no positive response from the Government at that time. In 1984, the Hong Kong Social Workers Association Limited, together with the Hong Kong Social Workers' General Union and the Hong Kong Council of Social Service, formed a joint working group to undertake research, promotion and consultations on matters concerning the registration of social workers. Between 1986 and 1988, I went overseas for further studies, hoping that I would become a registered social worker when I returned to Hong Kong. To my disappointment, I came back in 1988 to find that the preparatory work had not been completed. In that year, with support from the Honourable Mrs Elizabeth WONG, the then Director of Social Welfare and our colleague today in this Council, we first worked towards setting up a registration system which operated on a voluntary basis. In April 1991, we finally established the present Hong Kong Social Welfare Personnel Registration Council (the Registration Council) to be responsible for the registration of social workers on a voluntary basis. When our work has become established, judging by experience, among the complaint cases we have received, the vast majority of the subjects of complaint are those who have not registered voluntarily. Therefore, we are convinced that we must set up a registration system through legislation to ensure self-discipline among social workers and to safeguard the interests of recipients of social service. We then turned to the Health and Welfare Branch again to discuss matters concerning a registration system. What a coincidence! The then Secretary for Health and Welfare was also Mrs Elizabeth WONG. However, after many rounds of discussions, we still did not get any positive response from the Government. I hope that as a Legislative Council Member, Mrs Elizabeth WONG, who is not in the Chamber at this moment, will cast her sacred vote in support of this Bill.

Beginning from 1993, the Registration Council had embarked on the work of drafting a Private Member's Bill. Owing to limited resources, the work did not finish until early 1995. Just before the Honourable HUI Yin-fat was ready to publish his Member's Bill in the Gazette, the Government had a change of mind and was willing to carry out the relevant legislative work. In view of this development, Mr HUI Yin-fat shelved his Member's Bill so as to let the

Government do the relevant legislative work. The Government finally introduced the Social Workers Registration Bill to the Legislative Council in 1996.

During the scrutiny of this Bill, although the Government and the Bills Committee held different views on certain details of the Bill, both sides were finally able to reach a consensus on different issues in a spirit of mutual understanding and compromise. The social welfare sector supports the passage of this Bill in principle, but we still hope that the following points will be specifically addressed to when the relevant legislation is put under review in the future:

1. Today's Bill, including the Committee stage amendments, requires a person seeking to be registered as a social worker to make a statutory declaration as to whether he has been convicted of any offence and the nature of each convicted offence, and if the applicant has been convicted of any offence which is among those listed in Schedule 2 of the Bill, he cannot be registered unless approved by all members of the Social Workers Registration Board (the Registration Board). As social workers, it is our strong belief that there is a benevolent side to human nature, as the saying goes, "To know one's mistake and correct it is in itself a remarkable achievement". I hope such a basic principle will be dealt with appropriately in the review to be conducted after the implementation of this Bill for some time.
2. The Bill proposed that the Registration Board be composed of 15 members, eight of them will be elected, with the Director of Social Welfare as an *ex-officio* member while the remaining six will be appointed by the Governor. As far as the proportion is concerned, the number of elected members just exceeds the majority mark. I hope that in the future review, consideration will be given to whether the number of members to be appointed by the Chief Executive should be as many as six.
3. During the drafting stage of the Bill, the Registration Council had been pressing for the inclusion of a registration system for Welfare Workers in the Bill, but this demand was rejected by the Government. When the Bill was under scrutiny, I raised the same

demand again, but this had already gone beyond the scope of this Bill, so I could not insist on it. Therefore I hope that this demand will be put on the record of today's sitting so that it can be raised again in future.

Last night, I went through again the first computer-printed copy of a submission on the registration of social workers which I drafted for the Hong Kong Social Workers Association Limited in November 1984. The copy I am holding now is the one which I have been keeping with care ever since. The then computer copy is not readable using today's computer. At first I thought that the relevant work would be done in four years, but we had actually waited for as long as 12 and a half years before the work was completed. Today, a few of my friends from the social welfare sector are sitting at the public gallery, expecting the Bill to be passed. Once again, on behalf of more than 5 000 social workers, I appeal to Members of this Council to vote in favour of this Bill and the relevant amendments so that the Bill can be passed.

These are my remarks.

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Mr President, I would first like to thank the Chairman, the Honourable Michael HO, and the members of the Bills Committee on the Social Workers Registration Bill who have carefully scrutinized the Bill for months. I would also like to take this opportunity to thank the Honourable LAW Chi-kwong, who has worked hard and made a lot of valuable suggestions in the process of drafting the Bill.

Background

For many years, the social worker circles have been urging to set up a registration system through legislation to supervise the integrity of the people of the same trade in order to further professionalize social work service. This will help improve the quality of social work service and protect the interests of those being served. However, at the same time, we have also considered that the legislation should not restrict and hinder other enthusiastic voluntary social workers from continuing to participate in the service. Bearing these two prerequisites in mind, we have drafted the Social Workers Registration Bill.

Contents of the Bill

The Social Workers Registration Bill seeks to set up a Social Workers Registration Board, of which most of the members are professional social workers. The Board serves to set and assess the qualification standards for registration, to lay down code of practice and to deal with and implement disciplinary matters. According to the provisions in the Bill, only the people with recognized qualifications who have registered as social workers can use the titles "registered social worker", "social worker", "R.S.W." and the description "social work" at the professional level. This will not affect the volunteers who may describe their service as social work or call themselves "social worker" in the non-professional scope.

Bills Committee stage

The Bills Committee has scrutinized the Bill in detail for months and all members support the content of the Bill. On certain subjects, we have also reached consensus with the members after circumspect discussions. We intend to propose amendments to certain clauses in the Bill to improve its contents. These amendments include:

Constitution of the Board

The constitution of the Board is to be changed by deleting the clause stipulating that two registered social workers who are public officers shall be appointed.

Use of title

As to the use of title, in order to avoid confusion, the clause which states the circumstances under which a person who is not a registered social worker but performs voluntary social work may use the description "social worker" or "social work" will be deleted.

Membership of the Disciplinary Committee

Amendment will be made to the clause about disciplinary committee by deleting the rigid rule which provides that among the disciplinary committee members, one shall be a registered social worker who is of a rank not below that of the registered social worker against whom a complaint is made.

Registration of people who have been convicted of certain criminal offences

A clause with certain flexibility will be added to confer on the Registration Board the power to accept, in special circumstances, such as an unanimous consent of the Registration Board members, people who have been convicted of the criminal offences listed in Schedule 2 of the Bill to be registered as social worker.

Later in the Committee stage, Mr Michael HO and I shall explain in details these amended clauses.

Conclusion

Mr President, the Social Worker Registration Bill is an important milestone in the development of the social work profession in Hong Kong. As is known to all, for many years, social workers have been playing an important role in the provision of various social welfare services. We hope that, by means of this Ordinance, the professionalism of social worker can be further enhanced and the public of Hong Kong will thus benefit.

Mr President, with these remarks, I commend the Bill to Members.

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).

INSURANCE COMPANIES (AMENDMENT) BILL 1997**Resumption of debate on Second Reading which was moved on 15 January 1997**

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).

SIR EDWARD YOUDE MEMORIAL FUND (AMENDMENT) BILL 1997

Resumption of debate on Second Reading which was moved on 19 March 1997

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).

CRIMES (AMENDMENT) BILL 1997

Resumption of debate on Second Reading which was moved on 5 March 1997

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).

FREIGHT CONTAINERS (SAFETY) BILL

Resumption of debate on Second Reading which was moved on 8 January 1997

DR SAMUEL WONG (in Cantonese): Mr President, as Chairman of the Bills Committee on Freight Containers (Safety) Bill, I wish to report to Honourable Members the deliberations of the Bills Committee. In considering the Bill, the Bills Committee has written to over 30 interested parties to invite submissions.

We are grateful to the Hongkong International Terminals Limited, the Modern Terminals Limited, the COSCO-HIT Terminals (Hong Kong) Limited and the Sea-Land Orient Terminals Limited for the valuable comments in their joint submission.

The Bill mainly seeks to establish a regime to ensure the safety of containers used for the transport of cargo and to put in place laws that will effectively discharge obligations under the International Convention for Safe Containers, 1972. The Convention was drawn up to standardize requirements for the testing, inspection and approval of containers and to prescribe procedures for their maintenance, examination and control so as to ensure safety in their handling, staking and transportation. Upon the approval of the Governor in Council for the Convention to be extended to Hong Kong and with the agreement of the Chinese side of the Joint Liaison Group to its application to Hong Kong after 30 June 1997, the Bill has been introduced to implement the requirements under the Convention before extension is sought.

Members of the Bills Committee support the Bill. However, during the course of deliberations, we have raised a number of concerns relating to implementation aspects of the Bill.

For example, the Bills Committee is concerned about the driver's responsibility if a container being towed is found unsafe by the Police or Marine Department officers since it would be difficult for a driver to refuse to tow a container assigned to him or to determine the structural safety of a container by visual inspection. In this respect, Members have been assured by the Administration that only the owner would be responsible for ensuring a container's compliance with the safety requirements specified in the Bill and that the driver's responsibility would be limited to co-operating with the authority in providing information regarding the identity of the owner. A lessee or bailee would only bear the responsibility if there is an agreement providing for exercise of owner's responsibility by the lessee or bailee. Since a driver can legitimately refuse to tow a container which does not have a Safety Approval Plate affixed to it, the Administration has agreed to Members' request to raise the awareness of container vehicle drivers of such a right.

The Bills Committee has been assured by the Administration that appropriate enforcement actions can still be taken in case a defective container is owned by a person residing outside Hong Kong or a company registered overseas.

Furthermore, civil action can be brought against the owner of the container or whoever is responsible if there is an accident involving a defective container and personal injury and/or property damage are caused.

In response to suggestions made by the Bills Committee and deputations, the Administration has agreed to move Committee stage amendments (CSAs) to improve the drafting of the Bill. In particular, a CSA will be moved to amend clause 17(2) to clarify that the section is applicable only to the bailee to whom section 4 applies but not to the other bailees. CSAs will also be moved to require a warrant from the Magistrate if the Director of Marine wishes to inspect the inside of a sealed container so as to provide a reasonable protection to terminal operators against any consequence of cargo damage caused by such inspections. The CSAs are considered acceptable by the Bills Committee.

Lastly, as the scope of the Bill is limited to the structural safety of freight containers, the Bills Committee also urges the Administration to implement measures to enhance other aspects of freight container safety, such as the appropriate loading of a container and the arrangement of goods inside a container. The Administration assures that it would continue its efforts in enhancing other aspects of freight container safety after enactment of the Bill.

Mr President, on behalf of the Bills Committee, I seek the Council's support of the Bill and the CSAs to be moved by the Administration.

Thank you, Mr President.

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Mr President, I would like to thank the Honourable Samuel WONG and members of the Bills Committee for their thorough and detailed deliberation with the Administration on the Freight Containers (Safety) Bill, and their support of the Bill.

The Bill seeks to implement the 1972 International Convention for Safe Containers in Hong Kong. The main purpose is to ensure that the freight containers used in Hong Kong meet the structural and safety standard. Based on that Convention, the Bill lays down the requirements in respect of the testing, examination and approval of freight containers, and stipulates that the owners or persons responsible for the freight containers shall ensure that the freight containers can meet these requirements. During the deliberation of the Bill,

members of the Bills Committee expressed their concern over two issues. The first issue is the responsibilities of the container trucker if the containers during transportation are found by the Administration to be unsafe. The other issue is that the scope of the Bill is only restricted to structural safety of freight containers.

In regard to the first point, I would like to reiterate that clause 4 of the Bill stipulates that the owner of containers are responsible to ensure that his containers meet the safety requirements of the Bill. The lessee or bailee shall only be responsible if there is an agreement expressing that the lessee or bailee shall take the responsibilities of the owner. In case the legislation has been breached, the container trucker has no other responsibilities, apart from providing the information concerning the identity of the owner of containers. The Administration will enhance the awareness of container truckers in this respect.

In regard to the second point, since the Bill seeks to implement the 1972 International Convention for Safe Containers, its scope only focuses on structural safety of containers. The Administration will continue to put in efforts to improve the safe transportation of containers used in Hong Kong. The Bills Committee and the Administration have also considered some of the amendments jointly proposed by the operators of container terminals, and agreed to amend the Bill with reference to these proposals. The proposals concerned aim to clarify the application of clause 17(2), and suggest that warrants issued by the magistrate is required if the Director of Marine is to examine the inner part of any enclosed container. In the Committee stage, I will move a few amendments agreed by the Bills Committee to this Bill. I will later explain in detail the reasons for moving the amendments concerned. Thank you, Mr President.

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

Bill read the Second time.

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

**ARCHITECTS, ENGINEERS, SURVEYORS AND PLANNERS
REGISTRATION (MISCELLANEOUS AMENDMENTS) BILL 1996**

Resumption of debate on Second Reading which was moved on 13 November 1996

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

Bill read the Second time.

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

Committee Stage of Bills

Council went into Committee.

CORONERS BILL

Clauses 1, 3 to 9, 12, 15, 18, 21 to 24, 26, 28 to 33, 35 to 39, 41, 42, 45 to 55, 57 to 60, 62, 69, 72, 74, 75 and 76 were agreed to.

Clauses 2, 10, 11, 13, 14, 16, 17, 19, 20, 25, 27, 34, 40, 43, 44, 56, 61, 63 to 68, 70, 71, 73 and 77

ATTORNEY GENERAL: Mr Chairman, I move the clauses as specified be amended as set out under my name in the paper circulated to Members. The amendment to clause 2 seeks to expand the definition of "official custody" to include detention and the guardianship of a person, including the Director of Social Welfare, pursuant to Part IIIA of the Mental Health Ordinance. The amendment is consequential to the Mental Health (Amendment) Bill 1996 which was passed by this Council on 26 June last year. A new Part IIIA, which deals with guardianship of persons concerned in criminal proceedings, has been added to the Mental Health Ordinance, and this is now reflected in paragraph f of the definition of "official custody".

The amendment to clause 10 relates to the power of a coroner to issue a warrant to a police officer to enter and search any premises or place where the coroner is satisfied by information upon oath that there are reasonable grounds

for believing that any document, article, clothing or substance which may be relevant to the cause of or the circumstances connected with the death of a person is likely to be found in or on such premises or place.

Members of the Bills Committee were concerned that the proposed power of entry and search is too wide, and suggested that it should be qualified. In view of members' concerns, we propose that a coroner shall, before exercising the power of entry and search, consider whether it is appropriate to do so, taking into account the degree of distress it may cause the family of the deceased person concerned and the degree of disruption it may cause to the normal activities carried out in the premises concerned.

The amendment to clause 11(1) relates to the power of a coroner who is to hold an inquest to first conduct a pre-inquest review for the purpose of determining, insofar as is reasonably practical, how the inquest when held may be disposed of in a just, expeditious and economical manner. Members of the Bills Committee expressed concern about the word "economical" in the phrase "in a just, expeditious and economical manner". In response to members' suggestions, clause 11(1) is amended to provide that the coroner may conduct a pre-inquest review into the death of a person for determining how that inquest may be disposed of in a just and expeditious manner, instead of the previous formulation of "a just, expeditious and economical manner".

The amendment to clause 13 relates to the holding of an inquest without a jury and reflects members' concerns on the matter. It provides that a coroner should take into account the representations made by properly interested persons, including family members of the deceased person, on the matter before deciding whether or not to hold an inquest without a jury. The coroner should also be satisfied that holding an inquest without a jury is not a less just manner of disposing of the inquest than holding the inquest with a jury.

The amendment to clause 14 relates to deaths in official custody. In response to members' concern, a new provision is added to clause 14 to provide that a coroner may request the Commissioner of Police to take necessary measures to ensure that the investigation into the death of a person who dies whilst in the custody of a police officer or during the course of a police officer's discharge of his duties is conducted independently and impartially.

The amendments to clause 16(b) and 17(b) relate to the holding of an inquest where, for one reason or another, the inquest must be held in the absence of the body of the deceased. They are made in response to members' comments and are technical in nature.

The amendment to clause 19(1)(b) relates to the power of the High Court to order an inquest and is consequential to the proposed amendment to clause 13, which I have just introduced. The original clause provides that an irregularity of proceedings is a ground for ordering a new inquest by the High Court. The amendment makes it clear that that irregularity includes a failure to comply with section 13(2A), that is, failure by the coroner to consider relevant matters before deciding whether to hold an inquest without a jury.

The amendment to clause 27 relates to the requirement that a coroner has to give notice to properly interested persons of the date, hour and place at which an inquest will be held. Members proposed that properly interested persons, particularly family members of the deceased person, should be given a right to make representations on whether an inquest into the death of a person should be held with or without a jury. This amendment adds a new clause 27(b) which provides that, if the coroner has not conducted a pre-inquest review and is minded to conduct an inquest without a jury, properly interested persons should be given notice in a prescribed form of their right to make representations within 14 days of the issue of the notice.

The amendment to clause 34 relates to the adjournment of an inquest where criminal proceedings may be instituted against a person appearing at the inquest and the referral of the matter to the Attorney General. In its submission to the Bills Committee, the Law Society proposed that the coroner should have an express discretion, or be mandated in the case of a serious offence identified, to refer the matter to the Attorney General where it appears that a criminal offence may have been committed by any person and not only a person appearing at the inquest. We have taken on board the Law Society's proposal and propose to amend clause 34 to provide that a coroner shall refer the matter to the Attorney General even if the person concerned is not appearing at the inquest.

The amendment to clause 40 relates to the certificate of the fact of death, which a coroner is empowered to issue in certain circumstances in respect of a death which he is investigating, conducting a pre-inquest review on or holding an inquest into. In its submission to the Bills Committee, the Hospital Authority was concerned that the term "infectious disease" is not defined in the certificate.

We now propose to define "infectious disease" as, and I quote, "any disease which may render the dead body of a person a danger to public health".

Clause 44 empowers a coroner to order a person to pay the costs incurred by another person as a result of that first-mentioned person causing an inquest to be unnecessarily adjourned. The Bills Committee was of the view that such a provision would not be appropriate in a coroner's court and suggested that the clause be deleted. In view of the concern expressed by members of the legal profession, we propose to delete this clause.

The amendment to clause 56(2) relates to a saving clause and is technical in nature. We propose that the words "on 1 July" be replaced by "immediately upon the expiration of 30 June", to make matters abundantly plain.

The amendment to clause 70(a) relates to medical certificates of cause of death. Clause 70(a) provides that a medical practitioner should not sign a medical certificate of cause of death unless he has personally viewed the body of that person and is satisfied that death has occurred. The medical profession and the Hospital Authority were concerned that this requirement may cause operational problems in some cases as it may sometimes be difficult for a medical practitioner to view the body of his or her long-time patient before signing the medical certificate as to the cause of death. In view of the concern expressed by the medical profession and the Hospital Authority, we propose that a medical practitioner may sign a certificate of cause of death for his or her deceased patient if the death has occurred in a hospital and the medical practitioner has received a notice from another medical practitioner stating that the other practitioner has personally viewed that body and is satisfied that death has occurred.

The amendment to clause 71(b) relates to the correction of errors in the Register of Deaths. Section 27(a) of the Births and Deaths Registration Ordinance provides that the registers of births or deaths shall not be altered except as authorized by the Ordinance. Section 27(d) provides that an error of fact or substance, other than an error relating to the cause of death, in the information given to the Registrar of Births and Deaths by a coroner may be corrected in the Death Register by making a correction in the margin without any alteration of the original entry. However, at present, there is no procedure to enable the Registrar to correct an error relating to the cause of death resulting

from the information provided by a coroner to the Registrar in the Death Register. This is clearly unsatisfactory and should be rectified.

Clause 71 of the Bill makes a consequential amendment to section 27 of the Births and Deaths Registration Ordinance, but does not remedy the situation. We propose a two-fold procedure for amending errors in the Death Register. Firstly, where the error is a clerical one, the coroner may certify to the Registrar the nature of the clerical error and that error may then be corrected by the Registrar in the Death Register. Secondly, where the error is not a clerical error and the coroner has not held an inquest, the coroner may certify to the Registrar the nature of the error after an inquest has been held and that error may then be corrected by the Registrar in the Death Register.

The amendment to clause 73(f) relates to Form 18 in the Second Schedule to the Births and Deaths Registration Ordinance, which is the form for a medical certificate of cause of death. This amendment is similar to the one proposed to clause 70(a). The purpose of the amendment is to enable a medical practitioner in certain circumstances to sign a certificate of cause of death for his or her deceased patient without viewing the body.

The amendment to clause 73(g) relates to the medical certificate of cause of death and reportable deaths. Clause 4(1) imposes a duty on a person specified in Part 2 of Schedule 1 to report a death specified in Part 1 of that Schedule. The medical profession was concerned that the schedule of reportable deaths might create unnecessary operational difficulties for the profession. After detailed discussions with the Hospital Authority and the Hong Kong Medical Association, we propose to amend items 2, 5(b) and (c), 6(b), 7(b) and 14 and to add a new Item 12(A) in Part 1 of Schedule 1. The Hong Kong Medical Association was also concerned that reporting a reportable death to the Commissioner of Police may give the impression that the death is suspicious. In response to the medical profession's suggestion on the list of persons under a duty to report reportable deaths, we also propose to amend Items 1, 2, 3 and 5 in Part 2 of Schedule 1 and to add a new Item 10.

In addition, Mr Chairman, there are drafting improvements to the Chinese text proposed in respect of clauses 20, 25, 43, 61 and 63 to 68.

Mr Chairman, I beg to move.

Proposed amendments

Clause 2

That clause 2 be amended, in the definition of "official custody", in paragraph (f), by adding "or IIIA" after "Part III".

Clause 10

That clause 10 be amended —

- (a) in subclause (1), by deleting "A" and substituting "Subject to subsection (1A), a".
- (b) by adding -

"(1A) A coroner shall, before exercising his power under subsection (1), consider whether it is appropriate to do so after having regard to -

- (a) the degree of distress which the exercise of that power may cause the family of the deceased person concerned; and
- (b) the degree of disruption which the exercise of that power may cause to the normal activities carried out in or on the premises or place concerned."

Clause 11

That clause 11(1) be amended, by deleting ", expeditious and economical" and substituting "and expeditious".

Clause 13

That clause 13 be amended —

(a) in subclause (2), by deleting "A" and substituting "Subject to subsection (2A), a".

(b) by adding -

"(2A) A coroner shall not hold an inquest under this section without a jury unless -

(a) subject to section 27(2)(B), he has taken into account the representations, if any, made by or on behalf of any properly interested person on the matter; and

(b) he is satisfied that holding the inquest without a jury is not a less just manner of disposing of the inquest than holding the inquest with a jury."

Clause 14

That clause 14 be amended, by adding —

"(3) Where a person dies -

(a) whilst in the custody of a police officer; or

(b) during the course of a police officer's discharge of his duty,

a coroner may request the Commissioner of Police to take such measures as are necessary to ensure that the investigation into the death is conducted independently and impartially."

Clause 16

That clause 16(b) be amended, by deleting "under this section" and substituting "by virtue of this section and section 18".

Clause 17

That clause 17(b) be amended, by deleting "under this section" and substituting "by virtue of this section and section 18".

That clause 17 be amended —

- (a) in the heading, by deleting "海難" and substituting "災害事故".
- (b) in paragraph (a)(ii), by deleting "海難" wherever it appears and substituting "災害事故".

Clause 19

That clause 19(1)(b) be amended, by adding "(including a failure to comply with section 13(2A))" after "proceedings".

Clause 20

That clause 20(1)(a) be amended, by deleting "按死因裁判官的指示".

Clause 25

That clause 25(1)(b)(ii) be amended, by deleting "煩惱" and substituting "困擾".

Clause 27

That clause 27 be amended —

- (a) by renumbering it as clause 27(1).
- (b) in subclause (1), by deleting "A" and substituting "Subject to subsection (2), a".

- (c) by adding -

"(2) Where a coroner -

- (a) has not conducted a pre-inquest review into the death of a person; and
- (b) is minded to conduct an inquest into the death without a jury,

then, before complying with subsection (1) in respect of the death, he shall cause each properly interested person -

- (i) who has notified him in writing that he has an interest in any inquest that may arise out of the death; or
- (ii) whom the coroner -
 - (A) knows to be such a person; and

- (B) considers to have an interest in any inquest that may arise out of the death,

to be given notice in the prescribed form -

- (A) of the properly interested person's right under section 13(2A)(a); and
- (B) that the right may be exercised at any time within the 14 days immediately following the date on which that notice is issued."

Clause 34

That clause 34 be amended, by adding before subclause (7) —

"(7A) Without prejudice to the generality of sections 32(1) and 33, where during the course of an inquest it appears to the coroner that a criminal offence in relation to the death of the person the subject of the inquest may have been committed by a person not appearing at the inquest

-

- (a) subject to paragraph (b), the coroner may, or
- (b) where the suspected criminal offence is murder, manslaughter, infanticide or death by reckless driving, the coroner shall,

refer the matter to the Attorney General for his decision whether or not to institute criminal proceedings against that person.

(7B) Where a matter is referred to the Attorney General under subsection (7A), then subsections (2)(b) and (c), (5) and (6) shall apply in relation to that matter as they apply in relation to a matter referred to the Attorney General under subsection (1)."

That clause 34(5) be amended, by adding "每名" after "以下".

That clause 34(7) be amended, in paragraph (a) of the definition of "報刊", by deleting "觀察" and substituting "評析".

Clause 40

That clause 40 be amended, by adding —

"(4) In this section, "infectious disease" (傳染病) means any disease which may render the dead body of a person a danger to public health."

Clause 43

That clause 43(2)(c) be amended, by deleting "可能" and substituting "可具".

Clause 44

That clause 44 be amended, by deleting the clause.

Clause 56

That clause 56(2) be amended, by repealing "on 1 July" and substituting "immediately upon the expiration of 30 June".

Clause 61

That clause 61 be amended, in the Chinese text, by deleting the clause and substituting —

"61. 將囚犯帶上法庭以提供證據的手令或命令

《證據條例》(第8章)第81(2)條現予修訂,廢除“(第14章)”而代以“(1996年第 號)”。

Clause 63

That clause 63 be amended, in the Chinese text, by deleting the clause and substituting —

"63. 已被檢掘的屍體的處置

《公眾衛生及市政條例》(第132章)第121(1)條現予修訂,廢除“(第14章)第18條”而代以“(1996年第 號)第7條”。

Clause 64

That clause 64 be amended, in the Chinese text, by deleting the clause and substituting —

“64. 支付重新理葬等的開支

第122(a)(ii)條現予修訂,廢除“(第14章)第18條”而代以“(1996年第 號)第7條”。”。

Clause 65

That clause 65 be amended —

(a) in the Chinese text, by deleting the heading before the clause and substituting -

“《殯儀館(區域市政局)附例”。

(b) in the Chinese text, by deleting the clause and substituting -

“65. 釋義

《殯儀館（區域市政局）附例》（第 132 章，附屬法例》第 3 條現予修訂，在“殯儀館”定義的(a)段中，廢除“（第 14 章）”而代以“（1996 年第 號）”。”。

Clause 66

That clause 66 be amended —

- (a) in the Chinese text, by deleting the heading before the clause and substituting -

“《殯儀館（市政局）附例》。

- (b) in the Chinese text, by deleting the clause and substituting -

“66. 釋義

《殯儀館（市政局）附例》（第 132 章，附屬法例》第 3 條現予修訂，在“殯儀館”定義的(b)段中，廢除“（第 14 章）”而代以“（1996 年第 號）”。”。

Clause 67

That clause 67 be amended —

- (a) in the Chinese text, by deleting the heading before the clause and substituting -

“《公眾墳場（區域市政局）附例》。

- (b) in the Chinese text, by deleting the clause and substituting -

“67. 墓台的大小及安葬的限制

《公眾墳場（區域市政局）附例》（第 132 章，附屬法例）第 7A(1)(b)條現予修訂，廢除“（第 14 章）第 18 條”而代以“（1996 年第 號）第 7 條”。

Clause 68

That clause 68 be amended —

- (a) in the Chinese text, by deleting the heading before the clause and substituting -

“《公眾墳場（市政局）附例》。

- (b) in the Chinese text, by deleting the clause and substituting -

“68. 墓台的大小及安葬的限制

《公眾墳場（市政局）附例》（第 132 章，附屬法例）第 7A(1)(b)條現予修訂，廢除“（第 14 章）第 18 條”而代以“（1996 年第 號）第 7 條”。

Clause 70

That clause 70(a) be amended, by adding "or, if the death has occurred in a hospital, he has received a notice from another registered medical practitioner stating that the other practitioner has personally viewed that body and is satisfied that death has occurred" after "occurred".

Clause 71

That clause 71(b) be amended —

(a) in proposed section 27(d), by deleting "and" at the end.

(b) by adding after proposed section 27(d) -

"(da) where -

(i) an error of fact or substance relating to the cause of death occurs in the information given to the Registrar by a coroner concerning a dead body upon which he has held an inquest or in respect of which he has issued a burial or cremation order; and

(ii) that error is a clerical error,

then -

(A) that coroner or any other coroner may certify under his hand to the Registrar the clerical error; and

(B) the clerical error may thereupon be corrected by the Registrar in the register by entering in the margin (without any alteration of the original entry) the clerical error as so certified, and the Registrar shall initial such marginal entry and shall add thereto the day and month and year when such correction is made;

(db) where -

- (i) an error of fact or substance relating to the cause of death occurs in the information given to the Registrar by a coroner concerning a dead body upon which he has not held an inquest (including any case where he has issued a burial or cremation order); and
- (ii) that error is not a clerical error,

then -

- (A) that coroner, or any other coroner, who subsequently holds an inquest concerning the dead body may certify under his hand to the Registrar the nature of the error and the true facts of the case as ascertained by him under the inquest; and
 - (B) the error may thereupon be corrected by the Registrar in the register by entering in the margin (without any alteration of the original entry) the facts as so certified, and the Registrar shall initial such marginal entry and shall add thereto the day and month and year when such correction is made;".
- (c) in proposed section 27(e), by deleting "pursuant to section 19 of the Coroners Ordinance (of 1996) the High Court has ordered an inquest into the death of a person and it comes to the attention of the coroner holding that inquest" and substituting "it comes to the attention of a coroner holding an inquest".

Clause 73

That clause 73(f) be amended, by adding "or, if the death has occurred in a hospital, he has received a notice from another registered medical practitioner

stating that the other practitioner has personally viewed that body and is satisfied that death has occurred" after "occurred".

That clause 73(g) be amended, in proposed Part III of Form 18 —

- (a) in paragraph 1, by adding "the coroner via" after "that death to";
- (b) by deleting paragraph 2(2) and substituting -
 - "(2) Any death of a person (excluding a person who, before his death, was diagnosed as having a terminal illness) where no registered medical practitioner has attended the person during his last illness within 14 days prior to his death.";
- (c) in paragraph 2(5)(b) and (c), by deleting "an" and substituting "a general";
- (d) in paragraph 2(6)(b), by deleting "3 days after an operation" and substituting "48 hours after a major operation (as determined in accordance with prevailing medical practice)";
- (e) by deleting paragraph 2(7)(b) and substituting -
 - "(b) having regard to the nature of the last illness of the person, the medical cause of the death and the nature of any known occupation or employment, or previous occupation or employment, of the person, it is reasonable to believe that the death may be connected, either directly or indirectly, with any such occupation or employment.";
- (f) by adding -
 - "(12A) Any death of a person where the death occurred during the course of the discharge of his duty by a

person having statutory powers of arrest or detention.";

(g) by deleting paragraph 2(14) and substituting -

"(14) Any death of a person where the person -

(a) is a patient, within the meaning of section 2 of the Mental Health Ordinance (Cap. 136), and the death occurs in a mental hospital within the meaning of that section; or

(b) is a patient the subject of an order under section 31 or 36 of that Ordinance and the death occurs in a hospital other than such a mental hospital."

Clause 77

That clause 77 be amended —

(a) in the heading before the clause, by deleting "鑛" and substituting "礦".

(b) in the Chinese text, by deleting the clause and substituting -

“77. 保留條文

《礦務條例》（第 285 章）第 50 條現予修訂，廢除“（第 14 章）”而代以“（1996 年第 號）”。

Question on the amendments put and agreed to.

Question on clauses 2, 10, 11, 13, 14, 16, 17, 19, 20, 25, 27, 34, 40, 43, 44, 56, 61, 63 to 68, 70, 71, 73 and 77, as amended, put and agreed to.

New clause 12A Supply of witness statements, etc.

Clause read the First time and ordered to be set down for Second Reading pursuant to Standing Order 46(6).

CHAIRMAN (in Cantonese): Both the Attorney General and Dr LEONG Che-hung have given notices to propose the addition of new clause 12A to the Bill. I will first call upon the Attorney General to speak and move the Second Reading of his proposed new clause 12A, as he is the Public Officer in charge of the Bill.

ATTORNEY GENERAL: Mr Chairman, I move that new clause 12(A) as set out under my name in the paper circulated to Members be read the Second time.

The amendment relates to the supply of witness statements and medical and technical reports before an inquest into the death of a person and the supply of death reports.

Members of the Bills Committee suggested that such document should be made available to properly interested persons, particularly family members of the deceased person. The purpose of this amendment is two-fold. Firstly, it provides that a properly interested person may make a request to the coroner for a copy of a witness statement or medical or technical report before the inquest into the death of a person, and the coroner shall comply with the request. Secondly, it provides that where a coroner has decided not to hold an inquest into the death of a person, a properly interested person may make a request for a copy of the police report on the death and the coroner shall comply with the request. Provision is made to ensure that a witness making a statement in relation to the death of a person is advised that the statement may be provided to properly interested persons and for the non-disclosure to such persons of the identity of the witness unless he or she expressly consents to the disclosure.

Mr Chairman, as we have heard, Dr the Honourable LEONG Che-hung is moving a similar Committee stage amendment, but it does not provide for the

non-disclosure to third persons of the personal particulars of a witness unless he or she consents to the disclosure. As I explained in my speech on the resumption of the Second Reading debate on this Bill, the Administration considers that Dr LEONG's amendment could cause considerable difficulties to witnesses and possibly endanger their personal safety. I urge Members to support my amendment which avoids these problems. Thank you, Mr Chairman.

Question on the Second Reading of the clause proposed.

CHAIRMAN (in Cantonese): As Dr LEONG Che-hung has also given notice to propose the addition of new clause 12A to the Bill, I propose to have the Attorney General's motion and Dr LEONG's proposal debated together in a joint debate.

Committee shall debate the Attorney General's motion and Dr LEONG's proposal together in a joint debate. I will call upon Dr LEONG to speak on the Attorney General's motion as well as his own proposal, but will not ask Dr LEONG to move the Second Reading of his proposal unless the Attorney General's motion has been negatived. If the Attorney General's motion is agreed, that will by implication mean that Dr LEONG's proposal is not approved.

DR LEONG CHE-HUNG: Mr Chairman, as explained in my speech earlier, the new clause 12(A) which provides for a supply of witness statements is basically the same as that provided by the Administration, except that subsection (2) has excluded the provisions relating to the deletion of personal particulars of witnesses.

I will be moving, if I have the chance, this new clause 12(A) on behalf of the Bills Committee. The Bills Committee agrees that the witness should be advised that a statement made will be provided to properly interested persons whether or not an inquest is held into the death. However, the deletion of personal particulars of witnesses is not supported since family members should have access to the same relevant information regardless of whether an inquest is held. This is because in some cases only the family members will know that a certain witness has a vested interest in a case and they would need to know the identity of the witness in order to judge the credibility of his statement and to

decide whether they should appeal or would appeal to the Attorney General or apply to the High Court for an inquest to be held. The Bills Committee, therefore, proposes that a new clause 12(A) be moved as set out in the paper.

Mr Chairman, I have heard the argument of the Attorney General with earnest, but as a novice in law, I do feel that the reasons given by the Attorney General is on witness protection rather than personal privacy. I therefore put it to Members that what is being proposed by the Bills Committee should not have an implementation problem. Thank you.

MR ALBERT HO (in Cantonese): Mr Chairman, the Democratic Party objects to the Attorney General's amendment in relation to clause 12A, and supports the amendment proposed by Dr the Honourable LEONG Che-hung, Chairman of the Bills Committee. We object to the inclusion of compliance with personal privacy in the Bill not because we disregard or refuse to comply with the Personal Data (Privacy) Ordinance. We just think that it is simply not necessary to do so. If the Government's amendment is passed and compliance with the Personal Data (Privacy) Ordinance is expressly stated in the Bill, it will send out a wrong message to the public that the disclosure of personal particulars of witnesses will be handled differently, depending on the different circumstances of whether or not an inquest is held.

Actually, we agree to the content of the new clause 12A(3) proposed by the Government, which states that the police should seek the consent of a witness before his statement can be provided to properly interested persons for the purpose of an inquest. We believe that when the police is taking a statement, the police will not mention to the witness that his statement is to be used differently depending on whether or not an inquest is held when they advise and explain the above point to the witness. If the police make separate explanations, we think that it will instead give rise to many misunderstandings unnecessarily and cast doubt as to why the statement is to be handled differently.

If a witness worries about his personal safety, surely he will refuse to make a statement or assist the police in their investigation. Even if he is willing to assist the police in their investigation, he will naturally request that his personal particulars be excluded from the statement or ask for special protection. We do not think we should tell a witness that in case an inquest is held, all his particulars will be disclosed, and in case no inquest is held, he will have the

right to privacy and can expressly state that his personal particulars must not be provided to family members of the deceased or to properly interested persons. I think if a witness is told that his statement will be used differently under different situations, he will no doubt be misled and such arrangement is not necessary at all.

Secondly, if we look at clause 12A(1) and (2), it is clearly stated in subclause (1)(i) that a coroner shall supply a properly interested person with witness statements before an inquest is held. Yet nothing is mentioned about compliance with the Personal Data (Privacy) Ordinance here. Why is that so? According to the explanation given by the Attorney General, the court is vested with the power to delete personal particulars of a witness on the ground of security. If the court is genuinely vested with such power, and I have no doubt whatsoever on that, that means we have a common understanding on this point, then why the same is not applicable to clause 12A(2)? If the Attorney General has cause for concern and holds that compliance with the Personal Data (Privacy) Ordinance must be put in this provision, then why is it not included in clause 12A(1)? Such separate treatment is extremely perplexing and unsatisfactory.

Mr Chairman, I believe what the Attorney General is worrying about is the personal safety of witnesses. I think it is important too. However, I also agree with the Attorney General that, the court has the power to make an order on the ground of personal safety at any time during or before an inquest or when no inquest is held that, when making available a witness statement, certain particulars of the witness be deleted for his protection. If that is the case, we consider that the amendment proposed by the Attorney General which provides for the compliance with the Personal Data (Privacy) Ordinance unnecessary.

All in all, I fully support the simple conclusion made by Dr LEONG Che-hung just now. This is a matter of safety, not privacy. It is misleading and inappropriate to take it as a matter of privacy and make provisions to that effect.

Mr Chairman, it is my view that our requirement can still be met despite the exclusion of such provision. Clause 12A(3) already stipulates that the police is required to explain the matter to a witness and to seek his written consent, and secondly, the court is empowered to make appropriate arrangements for the protection of the safety of witnesses.

Based on the above reasons, I urge my colleagues to vote for the amendment proposed by the Bills Committee.

Thank you, Mr Chairman.

MR JAMES TO (in Cantonese): Mr Chairman, this is an occasion for debate and reasoning. I find that some of the arguments and view-points have not been expressed and thus I would like to complement on the subject. I agree with the view-points of Dr the Honourable LEONG Che-hung and the Honourable Albert HO. I only want to add one more point to denounce the Administration's arguments, particularly the view-point concerning clause 12A as expressed in the Attorney General's letter sent today to Dr LEONG Che-hung, Chairman of the Bills Committee. The issue relating to personal safety as mentioned in paragraph 6 of the letter is not something far-fetched or totally unrealistic. The Attorney General even asked what should be done if the witness concerned was murdered by a close relative of the deceased person. In my opinion, if the extreme of murder is mentioned, the Administration is actually extending that argument to the limit. I will not say that this is impossible as anything can be possible. However, his argument follows that during the trial, the coroner can delete the personal particulars of some witnesses like their addresses, names and the like to prevent them from being disclosed to the public.

Nevertheless, I have to point out that this is a logic of order. It is because as a matter of fact, if it is decided to hold an inquest and there is no reason to believe that the personal safety of the witnesses will be endangered, the coroner will not order to delete these personal particulars from the copies of witnesses or reports supplied to the family members of the deceased person. In other words, the whole system is linked up to any situation being triggered off. That means if the complaint that you lodged is able to convince the coroner or other people concerned to protect you according to a mechanism, your information will not be further leaked out under the circumstances that it has already been revealed. Therefore, it is very obvious that purely from the point of view of safety, even if an inquest is being held, such information will only be supplied to the family members of the deceased person. In case any situation is being triggered off which is believed to be dangerous, frankly speaking, it may at that time become

an issue of protecting the witnesses or police protection or law enforcement and protection instead of coroner giving order.

I would like Honourable Members to think about the principle. If an inquest is to be held, the consent of the witnesses is not necessarily to be sought before supplying the family members of the deceased person with such information. The express consent of the witnesses is totally not necessary. However, if an inquest is not to be held, there will be a lot of restrictions and constraints, and the rationale is surprisingly for the sake of safety. As a matter of fact, safety can also be a problem if an inquest is to be held. During an inquest before the coroner decides whether to give the witness statement to the family members of the deceased person, should the coroner ask the witness whether he is worried that someone may threaten him, whether he agrees with it or whether he is afraid? In fact there is no such procedure. The triggering of the whole procedure lies in the complaints lodged by the witness or his genuine worries. Therefore, if this objective situation really occurs, we should make a remedy with our witness protection system instead of adopting two totally different methods to deal with two different situations.

ATTORNEY GENERAL: Mr Chairman, I will be brief. Coming back to principle, in my Second Reading debate, I asked Members to focus on the key issue here, and that is in a situation where the coroner has decided not to hold an inquest. The analogy is where in criminal proceedings or civil proceedings a matter has not proceeded to trial. It is a point that I made in my letter to Members and it is a point that I made in my speech. The principle is that in that situation, statements that have been made for one purpose should not be made available for another purpose, unless the maker of the statement agrees. That is a very basic principle. That is the principle that applies in criminal proceedings. That is the principle that applies in civil proceedings, and that, Mr Chairman, is the principle that should apply in this situation, that is, where the coroner has decided not to hold an inquest.

I have listened very carefully to all the arguments, but it seems to me that none of them come close to addressing that principle. We are here concerned with the proper protection of witnesses. They have a right to privacy. They, in this situation, if Dr the Honourable LEONG Che-hung's amendment is passed, will have no say in the matter. Where the coroner decides not to hold an inquest, they then get no say in the matter at all. Their statements are handed over.

That is not a situation that would apply in a criminal proceeding where the matter does not go to trial and that is not a situation that would apply in civil proceedings involving the Administration where the matter does not proceed to trial either. It should not, in my respectful submission, apply in a situation that I have just described.

Mr Chairman, I will not deter the Committee longer. I urge Members to support the Administration's clause 12(A) and to reject Dr LEONG's. Thank you, Mr Chairman.

Question on the Attorney General's motion put.

Voice vote taken.

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

Mrs Miriam LAU and Mr Howard YOUNG claimed a division.

CHAIRMAN (in Cantonese): Committee shall 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 new clause 12(A) proposed by the Attorney General be read the Second time.

Will members please register their presence by pressing the top button and then proceed to vote by choosing 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 be displayed.

Mr Allen LEE, Mrs Selina CHOW, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr Frederick FUNG, Mr Eric LI, Mr Henry TANG, Dr Samuel WONG, Dr Philip

WONG, Mr Howard YOUNG, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Mr Paul CHENG, Mr CHENG Yiu-tong, 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 NGAN Kam-chuen, Mrs Elizabeth WONG and Mr YUM Sin-ling voted for the motion.

Mr Martin LEE, Mr SZETO Wah, Dr LEONG Che-hung, Mr Albert CHAN, Mr CHEUNG Man-kwong, Mr Michael HO, Dr HUANG Chen-ya, Miss Emily LAU, Mr LEE Wing-tat, Mr 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 LAU Chin-shek, Mr LAW Chi-kwong, Mr LEUNG Yiu-chung, Miss Margaret NG, Mr SIN Chung-kai, Mr TSANG Kin-shing and Dr John TSE voted against the motion.

THE CHAIRMAN announced that there were 25 votes in favour of the motion and 24 against it. He therefore declared that the motion was carried.

Clause read the Second time.

CHAIRMAN (in Cantonese): As the Attorney General's motion on the second reading of his proposed new clause 12A has been agreed, it is not possible for Dr LEONG to move the Second Reading of his proposed new clause 12A.

ATTORNEY GENERAL: Mr Chairman, I move that new clause 12A as set out under my name in the paper circularized to Members be added to the Bill.

Proposed addition

New clause 12A

That the Bill be amended, by adding —

"12A. Supply of witness statements, etc.

(1) Where -

-
- (a) a coroner has decided that he will hold an inquest into the death of a person;
 - (b) a witness statement or medical or technical report -
 - (i) relates to the death; and
 - (ii) is in the possession or control of the coroner; and
 - (c) a properly interested person makes a request to the coroner -
 - (i) to be supplied with a copy of the statement or report; and
 - (ii) before the inquest into the death,

the coroner shall comply with the request.

(2) Where -

- (a) a police officer has prepared and forwarded to a coroner a report on the death of a person (and whether or not the death is a reportable death);
- (b) a properly interested person makes a request to the coroner to be supplied with a copy of the report; and
- (c) at the time he receives the request the coroner has decided that he will not hold an inquest into the death,

the coroner shall comply with the request but in so doing shall delete from the copy to be supplied (including any annexure thereto) any particulars which identify any person who has made or refused to make a witness statement in relation to the death unless that person has expressly consented (whether before or after the receipt of the request) to his identity being disclosed to properly interested persons.

(3) In order to facilitate the better operation of subsection (2), a person proposing to make a witness statement in relation to the death of a person shall be advised, either orally or in writing, that the statement may be provided to properly interested persons whether or not an inquest is held into the death (or words to the like effect)."

Question on the addition of the new clause proposed, put and agreed to.

Heading before
New clause 60A

Official Languages Ordinance

New clause 60A

Transitional arrangements

Clause read the First time and ordered to be set down for Second Reading pursuant to Standing Order 46(6).

ATTORNEY GENERAL: Mr Chairman, I move that Heading before new clause 60A and new clause 60A as set out in the paper circularized to Members be read the Second time.

Question on the Second Reading of Heading before new clause 60A and the new clause proposed, put and agreed to.

Clause read the Second time.

ATTORNEY GENERAL Mr Chairman, I move that Heading before new clause 60A and new clause 60A be added to the Bill.

Proposed addition

New clause 60A

That the Bill be amended, by adding —

"Official Languages Ordinance**60A. Transitional arrangements**

Section 6(3)(b) of the Official Languages Ordinance (Cap. 5) is amended by repealing "inquiry" and substituting "inquest".

Question on the addition of Heading before new clause and the new clause proposed, put and agreed to.

Schedules 1 and 2

ATTORNEY GENERAL: Mr Chairman, I move that Schedules 1 and 2 be amended as set out in the paper circularized to Members.

Proposed amendments

Schedule 1

That Schedule 1 be amended —

(a) in Part 1 -

(i) by deleting item 2 and substituting -

"2. Any death of a person (excluding a person who, before his death, was diagnosed as having a terminal illness) where no registered medical practitioner has attended the person during his last illness within 14 days prior to his death.";

(ii) in item 5(b) and (c), by deleting "an" and substituting "a general";

(iii) in item 6(b), by deleting "3 days after an operation" and substituting "48 hours after a major operation (as determined in accordance with prevailing medical practice)";

(iv) by deleting item 7(b) and substituting -

"(b) having regard to the nature of the last illness of the person, the medical cause of the death and the nature of any known occupation or employment, or previous occupation or employment, of the person, it is reasonable to believe that the death may be connected, either directly or indirectly, with any such occupation or employment.";

(v) by adding -

"12A. Any death of a person where the death occurred during the course of the discharge of his duty by a person having statutory powers of arrest or detention.";

(vi) by deleting item 14 and substituting -

"14. Any death of a person where the person -

-
- (a) is a patient, within the meaning of section 2 of the Mental Health Ordinance (Cap. 136), and the death occurs in a mental hospital within the meaning of that section; or
 - (b) is a patient the subject of an order under section 31 or 36 of that Ordinance and the death occurs in a hospital other than such a mental hospital."
- (b) in Part 2 -
- (i) in item 1, by deleting "Commissioner of Police" and substituting "Coroner with a copy to the Commissioner of Police at the same time.";
 - (ii) by deleting item 2 and substituting -
 - "2. The person in charge of a hospital, or another person authorized in writing by the person so in charge, in respect of any reportable death which occurred therein. Coroner with a copy to the Commissioner of Police at the same time.";
 - (iii) in items 3 and 5, by adding "Coroner via" before "Commissioner";

(iv) by adding -

"10. Any registered medical practitioner in respect of any reportable death where the consent of a coroner is being sought under section 4(4)(a) or (b) of the Medical (Therapy, Education and Research) Ordinance (Cap. 278) in relation to the body of the deceased. Coroner."

Schedule 2

That Schedule 2 be amended, in item 1, by adding ", sibling" after "spouse".

Question on the amendments put and agreed to.

Question on Schedules 1 and 2, as amended, put and agreed to.

ADMINISTRATION OF JUSTICE (MISCELLANEOUS PROVISIONS) (NO. 2) BILL 1997

Clauses 1 to 7 were agreed to.

Clauses 8

ATTORNEY GENERAL: Mr Chairman, I move the amendment under my name in the paper circulated to Members. The amendment is consequential to that in respect of clause 7(A) which will add a definition of "commissioner for

oaths" in terms similar to the definition in the Oaths and Declarations Ordinance. Thank you, Mr Chairman.

Proposed amendment

Clause 8

That clause 8 be amended, by deleting "of the Judicial Service Commission Ordinance (Cap. 92)".

Question on the amendment put and agreed to.

Question on clause 8, as amended, put and agreed to.

New clause 7A

Interpretation

Clause read the First time and ordered to be set down for Second Reading pursuant to Standing Order 46(6).

ATTORNEY GENERAL: Mr Chairman, I move that new clause 7(A) as set out under my name in the paper circulated to Members be read the Second time.

The amendment adds a definition of "commissioner for oaths" in terms similar to the definition in the Oaths and Declarations Ordinance. Thank you, Mr Chairman.

Question on the Second Reading of the clause proposed, put and agreed to.

Clause read the Second time.

ATTORNEY GENERAL: Mr Chairman, I move that new clause 7A be added to the Bill.

Proposed addition

New clause 7A

That the Bill be amended, by adding before clause 8 —

"7A. Interpretation

Section 2 of the Judicial Service Commission Ordinance (Cap. 92) is amended by adding -

""commissioner for oaths" (監誓員) means a commissioner for oaths duly appointed by the Chief Justice under any enactment in force in Hong Kong;".

Question on the addition of the new clause proposed, put and agreed to.

SOCIAL WORKERS REGISTRATION BILL

Clauses 1, 5 to 8, 11 to 15, 17 to 20, 22, 27, 29 to 32, 35, 37 and 38 were agreed to.

Clauses 2, 3, 9, 10, 16, 21, 23 to 26, 28, 33, 34 and 36

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Mr Chairman, I move that amendments be made to the relevant clauses in the Social Workers Registration Bill as set out on the paper circularized to the Members.

Technical Amendments

Amendments are proposed for clauses 2(1), 3(4) and 3(7), 9(2) and 9(5), 10(2), 16(1)(b)(ii), 23,24(4), the heading to 25, 25(1) and 25(2), 26(2) and 26(7), 26(8) and 26(9), 28(3), 33(6), 34(g) and 34(h), and 36(1). These amendments in words and wordings are put forward in order to bring the Chinese version to be more in line with the English version .

Besides, I propose the addition of Clause 2(2), in order to specify that any reference to social worker in any other ordinance shall be construed to mean a registered social worker.

The Registration of a Person Who Has Been Convicted of a Serious Offence

Clause 16(4)(b) of the Bill specifies that anyone who has been convicted of any offence coming within any of the descriptions specified in Schedule 2 will be refused registration as a social worker. The clause takes into consideration that social workers are in frequent contact with those who are in need and who request special care. With the safeguard of the interest of the help recipients as our major premise, we opt for the more conservative attitude and refuse a person who has been convicted of any of those serious offenses specified in Schedule 2 as a registered social worker.

Having gone through discussion by the Bills Committee, we too agree with Members' suggestion that some flexibility should be retained in the clause to allow for the extraordinary circumstance that, subjected to the unanimous approval of all members of the Registration Board, a person may be registered as a registered social worker notwithstanding his previous conviction of a serious offence. As the registration of this type of people needs the unanimous approval of the Registration Board, we believe that this strict pre-requisite can ensure the integrity of the registered social workers, safeguard the interest of the help recipients, and maintain the credibility of the registration system.

Hence, we propose clauses 16(4)(b), 21(1) and 24(2)(c) be amended and new clauses 16(4A) and 24(6) be added to the Bill.

Members of the Disciplinary Committee

In clause 26(2)(b) of the Bill, we propose that, if a registered social worker has to face disciplinary hearing, at least one member of the disciplinary committee has to be a public officer or not a public officer, as the case of the registered social worker concerned may be, and at least be of equal rank. The purpose of this arrangement is to include in the disciplinary committee a member

who has an understanding of the work nature and difficulties the social worker under investigation has to face, to allow the committee a more comprehensive and objective judgment in deciding whether the social worker has committed any disciplinary offence when carrying out his duty. Having gone through thorough discussion with the Bills Committee, we believe that it is not necessary to restrict the rank of the members of the disciplinary committee for the above said purpose. Instead, the inclusion of a member with comparable professional experience should suffice. Hence, we propose clauses 26(2)(b)(i) and 26(2)(b)(ii) of the Bill be amended.

Thank you, Mr Chairman.

Proposed amendments

Clause 2

That clause 2 be amended —

- (a) by renumbering it as clause 2(1).
- (b) in subclause (1) -
 - (i) in the definition of "panel", by adding "委員" after "備選";
 - (ii) in the Chinese text, by deleting the definition of "學位" 及 "文憑" and substituting -

“ “學位” (degree) 及 “文憑” (diploma) 包括由任何教育機構或政府(不論是在香港或其他地方) 授予的任何院士資格、會籍、執照、執業的授權、推薦信或其他身分的證書或文件。” 。

(c) by adding -

"(2) Any reference to social worker in any other Ordinance shall be construed to mean a registered social worker."

Clause 3

That clause 3(4) be amended, by deleting "該工作者" and substituting "該社會工作者".

That clause 3(7) be amended, by deleting "如主席或副主席在任何期間" and substituting "在某段期間如主席及副主席".

Clause 9

That clause 9(2) be amended, by deleting "識別" and substituting "指出".

That clause 9(5) be amended, by deleting "識別" and substituting "指出".

Clause 10

That clause 10(2) be amended —

- (a) by deleting "法律".
- (b) by deleting "任何令".
- (c) by adding "經" after "有關的".

Clause 16

That clause 16(1)(b)(ii) be amended, by deleting "前" and substituting "後".

That clause 16 be amended —

- (a) in subclause (4)(b), by adding "subject to subsection (4A)," before "shall".
- (b) by adding -

"(4A) A person may be registered as a social worker notwithstanding that he has been convicted of an offence referred to in subsection (4)(b) if, but only if, all the members for the time being of the Board, after considering all the circumstances of the case, resolve that he be so registered."

Clause 21

That clause 21(1) be amended —

- (a) in paragraph (f), by adding "or" at the end.
- (b) by deleting paragraph (g).

Clause 23

That clause 23 be amended —

- (a) by deleting "就某罪行".
- (b) by deleting "指明該" and substituting "指明他被控或被裁定犯的".

Clause 24

That clause 24 be amended —

- (a) in subclause (2)(c), by deleting "(not being an offence referred to in section 16(4)(b)(i) or (ii))".

- (b) in subclause (4), by deleting "的該" and substituting "的".
- (c) by adding -

"(6) For the avoidance of doubt, it is hereby declared that neither subsection (2) nor subsection (5) shall prejudice the operation of section 16(4A).".

Clause 25

That clause 25 be amended —

- (a) in the heading, by adding "委員" after "備選".
- (b) in subsection (1) and (2), by adding "委員" after "備選".

Clause 26

That clause 26(2) be amended —

- (a) by adding "委員" after "備選".
- (b) by deleting paragraphs (b)(i) and (ii) and substituting -

"(i) a public officer, 1 shall be a registered social worker who is a public officer and who has, in the opinion of the Board, professional experience as a social worker comparable to that of the registered social worker against whom the complaint is made;

(ii) not a public officer, 1 shall be a registered social worker who is not a public officer and who has, in the opinion of the Board, professional experience as a social worker comparable to that of the registered social worker against whom the complaint is made.".

That clause 26 be amended, in the Chinese text, by deleting subclause (7) and substituting —

“(7) 在紀律委員會就其向註冊局提交關於被投訴人曾否作出違紀行為一事的意見，並就其會對該投訴建議作出任何適當的紀律制裁命令達致決定後，該委員會須據此向註冊局報告。”。

That clause 26(8) be amended, by deleting "就遭投訴的違紀行為作出決定" and substituting "決定被投訴人曾否作出違紀行為".

That clause 26(9) be amended, by deleting "該建議" and substituting "所建議的".

Clause 28

That clause 28 be amended, in the Chinese text, by deleting subclause (3) and substituting —

“(3) 如紀律委員會認為回答任何問題或出示任何文件或其他物件可能會導致某人入罪，則該人無須回答該問題或出示該文件或其他物件。”。

Clause 33

That clause 33(6) be amended, by deleting "就第(5)(a)或(b)款所提述並由某人提供的社會工作服務而進入香港的該人而言" and substituting "如某人因提供第(5)(a)或(b)款所提述的社會工作服務而進入香港".

Clause 34

That clause 34(g) be amended —

- (a) by deleting "顯示" and substituting "表明".
- (b) by deleting "姓名" and substituting "名稱".

That clause 34(h) be amended —

- (a) by deleting "or uses" and substituting ", or uses,".
- (b) in the Chinese text, by deleting subparagraph (ii) and substituting -
"(ii) 英文縮寫 "R.S.W.";".
- (c) in subparagraph (iv), by deleting "能".

Clause 36

That clause 36(1) be amended, by deleting "並可指明為施行本條例所規定而它認為合適的其他文件須採用的表格" and substituting "而就為本條例的施行而須有並且是註冊局認為合適的其他文件，註冊局亦可指明其格式".

Question on the amendments put and agreed to.

MR MICHAEL HO (in Cantonese): Mr Chairman, I move that the clauses 3, 33 and 34 be further amended as set out under my name in the paper circularized to Members.

Clause 3(3)(b) should be amended. This clause deal with the constitution of the Social Workers Registration Board. Under the amendment, the provision stipulating that two public officers shall be members of the Board will be deleted. Consequential to the amendment of this clause, clause 3(3)(c) is also amended. According to the recommendation of the Bills Committee, the number of appointed members specified in the clause will increase from four to six.

Clause 33(4) should also be amended. The Bills Committee has reached unanimous agreement that there should be more stringent control on the use of the description in order to protect the professional image of social workers and the users of social services. Given that clause 33(4) stipulates that those who are not registered social workers but perform social work may use the description

"social work" or "social worker", members agree that clause 33(4) in the Bill be deleted.

The amendments to clauses 33(1), 33(7)(a) and 34(h) are consequential to the amendment to clause 33(4) of the Bill.

Mr Chairman, I beg to move.

Proposed amendments

Clause 3

That clause 3(3) be amended —

- (a) by deleting paragraph (b).
- (b) in paragraph (c), by deleting "4" and substituting "6".

Clause 33

That clause 33 be further amended —

- (a) in subclause (1), by deleting ", (4)".
- (b) by deleting subclause (4).
- (c) in subclause (7)(a), by deleting "subsections (4) and" and substituting "subsection".

Clause 34

That clause 34(h) be further amended, by deleting ", (4)".

Question on the amendments put and agreed to.

Question on clauses 2, 3, 9, 10, 16, 21, 23 to 26, 28, 33, 34 and 36, as amended, put and agreed to.

Clause 4

MR MICHAEL HO (in Cantonese): Mr Chairman, I move that Clause 4 be amended as set out under my name in the paper circularized to Members.

The amendment aims mainly to delete the phrase "or a member of the Board appointed under section 3(3)(b)" from the original Clause 4(4). Given that I have moved the amendment to section 3(3)(b) when the amendment to Clause 3 is made, this is a consequential amendment.

I beg to move.

Proposed amendment

Clause 4

That clause 4(4) be amended, by deleting ", or a member of the Board appointed under section 3(3)(b),".

Question on the amendment put and agreed to.

Question on clause 4, as amended, put and agreed to.

New clause 2A

Application

Clause read the First time and ordered to be set down for Second Reading pursuant to Standing Order 46(6).

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Mr Chairman, I move that the following clause as set out on the paper circularized to Members be added to the Bill.

Additional Clause

We propose the addition of new clause 2A, in order to specify that this Bill is binding on the Government.

It has always been our intention that the Bill applies to all social workers, including those working in government and non-government organizations. However, Section 66 of the Interpretation and general Clauses Ordinance, saving of the rights of the Crown, states that "no ordinance shall in any manner whatsoever affect the right of or be binding on the Crown unless it is therein expressly provided or unless it appears by necessary implication that the Crown is bound thereby." To avoid any doubts, we propose the addition of clause 2A to specify clearly that the Bill applies to social workers employed in government organizations.

Thank you, Mr Chairman.

Question on the Second Reading of the clause proposed, put and agreed to.

Clause read the Second time.

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Mr Chairman, I move that new clause 2A be added to the Bill.

Proposed addition

New clause 2A

That the Bill be amended, by adding —

"2A. Application

This Ordinance binds the Government."

Question on the addition of the new clause proposed, put and agreed to.

Schedule 1

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Mr Chairman, I move that the relevant provisions in Schedule 1 of the Bill be amended as set out on the paper circulated to Members.

Amendment to Schedule 1

As proposed in Section 16(1)(a) of the Bill, a person can only be registered as a registered social worker (category 1) if he has the recognized qualifications the Registration Board designates, which include a degree or diploma in social work recognized by the Board. Before the Registration Board is established, we cannot officially set the scope of academic qualifications. Therefore, section 1(2)(f) of Schedule 1 proposes to take the degree or diploma in social work recognized by the Director of Social Welfare, on or before 31 May 1996, for employment in a social work post as recognized academic qualification until the Registration Board is set up.

We suggest changing the designated deadline of 31 May 1996 in the Bill to 1 January 1997 so as to include the academic qualifications recognized by the Director of Social Welfare for employment in a social work post between May 1996 and 1 January 1997. This amendment includes the newly recognized academic qualifications in the Bill to facilitate the implementation of the Bill and to allow more qualified people to be registered as registered social worker (category 1).

Thank you, Mr Chairman.

Proposed amendment

Schedule 1

That Schedule 1 be amended, in section 1(2)(f), in proposed paragraph (a), by deleting "31 May 1996" and substituting "1 January 1997".

Question on the amendment put and agreed to.

MR MICHAEL HO (in Cantonese): Mr Chairman, I move that Schedule 1 be further amended as set out under my name in the paper circularized to Members.

The amendment to section 1 (3)(a) of Schedule 1 is consequential to the amendment to clause 3 (3)(b) of the Bill.

Mr Chairman, I beg to move.

Proposed amendment

Schedule 1

That Schedule 1 be further amended, in section 1(3)(a), by deleting ", (b)".

Question on the amendment put and agreed to.

Question on Schedule 1, as amended, put and agreed to.

Schedule 2 was agreed to.

INSURANCE COMPANIES (AMENDMENT) BILL 1997

Clauses 1 to 16 were agreed to.

SIR EDWARD YOUDE MEMORIAL FUND (AMENDMENT) BILL 1997

Clauses 1 to 6 were agreed to.

CRIMES (AMENDMENT) BILL 1997

Clauses 1 to 17 were agreed to.

FREIGHT CONTAINERS (SAFETY) BILL

Clauses 1 to 16, 18 and 20 to 29 were agreed to.

Clauses 17 and 19

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Mr Chairman, I move that clauses 17 and 19 be amended as set out in the paper circularized to Members.

The purpose of the proposed amendment to clause 17(2) is to clarify the applicability of this clause. The amendment expressly provides that the lessee or bailee is not liable to pay container detention costs to the Director of Marine unless there is an agreement stipulating that the lessee or bailee will bear the responsibility of the owner.

The main purpose of proposed amendment to clause 19 is to stipulate that the Director of Marine or any inspector appointed shall not exercise the power to inspect the inside of a sealed container except by virtue of a warrant issued by a magistrate in order to protect the interests of the terminal operators. Under this new clause, the Director or the inspector appointed can inspect the inside of a sealed container if there is sufficient ground for suspecting, for instance, that the inside of the container is in a condition such as may render the container unsafe.

Mr Chairman, I beg to move.

Proposed amendments

Clause 17

That clause 17 be amended, by deleting subclause (2) and substituting —

"(2) Where, by virtue of any failure on the part of the owner, lessee or bailee of a container to comply with the requirements imposed by section 4, there are grounds upon which the Director may take action under section 14, 15 or 16 to detain the container, then that owner, lessee or bailee shall be liable to pay to the Director the reasonable costs of any such action so taken by the Director, and those costs shall be recoverable summarily as a civil debt."

Clause 19

That clause 19 be amended, by adding —

"(5) The Director or any inspector appointed under section 18 shall not exercise the power conferred by subsection (2)(c) to inspect the inside of a sealed container except by virtue of a warrant issued by a magistrate, where the magistrate is satisfied by information on oath that there is reasonable ground for suspecting that the inside of the container has not been properly maintained or is in a condition such as may render the container unsafe or may constitute evidence of the commission of an offence under this Ordinance."

Question on the amendments put and agreed to.

Question on clauses 17 and 19, as amended, put and agreed to.

Schedule 1

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Mr Chairman, I move that Schedule 1 be amended as set out in the paper circularized to Members.

The purpose of the proposed amendment is to bring Hong Kong law more in line with the International Convention for Safe Containers, 1972.

Thank you, Mr Chairman.

Proposed amendment

Schedule 1

That schedule 1 be amended —

- (a) in column 1 of Part (B) of paragraph 1, by deleting the items "**Internal loading**" and "**Externally applied forces**" where they secondly appear.
- (b) in column 1 of paragraph 5, in the item "**Internal loading**", by adding "is equal to the maximum" after "test load".

- (c) in paragraph 6, by deleting "section 1 of".
- (d) in paragraph 7, by deleting "section 1 of".

Question on the amendment put and agreed to.

Question on schedule 1, as amended, put and agreed to.

Schedule 2 was agreed to.

ARCHITECTS, ENGINEERS, SURVEYORS AND PLANNERS REGISTRATION (MISCELLANEOUS AMENDMENTS) BILL 1996

Clauses 1 to 4, 6, 8 to 11, 13, 15 to 18, 20, 22, 23, 24 and 26 were agreed to.

Clauses 5, 7, 12, 14, 19, 21, 25 and 27

SECRETARY FOR WORKS (in Cantonese): Mr Chairman, I move that the clauses specified be amended as set out in the paper circularized to Members. These amendments are procedural and technical in nature but are necessary to complete and clarify the intended safeguard on the interests of individual professionals most of which already exist in the ordinances.

The purpose of the Bill is to empower the relevant inquiry committees under the Registration Boards for architects, engineers, surveyors and planners to make orders for costs in respect of disciplinary matters if they are satisfied that in all the circumstances of the case it would be unjust and inequitable not to do so. The Bill will also empower the Boards to engage such professional advice as they may consider appropriate.

In response to the Legislative Council Secretariat's query on the Bill in respect of cost assessment, we have already explained to the Secretariat that the ultimate responsibility for the assessment will rest with the inquiry committee

making the order of costs. The Secretariat has also pointed out the apparent lack of provisions in the four ordinances for appeals against an order for the Chairman of the relevant Board orally admonishes the professionals concerned. The existing ordinances provide that the Court of Appeal should not have power to hear any appeal against an order unless notice of such an appeal is given within three months of service of that order. There is, however, no provision in the ordinances requiring the service of such an order relating to an oral admonition. We have clarified our policy that all orders and decisions by the Board, as a safeguard, are subject to an appeal. Provisions would therefore have to be made accordingly through further amendments. The proposed Committee stage amendments would require all orders made by the relevant inquiry committee, including oral admonition, be served to the professional concerned. Notices for appeal would then have to be given within three months of the serving of the relevant order.

Amendment would also provide that in the case of a decision made by a relevant Board in respect of an application for registration or renewal of registration, notice of a related appeal has to be given within three months after the applicant is notified in writing of such decision.

These proposed Committee stage amendments are in line with the Government's intended policy and will remove the anomaly that exists in the ordinances. I believe Members will agree to these amendments and support the relevant Bill.

Mr Chairman, I beg to move.

Proposed amendments

Clause 5

That clause 5 be amended, by deleting "(except paragraph (f) of that section)".

Clause 7

That clause 7 be amended, by deleting paragraph (b) and substituting —

"(b) by repealing subsection (7) and substituting -

"(7) The Court of Appeal shall not have power to hear any appeal against a decision or order made under section 15(1), 16(5) or 24(1) unless -

- (a) in the case of a decision made under section 15(1) or 16(5), notice of such appeal is given within 3 months after the applicant is notified in writing of the decision;
- (b) in the case of an order made under section 24(1), notice of such appeal is given within 3 months of the service of the order under section 27."."

Clause 12

That clause 12 be amended, by deleting "(except paragraph (f) of that section)".

Clause 14

That clause 14 be amended, by deleting paragraph (b) and substituting —

"(b) by repealing subsection (7) and substituting -

"(7) The Court of Appeal shall not have power to hear any appeal against a decision or order made under section 14(1), 15(5) or 23(1) unless -

- (a) in the case of a decision made under section 14(1) or 15(5), notice of such appeal is given within 3 months after the

applicant is notified in writing of the decision;

- (b) in the case of an order made under section 23(1), notice of such appeal is given within 3 months of the service of the order under section 26."."

Clause 19

That clause 19 be amended, by deleting "(except paragraph (f) of that section)".

Clause 21

That clause 21 be amended, by deleting paragraph (b) and substituting —

"(b) by repealing subsection (7) and substituting -

"(7) The Court of Appeal shall not have power to hear any appeal against a decision or order made under section 14(1), 15(5) or 23(1) unless -

- (a) in the case of a decision made under section 14(1) or 15(5), notice of such appeal is given within 3 months after the applicant is notified in writing of the decision;
- (b) in the case of an order made under section 23(1), notice of such appeal is given within 3 months of the service of the order under section 26."."

Clause 25

That clause 25 be amended, by deleting "(except paragraph (f) of that section)".

Clause 27

That clause 27 be amended, by deleting paragraph (b) and substituting —

"(b) by repealing subsection (7) and substituting -

"(7) The Court of Appeal shall not have power to hear any appeal against a decision or order made under section 14(1), 15(5) or 23(1) unless -

- (a) in the case of a decision made under section 14(1) or 15(5), notice of such appeal is given within 3 months after the applicant is notified in writing of the decision;
- (b) in the case of an order made under section 23(1), notice of such appeal is given within 3 months of the service of the order under section 26."."

Question on the amendments put and agreed to.

Question on clauses 5, 7, 12, 14, 19, 21, 25 and 27 as amended, put and agreed to.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

CORONERS BILL and

**ADMINISTRATION OF JUSTICE (MISCELLANEOUS PROVISIONS)
(NO. 2) BILL 1997**

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

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

Bills read the Third time and passed.

THE SECRETARY FOR HEALTH AND WELFARE reported that the

SOCIAL WORKERS REGISTRATION BILL

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

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

Bill read the Third time and passed.

THE SECRETARY FOR FINANCIAL SERVICES reported that the

INSURANCE COMPANIES (AMENDMENT) BILL 1997

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

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

Bill read the Third time and passed.

THE SECRETARY FOR EDUCATION AND MANPOWER reported that the

SIR EDWARD YOUDE MEMORIAL FUND (AMENDMENT) BILL 1997

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

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

Bill read the Third time and passed.

THE ATTORNEY GENERAL reported that the

CRIMES (AMENDMENT) BILL 1997

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

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

Bill read the Third time and passed.

THE SECRETARY FOR ECONOMIC SERVICES reported that the

FREIGHT CONTAINERS (SAFETY) BILL

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

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

Bill read the Third time and passed.

THE SECRETARY FOR WORKS reported that the

**ARCHITECTS, ENGINEERS, SURVEYORS AND PLANNERS
REGISTRATION (MISCELLANEOUS AMENDMENTS) BILL 1996**

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

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

Bill read the Third time and passed.

MEMBERS' MOTIONS

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MR IP KWOK-HIM to move the following motion:

"That the Western Harbour Crossing Regulation, published as Legal Notice No. 94 of 1997 and laid on the table of the Legislative Council on 19 March 1997, be amended in section 2 --

- (a) by renumbering paragraphs (c) and (d) as paragraphs (e) and (f) respectively;
- (b) by repealing paragraphs (a) and (b) and substituting-

"(a) until 22 October 1997, the concentration of carbon monoxide gas in the tunnel does not during any 5 minute period exceed an average of 125 parts per million;

- (b) with effect from 23 October 1997, the concentration of carbon monoxide gas in the tunnel does not during any 5 minute period exceed an average of 100 parts per million;

- (c) until 22 October 1997, the concentration of nitrogen dioxide gas in the tunnel does not during any 5 minute period exceed an average of 1.5 parts per million;
- (d) with effect from 23 October 1997, the concentration of nitrogen dioxide gas in the tunnel does not during any 5 minute period exceed an average of 1 part per million;". "

MR IP KWOK-HIM (in Cantonese): Mr President, I move the motion as set out in the Order Paper.

Mr President, the amendments that will be effected by the motion I move today are clear and straight forward. The sole purpose of the resolution is to improve the air quality in the tunnels of the Western Harbour Crossing (WHC) to safeguard the health of tunnel users.

This motion embodies the same principle and spirit as those of the three Member's bills which I introduced last week for First reading in this Council. By way of amending the Western Harbour Crossing (WHC) Regulation, the resolution aims at controlling the level of air pollution caused by carbon monoxide and nitrogen dioxide gases, and improving visibility in the tunnels. In doing so, the air quality in all private tunnels may be brought under a set of uniform standards as specified in the Practice Notes on Control of Air Pollution in Vehicle Tunnels (the Practices Notes) issued by the Environmental Protection Department (EPD) in 1993 in accordance with international standards. When I discussed with government officials from the Planning, Environment and Lands Branch about the three bills that I presented, they admitted frankly that it had also been the wish of the Government to regulate the air quality of the vehicle tunnels of the WHC according to international standards as proposed in my motion. However, the Practices Notes of the EPD had not been promulgated when the Government entered into a franchise agreement with the WHC Company. The Government also worried that if the terms and conditions in the agreement were revised in accordance with the new standards, the completion date of the WHC Project might be delayed. Nevertheless, it is beyond doubt that the Government's ultimate objective is to require that vehicle tunnels comply with the air quality standards mentioned above.

Mr President, I hold that it is imperative for a responsible operator to take into account the health of tunnel users in operating their tunnels, in addition to making profits. They should also ensure that the concentration of air polluting gases in their vehicle tunnels complies with international standards for environment protection.

The WHC Project, which costs about \$7.5 billion, is one of the 10 Airport Core Programme Projects. The smooth progress of the WHC Project has made it possible to advance the completion date of the Project by three months. The early opening of the WHC is good news to us because it is conducive to improving the traffic network in the territory. Thus, when I decided to move the motion today, I repeatedly gave assurance in public to Members of this Council and to the WHC Company that it would be moved on the premise that the opening date of the WHC should not be affected. In consideration of this most important premise, my resolution is worded to the effect that while the concentrations of carbon monoxide and nitrogen dioxide gases in the tunnels have to comply with international standards, a grace period of six months is also provided for the WHC Company to comply with the relevant standards. With the provision of the six-month grace period, there is a solution to the problem of not having sufficient time to conduct tests — I must emphasize that these are only tests — for ensuring the compliance with newly set air quality standards in the tunnels, for obtaining a Certificate of Compliance from the Highways Department. Thus the problem of a delay in the opening date of the WHC can be readily solved. It is noted that the WHC Company also considers this arrangement reasonable. I believe Members of this Council have learned about the view of the WHC Company from the documents issued by the Secretary for Transport yesterday.

Mr President, whether the amendments proposed in the motion will violate the terms and conditions as set out in the franchise agreement between the Government and the WHC Company is one of the most important factors to be considered by Members of this Council in deciding whether they should support my resolution. In fact, during my discussion with the management of the WHC Company, the persons-in-charge repeatedly emphasized that the Company also lent its support to bringing the air quality in the tunnels up to international standards. They also assured me that given sufficient time, say six months, the WHC Company could meet the proposed standards.

Moreover, the management of the Company made the same pledge in public at yesterday's press conference. It undertook to adopt corresponding measures to meet the new standards if this Council voted for the motion that put

into effect the new standards. Members of this Council may have noted the Company's pledge through the media. Also, pursuant to the terms and conditions of the Project Agreement signed by the Company, it must comply with the statutory requirements governing the operation of the WHC, in particular the environmental requirements which the Government may introduce from time to time. The above requirements are specified in clause 1.2 of Part I of Appendix 8 (Operating Requirements). Therefore, if Members of this Council voted for the motion, the amendments that will be effected to the WHC Regulation will not lead to major contractual disputes between the Government and the WHC Company.

Mr President, as legislators, we must, when enacting legislation, strike a balance between safeguarding the health of the public and reasonable profits for business operators. I trust that if the motion is carried, we can at least formulate a set of requirements that is up to international standards for operators to follow. This will help strengthen public monitoring of the WHC Company. In addition, during my discussion with the WHC Company, I was informed that the Company could meet the new standards in six months' time. Therefore, I hope Members of this Council will support my motion. I would also like to thank all Honourable Members in anticipation of their support.

With these remarks, I beg to move.

Question on the motion proposed.

SECRETARY FOR TRANSPORT (in Cantonese): Mr President, first of all, I would like to thank the Honourable IP Kwok-him for moving this motion because environmental protection and improving and bringing the air quality inside the tunnel in line with international level is the Government's policy. We originally were worried that Mr IP's motion might affect the opening of the Western Harbour Crossing on 30 April. In Mr IP's motion, it now provides that the company concerned will have six months' time to observe the air quality after opening and undertake various projects to ensure that the air quality inside this tunnel will reach the new standards. This is wise to do so. If this motion is passed, we will work together with the company concerned and do our best to achieve this new regulation.

Thank you, Mr President.

Question on the motion put and agreed to.

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 21 April. 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 amendment. Other Members, including the mover of the amendment, 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.

6.35 pm

PRESIDENT (in Cantonese): The sitting will be suspended for 10 minutes before the debate on the first motion.

6.58 pm

Council then resumed.

ANNUAL REPORT ON HONG KONG 1996 TO PARLIAMENT

DR LEONG CHE-HUNG to move the following motion:

"That this Council takes note of the Report on Hong Kong 1996 to Parliament. "

DR LEONG CHE-HUNG: Mr President, I move the motion under my name as printed in the Order Paper. Let me first stress that this is not my personal motion, but that I am moving on behalf of the House Committee from where the mandate is derived. I am glad, therefore, that I have seen up to now no amendments to this motion, and I am grateful to Members on that. It is a rare occasion nowadays. It is for this reason that the wording of this motion is neutral and very general, so that Honourable Members of this Council could express all their thoughts and feelings on what is contained in this report, or rather more importantly, what is lacking in this report.

Mr President, this annual report before us to the British Parliament from the British Government is the last of such a series of annual reports since the signing of the Joint Declaration. If you were to look at it in a positive way, this whole series of reports, in particular this last one, should be an indication of the degree of commitment of the British Government to Hong Kong in its last few years of colonial rule. It should also signify the commitment of the British Government in helping and in participating with the people of Hong Kong for a smooth transfer of sovereignty. It should also signify the commitment of the British Government, of this British Government and the future British Government in ensuring that the promises in the Joint Declaration, both in spirit and in letter, will be implemented as a joint signatory of that international document.

The question before this Council tonight or what Members of this Council will probably ask is, has it? Has the report projected such an image to Members of this Council?

Mr President, I will therefore be addressing the motion today in three areas, namely,

- (1) areas where we are happy to see that commitments are realized,
- (2) areas where promises have been made but have not yet been seen to be realized, and
- (3) finally, a few words on the report itself.

Hopefully, these will stimulate Honourable Members and perhaps even the Hong Kong Government to sound a note of unity or perhaps to raise issues of disagreement so that we can all debate.

Mr President, perhaps few would disagree that the British presence in the last 150 years, the impact of British democracy, the introduction of the rule of law, the governance of the successive Hong Kong Governments, the devotion of the whole chain of civil servants and the ingenuity of Hong Kong people have brought Hong Kong to what it is today. Mr President, few would also disagree that the return of sovereignty is a jubilant issue for the Chinese inhabitants of Hong Kong. Yet, when Britain negotiated with China on the return of sovereignty, Hong Kong people were not even asked for their opinion, let alone be able to participate. Furthermore, it must be remembered that the transfer of sovereignty does not mean the return of the land of Hong Kong, but also the return of six million people who, many though Chinese by race, have been born or otherwise British subjects.

Obligation over "nationalities" of Hong Kong people

What has Britain done for these once-subjects, or what can Britain do for these once-subjects? Mr President, many in Hong Kong and many in this Chamber have called for, and I am sure will continue to call for, the granting of British citizenship to all Hong Kong British subjects. But with respect, Mr President, this could well be considered as wishful thinking. Mr President, it took over a decade of intense lobbying by veteran soldiers who fought for Hong Kong, by Members of both the Legislative Council and Executive Council, by the Hong Kong Government and lately by the Governor of Hong Kong, before some 26 war widows were granted full British citizenship. It took years of intense lobbying by many in Hong Kong who have actually helped Hong Kong in many ways, and there are only a few thousand of these ethnic minorities, before they were able to obtain full British citizenship and even then it is through a Private Member's Bill. What chances do the three million British-born Hong Kong citizens have? It is actually laughable to read in the report a statement by the Foreign Secretary, and if I may be allowed to quote: "At least as important will be the welfare of the three million or so Hong Kong people who will continue to hold British passports after the handover. It is made clear that we treat our responsibilities towards every British national, wherever he or she may be, with our utmost seriousness."

Repeated requests of Hong Kong people fell on deaf ears

Mr President, the last six months or so, the period of which this report covers, witnessed the visits of many senior ministers and officials from the British Government, amongst them of course is the Prime Minister, the Deputy Prime Minister, the Foreign Secretary, the Minister of State responsible for Foreign and Commonwealth Affairs, and so on. We welcomed them and obviously this signifies their concern for this last colony in its last few colonial days. But ironically, for as long as I could remember, for as long as I have been a Member of this Council, the problems raised to our visiting dignitaries who have responsibilities for Hong Kong and the problems raised by delegations of this Council to the United Kingdom have not changed in these last few years; namely, the problems have been Vietnamese migrants in Hong Kong and their repatriation or otherwise, the right of abode issues of Hong Kong, visa-free entry for holders of British National (Overseas) passports and Hong Kong Special Administration Region passports, human rights issues in Hong Kong after 1997, in particular, the continued reporting of Hong Kong's human rights situation to the United Nations Committee on Human Rights after the change of sovereignty, and so on.

What do all these indicate? Are Hong Kong people or their representatives particularly demanding? Or more likely they are not. Mr President, if I may submit to you that it is because the British Government has so far not acceded to Hong Kong people's requests on issues that deeply affect us, the people of Hong Kong, our well-being and confidence of which the British Government has so far appeared to have only paid lip service.

Take the Vietnamese migrants and refugees as an example. The words, and I quote: "The British and Hong Kong Governments remain committed to returning all Vietnamese migrants as soon as possible", have been repeated to ad nauseam. It amounts to bashing one's head against a concrete wall to hope that Britain will take over any migrants left unrepatriated in Hong Kong by July 1997, or to take a further share of refugees, when visiting ministers have stamped their feet repeatedly that, and I quote, "Britain has already taken its generous share".

Britain refrain from telling what she fails to do for Hong Kong

What then do I see in the report itself, Mr President? Regrettably, I look at it as simply a concise version of the annual year book published in Hong Kong, or rather by the Hong Kong Government. It is a book full of data of which Hong Kong has done and succeeded in doing in so many areas in the past few months and years. Yet it fails miserably to highlight areas which the British Government, on its own or through the Hong Kong Government has done, has not done or — her plan to have these areas solved and implemented for the improvement of Hong Kong people's confidence for the future.

Mr President, perhaps I would like just to finish by quoting from the Foreign Secretary's foreword remark of this report, and I quote:

"There is anxiety that some of the promises in the Joint Declaration may not be honoured in quite the way intended. There is anxiety that despite the best of intentions at the centre, the future sovereign power may not yet understand quite well enough the complex organism of Hong Kong, and the intimate connection between the economic and political liberties. There is anxiety about the depth of China's commitment to DENG Xiao Peng's concept of "one country, two systems", the concept which should provide for a high degree of autonomy for capitalist Hong Kong There are anxieties about erosion of Hong Kong people's rights and civil liberties."

Onus on Britain to fulfil its roles as a joint signatory of the Joint Declaration

Yes, these are intense areas of concern and must be the hub of confidence of the future of Hong Kong and its people. Yet it would have been much more positive if the report were to state Britain's position on all these issues and the way the British Government will take them forward for implementation, than to wave it away by saying, and I quote again, "the onus will then be on China to fulfil the remarkable series of undertakings which it made to Britain about almost every aspect of Hong Kong's way of life after the handover." Yes, China has the responsibility. So too has the British Government as a joint signatory of the Joint Declaration.

Mr President, Hong Kong was saddened yesterday by the very ugly scene of a child and her mother being deported back to China after being in Hong Kong, though illegally, for most part of her life. Yes, nobody would dispute that the

move is within the legal framework and nobody should be above the law. Yet, if the British and Chinese Governments were to have addressed the matter thoroughly, if the Hong Kong Government has properly faced the issue with determination, could such a scandal be avoided? Mr President, such and similar shame have appeared nowhere in this report. Do we then have no pitfalls? If not, then why?

Mr President, with these remarks I so do move and hope to hear Members' comments on the report, in particular, suggestions on how the United Kingdom Government should proceed to uphold its honour as a joint signatory of the Joint Declaration. Thank you.

Question on the motion proposed.

MR MARTIN LEE: Mr President, the Foreign Secretary, Mr Malcolm RIFKIND, in presenting the report, made a number of comments about the setting up of the provisional legislature, but it is interesting to note that in fact the Chinese Government gave the British Government almost two years' notice about its intention of setting up this provisional legislature. Namely, soon after the results of the elections were announced in September 1995, China already threatened to set up its second "stove" but of course the British Government did nothing about that, and indeed when I kept reminding them about this, I was told that that was a hypothetical question. Of course, now that the provisional legislature was established I was told that that is a *fait accompli*.

Indeed, it was only at the eleventh hour that the Foreign Secretary issued a statement protesting against the provisional legislature. That statement was issued on 20 December last year and it was released at 4 pm Hong Kong time, which was the day before the setting up of the provisional legislature.

One wonders what the Chinese Government might or might not have done if indeed the British Government had challenged China's intention of setting up this provisional legislature much earlier. Of course, we are told by Mr Malcolm RIFKIND that he was assured by the Vice-Premier, Mr QIAN Qichen, in an undertaking given to him in April 1996 that "the provisional legislature would not assume its functions before 1 July". Of course, we know that the provisional legislature, of which you are a member, Mr President, will indeed begin to legislate much earlier than 1 July.

The provisional legislature, according to Mr Malcolm RIFKIND, of course was not provided for in the Joint Declaration or in the Basic Law. So what do you find here, this provisional legislature? It is contrary to the Joint Declaration. It is contrary to the Basic Law and it is beginning to legislate for the future Hong Kong Special Administration Region (SAR). It is also in breach of a solemn undertaking, an undertaking given by the Vice-Premier to the Foreign Secretary.

And what is the British Government going to do about all these breaches? Well, the British Government challenged China effectively to submit to the jurisdiction of the International Court of Justice over this question, as to whether or not the setting up of this provisional legislature was or was not in accordance with the Joint Declaration. But of course China merely laughed it off. The next thing that the British Government could do, as was pointed out by me during one question session with the Governor here in this Chamber, namely, the British Government could bring the matter to the Security Council of the United Nations in order to have the question referred to the same International Court of Justice for an advisory opinion because if that were the case, of course, the consent of the other party concerned need not be obtained.

One recognizes of course that China is another member, another permanent member of the Security Council, so China could veto. But if China were to veto, to exercise its power of veto, China would be telling the whole world that she does not want this question to be decided by the International Court of Justice. Therefore it would be at least a symbolic gesture on the part of the British Government to raise the matter at the United Nations Security Council level. But the Governor simply said to us in this Council that the Security Council had much more important things to deal with, like Ruanda, like Bosnia, as if Hong Kong is not even important in the eyes of the British.

Of course, the Hong Kong Government could do more because it cannot be right or proper or even logical for the provisional legislature to begin to legislate by having first, second or third readings before 1 July, because after all, the provisional legislature is part and parcel of the Hong Kong SAR, which would not come into being until 1 July, so how can a part of it begin to work before 1 July? As I said to Mr TUNG and to the Governor, it is like asking a baby to crawl before the birth of its mother.

But there is another difficulty. We are told by Sir S Y CHUNG that the bringing of any action in our courts would constitute an act of state. That is precisely the fear I articulated during the debate on the passage of the Court of Final Appeal Bill in July 1995. Of course, we know that the Court of Final Appeal is not permitted to interpret any article, like Article 19 of the Basic Law which deals with an act of state, because it involves a matter which is something which affects the relationship of the central and local governments.

MR IP KWOK-HIM (in Cantonese): Mr President, this is the last annual report on Hong Kong submitted by the British Government to British Parliament when Hong Kong is still under British administration. Since this is the last report, it is very natural that much emphasis will be put on how sound is the British rule over Hong Kong and how successful is Britain in promoting the prosperity of Hong Kong. It is very true indeed that the British rule has contributed a great deal to the success of Hong Kong today. Former Governors, such as the late Sir Edward YOUDE and the previous Governor, Sir David WILSON, can maintain a co-operative relationship with the Chinese Government on the basis of mutual respect, and a harmonious relationship can be maintained among China, Britain and Hong Kong during their administration.

However, since Mr Chris PATTEN assumed his post, this cordial and harmonious relationship has come to an end. After the "3-violation" political reform has been implemented, Sino-British row has always dominated our news headlines. The British Government and Mr PATTEN stem from the same root, so it is not surprising that Mr PATTEN is "looked after carefully". They are all having the same stance as regards the row over the legislature. In paragraph 5 of the White Paper, it is pointed out that the 1995 Legislative Council elections were fully compatible with the Sino-British Joint Declaration and the Basic Law, and Mr PATTEN has also repeated this point many times. However, under Article 67 of the Basic Law, Members in the Legislative Council of the Hong Kong Special Administrative Region (SAR) who are not of Chinese nationality should not exceed 20% of the total membership of the Council. Is the number of incumbent Legislative Councillors who have foreign passports compatible with the Basic Law? I think the answer is already very clear without any elaboration.

In the same part of the Report, it is stated that Members of the current Legislative Council should be "allowed to serve the usual four-year term".

Hong Kong people and even British Parliament are misled by this point seriously. Since the establishment of the Legislative Council, only the last term was a four-year office, how can we say that the Council has a "usual four-year term"? Also, has the British Government the right to stipulate the term of office of the legislature of the SAR after 1 July? Please remember that Hong Kong is no longer under British administration after 1 July.

As regards the tasks for the Provisional Legislative Council (PLC), the White Paper is of the opinion that they should be accomplished by other persons and organizations, notably the Chief Executive (Designate) and his team designate. However, does the British Government understand that law-making is the duty of the legislature, and the SAR Chief Executive and his team designate should and could not replace the function of the PLC? Is the British Government going to abandon the principle that the executive should not interfere with the legislature, which it has all along considered as the golden rule?

Moreover, one of the duties of the PLC is to study and endorse indispensable legislation of the SAR Government and the laws which are not originated from Hong Kong, such as the legislation related to the right of abode in the SAR. Obviously, this piece of legislation has to be in place when the SAR is set up, but it should not be prepared by this Council, which is established under the Letters Patent. If the PLC cannot make laws, who should shoulder this responsibility? Although it is said that the Hong Kong Court of Final Appeal Ordinance was also studied and enacted by this Council in 1995, I have to point out some mistakes here. Regarding the provisions of the Hong Kong Court of Final Appeal Bill, terms like "the Governor" and "the Government of the United Kingdom" are applied to stand provisionally for "the Chief Executive" and "the Central People's Government". The reason is that this Council cannot enact laws which are to be implemented after 1 July 1997, and section 1 of the Hong Kong Court of Final Appeal Ordinance has also stipulated that it shall be amended to ensure that it is in full conformity with the Basic Law before it comes into effect. If the PLC does not put forward the amendments, we will not have the Court of Final Appeal. Is this what we want to see?

In the foreword of the Report, it is mentioned that issue concerning the nationality of the wives and widows of the ex-servicemen who fought in the defence of Hong Kong in the Second World War and the ethnic minorities in Hong Kong has been resolved, and I welcome this decision. However,

regarding the issue of right of abode, which has far-reaching effects, the Hong Kong Government has refused to provide assistance to the SAR Chief Executive's Office. Moreover, even though the Chief Executive (Designate) and the SAR Secretary for Justice (Designate) have requested the Hong Kong Government and Mr PATTEN to provide information on the Right of Abode Bill to the Chief Executive's Office for better legislation, they are turned down with no reasonable explanation. It is really difficult to understand how this Report can still point out shamelessly that the Governor has reiterated the Hong Kong Government's commitment to provide the Chief Executive (Designate) with all necessary assistance.

To conclude, the British Government no doubt has made a lot of contribution to the success of Hong Kong, but it has also stirred up many unnecessary conflicts. While British rule in Hong Kong is coming to an end, the DAB hopes that the Hong Kong Government will co-operate with the SAR Chief Executive's Office in the remaining days. For its moral obligation and in practice, the Hong Kong Government should act in the interest of the Hong Kong people with their well-being in mind, and it should not raise unnecessary rows any more.

Mr President, these are my remarks.

MISS EMILY LAU: Mr President, I rise to support the motion moved by Dr the Honourable LEONG Che-hung. In the Foreword of the Annual Report, Foreign Secretary Malcolm RIFKIND said it will not be the last report to Parliament on Hong Kong, either under British administration or after the transfer of sovereignty. I welcome Parliamentary scrutiny of developments in Hong Kong. After all, Parliament approved the Sino-British Joint Declaration in 1984, thus it has an obligation to ensure that the promises in the Sino-British Joint Declaration are faithfully implemented. Such duty goes all the way to the year 2047, the period covered by the Joint Declaration.

Mr President, the Foreign Secretary condemned the Chinese Government's decision to set up the provisional legislature, a move he described as "unwise and unnecessary." Because of the provisional legislature's dubious legal and constitutional status, the Foreign Secretary's remark is a gross understatement and reflects Britain's lack of resolve to deal with the problem.

The Foreign Secretary reminded China to honour the undertaking given by Vice-Premier QIAN Qichen in April last year that the provisional legislature would not assume its functions before 1 July.

However, the provisional legislature has begun legislating earlier this month, with the introduction of the bill on public holidays by the Secretary for Justice (Designate), Elsie LEUNG. This shows that the Chinese Vice Premier's words cannot be trusted. Of course, this has come as no surprise to the Hong Kong people, many of whom do not trust the Chinese Communist Party. But the question we must ask is: What on earth is Britain doing about it? Like many Hong Kong people, Britain probably does not trust China, yet it saw fit to enter into an agreement with China on the future of the Hong Kong people, knowing full well it was an agreement which it cannot enforce. Such conduct is disgraceful and deplorable.

The Foreign Secretary referred to worrying developments on human rights, particularly the decision by the Standing Committee of the National People's Congress to remove from the Hong Kong statute book parts of the Bill of Rights Ordinance and related legislation. Mr RIFKIND called the move "unnecessary and unjustified."

The three-week consultation period on Mr TUNG Chee-hwa's proposals to amend the Public Order Ordinance and Societies Ordinance will end later this week. There are signs that the Chief Executive (Designate) is determined to restrict our freedom of assembly and freedom of association. When that happens, what is Britain going to do?

Next week, there may be a Labour Government, but the latest opinion poll shows a Labour victory is by no means a foregone conclusion. As far as the Hong Kong people are concerned, whoever is in power in London must not forget Britain's moral obligation to the Hong Kong people.

Looking to the future, the Foreign Secretary said the Hong Kong people are preparing for the change of sovereignty in exactly the same way they have dealt with tumultuous changes over the years — with quiet determination to make the very best of the circumstances in which they find themselves.

This sounded cruel and facetious. The Hong Kong people do not want to find themselves in a situation in which they have no say over their own destiny. Britain's refusal to allow Hong Kong people to elect their government made it impossible for the people to have representatives to take part in the talks about their future. In a nutshell, our predicament is not of our own making.

In the Annual Report, Mr President, the Foreign Secretary said he was aware of anxieties in Hong Kong not far below the surface. This included anxiety that the promises in the Joint Declaration may not be honoured, anxiety that China may not understand the intimate connection between economic and political liberty, anxiety about China's commitment to DENG Xiaoping's concept of "one country, two systems", and anxiety about the erosion of rights and civil liberties.

The Foreign Secretary said these anxieties are shared by many of Britain's partners in the international community and have rightly been highlighted by commentators across the globe. He warned that Hong Kong cannot achieve its full potentials unless these anxieties are stilled.

The Foreign Secretary is right to identify Hong Kong people's many anxieties, but what consolation can the Hong Kong people derive from the fact that Parliament knows we are worried? Earlier I said the Hong Kong people do not trust the Chinese Communist Government, but neither do they trust the British. Mr President, you must have heard of the expression — "The sun never sets on the British Empire". Do you know why? I am told it is because God does not trust the British in the dark.

Mr President, after running this place for more than one and a half centuries, Britain has an unshirkable moral and political responsibility to make sure that the Hong Kong people enjoy the protection and safeguards promised in the Sino-British Joint Declaration. In the trying months and years ahead, we will look to Parliament and the British Government to do all they can to hold China to the promises made in the Joint Declaration. If and when violations occur, we expect Britain to take concrete actions. Like extending British Citizenship to the Hong Kong people and breaking off diplomatic relationship. If Hong Kong people face persecution, we expect Britain to give them refuge.

Mr President, if even half of the anxieties listed by the Foreign Secretary turn out to be true, Hong Kong will go down as one of the darkest and most shameful chapters in the history of the British Empire.

I support the motion.

MR FREDERICK FUNG (in Cantonese): Mr President, in its Annual Report on Hong Kong submitted to Parliament this year, the British Government heaps praises on the Hong Kong Government for its policies on people's livelihood, housing and social welfare in the past year while making no mention of the plight and discontent among the grass roots, the underprivileged and vulnerable in our society. On the other hand, the Report, in conformity with the British Government's long-held position, launches scathing attacks on the establishment of the Provisional Legislature without reflecting thoroughly on the background of its establishment — a lack of co-operation between the Chinese and British Governments and the reasons for such a state of affairs.

On policies related to people's livelihood, the report says that the Hong Kong Government increased substantially the Comprehensive Social Security Assistance (CSSA) payments in March 1996 and is considering the need to further improve the CSSA Scheme to address the specific needs of elderly recipients. However, the report makes no references to the fact: the so-called substantial increase in CSSA payments in March 1996 was made against the background of an absence of any review and adjustment for many years, which has resulted in the CSSA payments stagnant at a relatively low level. The so-called study on the need for further improvements to CSSA payments for elderly recipients is nothing more than empty talks. While the surplus for this year is a whopping \$15.1 billion, the Gini Coefficient, which reflects the extent of disparity between the rich and the poor, has risen to a record high of 0.518 in Hong Kong. According to a survey by Oxfam, a total of 250 000 families in Hong Kong are living in abject poverty. All these figures point to a worsening situation for the poor in Hong Kong. The elderly are believed to be among the hardest hit. However, the Hong Kong Government would rather be a miser than make reasonable adjustment to CSSA payments.

Mr President, on housing policy adopted by the Hong Kong Government, the report just boasts about how efforts by the Government have succeeded in increasing the home ownership rate from 38% to 52% over the past 10 years.

But it makes no mention of the common phenomenon in Hong Kong that "there are vacant homes as well as homeless people". On the one hand, rampant speculative activities in the private property market have pushed property prices to exorbitant levels and resulted in a sharp increase in the vacancy rate of property. On the other hand, inadequate supply of public housing has led to a long waiting list.

On retirement protection, the report just talks lavishly about how resources have been allocated to set up the Mandatory Provident Fund (MPF) Office, leaving the impression that the daily life problems faced by the elderly in Hong Kong could be easily overcome with the setting up of the MPF System. However, the report makes no mention of the criticism directed at the MPF System by many social workers and political parties in Hong Kong for, among other things, its failure to solve the existing problems of living faced by the elderly, the lack of commitment on the part of the Government towards the system and the fact that all the risks in connection with the system are to be borne by the employees themselves.

On the whole, the report just tells good news and hides the bad ones with the possible intention of hiding the truth from the British Parliament. By so doing, "it is deceiving itself and hopes to deceive other people as well."

On the constitution front, the report reiterates the Hong Kong Government's position that it will not provide assistance in any form to the provisional legislature. The provisional legislature is the product of a lack of co-operation between the Chinese and British Governments, which may create a legal vacuum after 1997. Have the Chinese and British Governments given any thought to the future well-being of Hong Kong people during the whole process of their disputes over Hong Kong's political system? In its Report to the Foreign Affairs Committee of Parliament back in 1993, the British Government did concede something in paragraph 35 (and I quote): "the British Government agrees that the Chinese Government will try to implement the Joint Declaration and the Basic Law. If the electoral arrangements for 1995 are compatible with both the Joint Declaration and the Basic Law, then there will not be good reasons to change them after 1997. As far as the Chinese Government is concerned, although both the Joint Declaration and Basic Law do not guarantee the automatic transition of the incumbent Legislative Council, the National People's Congress, when passing the Basic Law, also decided that the Preparatory Committee be established in 1996, so under certain circumstances and conditions,

incumbent Legislative Council Members could become Members of the first Legislative Council of the Special Administrative Region (SAR)." Two points in these two sentences are worth analyzing. Firstly, there is no promise of an automatic transition of the incumbent Legislative Council; secondly, only under certain circumstances or conditions can incumbent Legislative Council Members become Members of the first Legislative Council of the SAR. Of course, Sino-British negotiations have subsequently broken down. As for the second point, as mentioned in Article 67 of the Basic Law, the number of foreign passport holders cannot exceed 20% of the total membership of the first Legislative Council of the SAR. In the current Legislative Council, the number of foreign passport holders has already exceeded 20% of its membership. These two simple reasons are strong enough to derail the "Legislative Council Through Train", threatening to create a legal vacuum. Many people and groups in Hong Kong have come up with various ideas and suggestions in an attempt to help the Chinese and British Governments overcome their differences. Back in 1992, the Hong Kong Association for Democracy and People's Livelihood (ADPL) proposed a package of political reform for 1995 which was consistent with the Basic Law while, at the same time, ensuring the widest possible participation in the Legislative Council elections. But that proposal was rejected by both the Chinese and British Governments. After the breakdown of the Sino-British negotiations, the ADPL again proposed a "Through Train of another kind" programme. Unfortunately, the Chinese and British Governments turned a blind eye to efforts and expectations of the ADPL and other people in Hong Kong, and went on a collision course, resulting in the derailment of the current Legislative Council and bringing a lot of damage to the atmosphere and basis for co-operation between these two governments. The ultimate victims of these bitter clashes will be those who choose to stay behind and build for a better Hong Kong. Not a single word is found in the report about the background and consequence of the lack of co-operation between the Chinese and British Governments. It can be seen in the Governor's position that the Blue Bill on permanent residency will not be introduced until 30 June 1997, thus increasing the difficulties for the Office of the Chief Executive (Designate) in drafting the relevant legislation, which demonstrates the British Government's failure to reflect on the root of a lack of co-operation between the Chinese and British Governments, and its impact on Hong Kong people. The British Government's total disregard for the well-being of Hong Kong people is a sharp contrast to its moral obligation to Hong Kong people as repeatedly mentioned in the report.

While in the report the British Government is engaged in empty talks about its moral obligations to Hong Kong people, the Chinese Government has repeatedly stressed the importance of co-operation with its British counterpart for the remainder of the transitional period. As a member of the public and ADPL, I hope, as the rest of the community do, that the Chinese and British Governments will keep their promises and work in the best interest of the people in Hong Kong in order to solve all outstanding transitional issues in a co-operative manner.

The SAR Government should also draw lessons from the Report, which is full of inaccurate information on political and livelihood issues, especially in view of the fact that colonial era will soon come to an end and the British administration will be gone forever. After 1 July, the concept of "one country, two systems; Hong Kong people ruling Hong Kong" will be put to practice in Hong Kong. I hope the SAR Government will not follow the trick of hiding the facts from both above and below as the British Government did in the Report. The SAR Government should listen and respond to the voice and demand of Hong Kong people, especially those made by the middle and lower classes, on livelihood and political issues when formulating the blueprint for the future.

With these remarks and on behalf of the ADPL, I support the motion moved by Dr the Honourable LEONG Che-hung.

DR YEUNG SUM (in Cantonese): Mr President, the British Government has recently submitted the Annual Report on Hong Kong 1996 to Parliament. This annual report is the last of its kind before China resumes its sovereignty over Hong Kong. Hence, it is particularly meaningful for this Council to debate on this report.

Mr President, while the British Government is planning for an honourable withdrawal, I would like to raise a few points.

Firstly, we will discuss the democratic development. The British Government gave democratic development a late start in Hong Kong, and at a rather slow pace. The Chinese side always considers the promotion of democracy in Hong Kong by the British a conspiracy, as they think that the British deliberately choose the time just before they leave for introducing democracy to Hong Kong, instead of doing so in the past years.

Mr President, in response to the above comments, I have to say that democratic development is very important if Hong Kong is to enjoy a high degree of autonomy. I will only blame the British for taking so long to introduce democratic development to Hong Kong. I once raised a question, "Why did the British not give the development of a democratic government a free hand in Hong Kong in the 1980s?" During a recent interview with a Hong Kong newspaper, Lord MacLEHOSE, former Governor of Hong Kong, revealed that the Hong Kong Government was reluctant to throw the reins to democratic development in Hong Kong in the 1980s, for the British feared that they could not reach an agreement with the Chinese side on that issue. I believe all of us still remember that Mr XU Jiatus, who was the Director of the Xinhua News Agency at that time, strongly criticized the British for violating the "Sino-British Joint Declaration" and not following the rules. Hence, under strong opposition from the Chinese side, the British side abandoned its plan to speed up the development of a democratic government in Hong Kong in the 1980s. It was only until 1991 that some of the seats in the Legislative Council were returned by direct election. Mr President, if the request of the Democratic Party for direct election in 1988 had been granted, or a democratic government had already been developed in early 1984, I believe that the history of democratic development in Hong Kong might have been totally different.

Fortunately, democratic government to a certain extent was established in 1991 and 1995. Since then, the economy of Hong Kong has developed rapidly and our society remains stable. Evidently, Hong Kong has the preconditions for developing a democratic government. Yet regrettably, the development has a late start and its pace is slow.

Mr President, history will make it clear that before Chris PATTEN assumed the office of Governor of Hong Kong, the people of Hong Kong already had strong demands for a democratic government in the 1970s and the 1980s. To a certain extent, Governor PATTEN was just giving the people of Hong Kong what they requested after he assumed office.

Mr President, history will also make it clear that when the interest of Hong Kong is in conflict with that of Britain, the former will readily be sacrificed. The history of democratic development in Hong Kong is a sufficient proof of this.

Mr President, the position and response of the British Government regarding the provisional legislature are disappointing. Though the British Government opposes to the setting up of the provisional legislature by the Chinese side, when that legislating body begins to operate, neither the British nor the Hong Kong Government takes actions to prevent it from pounding against the legislative procedures of this Council. It seems that Sino-British relationship and their long-term interest are far more important than the interest of Hong Kong people.

Mr President, regarding human rights, the Democratic Party has always urged the Government to establish a human rights commission to play an active role in promoting the development and education of human rights, handling disputes concerning human rights, and monitoring the implementation of the Bill of Rights in Hong Kong. But unfortunately, due to the objection of the Chinese side, the Hong Kong Government only decided to establish the Equal Opportunities Commission.

Apart from the failure of the British Government in exerting all its strength to develop democracy and protect human rights, Hong Kong is facing difficulties one after another in social development.

Firstly, while the economy of Hong Kong is thriving, there is a polarization between the rich and the poor. Though our economy is making steady development, the rich people in our community becomes richer but the poor poorer. Last month, Oxfam and the Hong Kong Council of Social Service published a report on the study of poverty in Hong Kong. According to the report, 600 000 people in Hong Kong were living in abject poverty, the majority of which are the elderly. The standard of living of these elderly is even worse than that of the elderly recipients of Comprehensive Social Security Assistance. However, the response of the Hong Kong Government to this report is disappointing.

Up to the present, the Hong Kong Government is still evading the issue of poverty in Hong Kong. It is just incredible that the Hong Kong Government gives no definition for poverty, let alone formulating any policy to fight against poverty. In a civilized world, this is hard to believe and entirely unacceptable.

Mr President, the issue of poverty in Hong Kong also involves care for the elderly. The measures to improve the care for the elderly sound nice but not

practical. The so-called care in the community for the elderly is but a mere show. Instead of calling it care for the elderly by the community, it is much more appropriate to say that it is the family or the female members of the family who take care of the elderly.

The Mandatory Provident Fund schemes, which the Government will implement soon, can never serve the purpose of taking care of the livelihood of the retired elderly and the low-income group.

Mr President, housing problem has already placed an additional burden on the lower-middle classes. Even the majority of those people who are not living in public housing have to shoulder the burdens of high rents and mortgage payments. The quality of their lives is affected very adversely. However, as the Hong Kong Government is restricted by the so-called free economy and positive non-interventionist policy, both its response and determination to resolve the housing problem are unacceptable.

Mr President, I have just said that the Annual Report on Hong Kong 1996, which the British Government submitted to the British Parliament, is the last of its kind. The people of Hong Kong await the coming of 1 July 1997 with mixed feelings. In my personal view, the future of Hong Kong is closely bound up with the standpoint taken by the people of Hong Kong. In the future, the concept of "one country, two systems" will meet numerous obstacles and the people of Hong Kong should stand up for their own fortune. My brothers and sisters in the Democratic Party and I myself will stick firmly to the principles of upholding the interest of the people of Hong Kong, democracy, human rights and the rule of law, and striving for the implementation of the concept of "Hong Kong people ruling Hong Kong" and the attainment of "a high degree of autonomy".

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

MISS MARGARET NG: Mr President, the 1996 Annual Report on Hong Kong to Parliament tries to give the impression of "business as usual" — and marvellous business, too. This is not untrue. However, in the last Report before the change of sovereignty, the Foreign Secretary should have taken the opportunity to deal with the question: how ready is Hong Kong for a smooth

transition? Or, taking stock of the situation at present, how likely is Hong Kong to have a smooth transition?

Had the Foreign Secretary tackled these questions, he may well have had to give far from satisfactory answers.

Less than three months from 1 July, at least two material clauses of the Joint Declaration are in breach, namely, the clause that the legislature of the Hong Kong Special Administrative Region (SAR) shall be constituted by election, and the clause that before 1 July 1997, the United Kingdom Government will be responsible for the administration of Hong Kong and the Chinese Government will give its co-operation. The first of these clauses is breached by the establishment of the provisional legislature, and the second by causing the provisional legislature to operate before 1 July.

The effect of the Basic Law is now cast into uncertainty. The claim that the endorsement of the progress report of the Preparatory Committee by the National People's Congress (NPC) makes legal something blatantly in conflict with the Basic Law, simply because the NPC can legitimize anything by fiat, means the guarantees in the Basic Law can be easily and arbitrarily bypassed.

Mr President, let us look further at the executive, legislative and judicial aspects in turn.

There is no hiding the fact that the executive is thrown into confusion by China's insistence of a "second stove". Under this directive, instead of working with the present Administration, the Chief Executive (Designate) would work only with the few officials who have left the present Administration to form part of his small conclave. Mr TUNG Chee-hwa is not a man with vast political experience. The recent series of events show that he has not yet acquired the shrewd political judgement required to govern this open and pluralist community. He needs the counsel and support of the men and women of the entire administration, not only a chosen part of it. For this he must come to them, and not require them to go to him. To continue with a strong-headed leadership on clearly substandard resources is to court disaster.

That the legislative framework is unready is well-known to every Member of this Council. I shall only refer to the figures provided by the Administration. Of the 42 laws required to be localized before 1 July, only 12 have been passed,

and 10 have yet to be introduced into this Council. As to the adaptation of laws, the entire issue is still in the air.

There are clearly other moot points of our system of law beyond the Administration's list requiring clarification, for example, the whole question of mutual legal assistance with China, particularly on civil proceedings and enforcement of arbitration awards; and the vital question of the right of abode — not only who is entitled, but how this might be established with certainty for each person.

Recent intimations of what laws will be required by the SAR Government do not increase our confidence. To name one example, concerning children in China who will have the right of abode in Hong Kong after 1 July, the Secretary of Justice (Designate) said that even after that date, such children could still be removed and sent back to China if they enter Hong Kong without permission. She said legislation will be passed to this effect. She did not elaborate what legislation.

Mr President, it is a principle of law that a person who has the right of abode cannot be deported or removed. Under the present law, a person having the right of abode in Hong Kong is not subject to Hong Kong immigration control. An immigration officer can only require him to prove that status. If the officer denies entry to or detains or seeks to remove that person, the person can seek a writ of *habeas corpus*, and can prove his status before the court. Therefore, the rush to the border on 1 July of children with the right of abode is a very real prospect, and will cause widespread shock and distress.

To legislate to stop this rush by empowering immigration officers to remove such children is not impossible. One could, for example, require by law a form of proof of their status which has to be acquired in the Mainland. But this would be a curtailment of a fundamental right, which may contravene the International Covenant on Civil and Political Rights (ICCPR) and the Basic Law.

Where the judiciary is concerned, the appointment of the Chief Justice of the Court of Final Appeal is fast becoming highly political. Mr TUNG Chee-hwa's appointment of two Preparatory Committee members to the Judicial Officers Recommendation Commission who, together with the Secretary of Justice, can block any appointment or promotion of any judicial officer, has set up what must be seen to be a political vetting system. Coming at a time when

so much hope is placed on the independence of the judiciary, this is a blow indeed.

Finally, we all agree with the object of the more frequent and extensive use of Chinese in court. But a thoughtless implementation of that policy which would rapidly sweep away non-Chinese speaking practitioners cannot be helpful to the continuity of common law.

In short, this close to the transfer of sovereignty, democracy is under threat; the rule of law is under threat; the incoming executive is operating at the most disadvantageous manner; the very foundation of our future — the Joint Declaration and the Basic Law — have become uncertain on material points.

Mr President, all this is balanced against only one positive factor and, that is, the doggedness of the Hong Kong people to carry on and put all their efforts behind maintaining our way of life against all odds. And by Hong Kong people, I include whole-heartedly members of the Administration. After 30 June, I and other democratic Members may not be in this Council, but we will be in Hong Kong and we will continue to serve Hong Kong. May we long be allowed to do so.

With these words, Mr President, I support the motion.

MR CHOY KAN-PUI (in Cantonese): Mr President, in the last Annual Report to Parliament on Hong Kong before the transfer of sovereignty, the Foreign Secretary repeatedly indicated his worries. He was dubious about China's commitment to honour the promises made in the Joint Declaration and to implement the concept of "one country, two systems". He was worried about the erosion of Hong Kong people's human rights and civil liberties. He also questioned once again the legitimacy and legal basis of the provisional legislature. In my opinion, the Foreign Secretary was acting under the guise of these anxieties but in fact seeking to extend the British colonial rule by stirring up trouble and hence jeopardizing a smooth transition for Hong Kong.

It is well known that the Right Honourable Chris PATTEN, Governor of Hong Kong, insisted on his own way by introducing his "reform package" in 1992. By his own hands, he derailed the through train for the Legislative Council. As such, the Chinese side could not help but set up the provisional

legislature to fill the legal vacuum arising from the absence of a legislature upon the establishment of the Hong Kong Special Administrative Region (SAR) Government. The issue of convergence with the present legislature has also left behind many sequels. Regarding the Foreign Secretary's remark about the mixed outlook of Hong Kong and the hidden fears of its future, Mr PATTEN should be held responsible.

It is a pity that during his five-year term of office, Mr PATTEN has made little contribution which by all means is not worth mentioning. Mr PATTEN only devoted his efforts to politics, getting the people of Hong Kong involved in the whirlpool of political disputes. Consequently, policy secretaries also concentrated their time and efforts on Sino-British political disputes at the expense of the livelihood of the general public. This, by all means, has something to do with the recent spate of blazes that occurred in Garley Building, a karaoke, and a residential building in Mei Foo Sun Chuen in the past few months, all of which incurred heavy casualties. Although these tragedies came as natural calamities, they could be treated as man-made catastrophes. We cannot hold Mr PATTEN wholly responsible for these tragedies. However, when fire broke out in Garley Building, the Director of Fire Services pointed out that the Fire Services Department had drawn the Government's attention to fire service equipment in old commercial buildings a year ago. However, maybe officials of the Security Branch were then so entangled in the Sino-British political disputes that they could not spare any time to consider any policy and legislation to protect the safety of the public. It was not until the problems had surfaced that the Government made hasty remedies by drafting regulatory legislation. Of course, to legislate for regulation cannot prevent the occurrence of fires, but at least it serves the purposes of heightening public awareness of fire prevention and reminding the public of the importance of taking preventive measures. I recall last year when fire broke out in Garley Building, Mr PATTEN advised that the Legislative Council was scrutinizing a bill concerning the regulation of fire service equipment in old commercial premises. Regrettably, the Fire Safety (Commercial Premises) Bill under scrutiny at that time only targeted at fire service equipment in public places with a relatively high customer population density and old commercial/residential premises were not covered. As can be imagined, Mr PATTEN only concerned himself with political disputes, showing a gross neglect of the issue of livelihood.

In the years since he assumed office, Mr PATTEN not only ignored the issue of livelihood, but also showed no interest in the strategic development of

the territory's economy under the pretext of upholding the policy of "positive non-intervention". The Government has failed to provide timely and appropriate assistance and guidance to the trade and industry of Hong Kong. As a result, most industries were caught in an isolated and helpless situation and their competitiveness dropped. The Government has failed to respond effectively to the structural changes of the economy in recent years. As a result, many industries and workers have not been able to adapt well to these changes and hence the unemployment rate keeps on rising.

Recent years saw slackened economic growth, a drastic increase in the unemployed population, a decrease in workers' real wage and widening of the gap between the rich and the poor. In particular, thanks to the Government's high land premium policy and its underestimation of the housing demand, the development of the property market has been very unhealthy and properties have become speculative merchandise. As far as housing is concerned, Hong Kong people have to shoulder a heavy burden which lowers their standard of living considerably. These facts are all before our eyes. The number of flats produced has fallen well short of the housing targets. Moreover, as a result of underestimation of the population growth, there is a serious housing shortage which in turn triggers off an upsurge in private property prices. This problem will remain unresolved in the future. How can the "snails without a shell" afford to buy their own homes? The pledges made by Mr PATTEN in his policy addresses when he assumed office and in every year thereafter regarding production targets of public housing and enhancement of standard of living, all turned out to be empty promises time after time. The number of applications on the waiting list for public housing will only get larger rather than smaller. Similarly, the waiting time for a public rental flat will only be lengthened instead of shortened. It seems that the housing problem is a hot potato which Mr PATTEN intends to pass onto the SAR Government.

Mr President, although Hong Kong is not a welfare society, the Government has the responsibility to provide a safety net to the people in need. The Annual Report points out that following the completion of the Review on the Comprehensive Social Security Assistance Scheme last year, substantial improvements were made to the payment rates. However, I consider the base for setting the payment rates too low in the past, and recipients under the Scheme could not cope with inflationary pressure. Regarding the welfare for elderly people in particular, the level of payment for elderly recipients has been regarded as too low. The Government's indecision on the retirement protection policy in

the past have resulted in repeated delays in the implementation of the Mandatory Provident Fund Scheme. Hence workers who will retire soon cannot benefit from it. It is expected that there will be a sharp increase in the number of elderly people who need to be taken care of. Old people are victims of Mr PATTEN's political show.

Mr President, in face of the forthcoming retreat of the British administration, the people of Hong Kong do not have any more expectations for the British Government. Regarding the heaps of knotty problems left behind by the British Government, I am sure that upon the change of sovereignty on 1 July, the SAR Government is capable of dealing with them and the British Government need not worry about that. Hong Kong will definitely become more stable and prosperous.

With these remarks, I support the motion.

MR HOWARD YOUNG: Mr President, the motion today calls on this Council to take note of the Report on Hong Kong (1996) to Parliament. I think it is correct that we should do so — to take note — because this is constitutionally the last time that the British Government will have to table such reports in Parliament. However, with only 10 weeks to go before the transition, I do not believe that this is a time for posturing, for further quarrelling. Rather it is a time for reconciliation.

By putting aside arguments and getting on with the pragmatic aspects of ensuring a smooth transition, I believe that the desire of the Chinese and British Governments is for the Joint Declaration to be truly implemented, and that is also the desire of Hong Kong people.

A member of the media was asking me today: "whether the political uncertainty of Hong Kong would effect tourist arrivals after 1 July 1997?" I replied, "in my view today, there is probably more political uncertainty in London than in Hong Kong because the British election is coming up in a week and nobody knows what party is going to be in power." However, this does not deter tourists from coming to Hong Kong, nor should it deter people from going to London. The only thing that will deter people from coming to Hong Kong is bad-mouthing Hong Kong and giving Hong Kong a bad image.

Mr President, I believe it is not the time now to apportion blame on who was responsible for what, as we have had over the last few years. But I think the best thing to do is to give the Special Administrative Region (SAR) Government a chance, a chance to build up a track record, a chance to show to the world, to show to Hong Kong people, to show to the people of China and to show to the people of Britain, that the Joint Declaration can be implemented. So, although next year there will not necessarily be another report to Parliament on Hong Kong, I believe that the best solution for those, I believe, many people in Britain who are concerned with Hong Kong and so rightly they should be, would be to come to see for themselves what has happened to Hong Kong roughly one year after the transition.

I believe it serves no useful purpose to be a soothsayer of doom and dismay today, nor does it necessarily serve any useful purpose to be a prophet of Utopia. The best thing is to let facts speak for themselves. I hope that in one year's time, should British Parliamentarians who have Hong Kong's interests in their hearts like to visit Hong Kong as a visitor, as a tourist, as an observer, they will be more than welcome. I hope by that time they will be able to see for themselves that we will have in place, within one year of the SAR Government being set up, a fully-elected Legislative Council and continue to have an efficient Government, and that they will have seen that our standard of living and Gross Domestic Product have continued to grow.

I think only in this way, Mr President, can Britain, which has given Hong Kong many virtues and good things through the administration in the past, really satisfy itself that morally it has done its best for Hong Kong and that Hong Kong will be successful in implementing the Joint Declaration, that Hong Kong will be able to show that it deserves to thank Britain for the legacies of the rule of law and other good things in government that it has left behind.

With these words, Mr President, I do agree with the motion that we should take note of the Report on Hong Kong (1996) to Parliament.

MR ALBERT HO (in Cantonese): Mr President, the speech I am going to deliver today will focus mainly on the part of the report which relates to the subject of human rights. But before I start, I would like to make a remark that I have just received a request from the Honourable Martin LEE, who wishes to

finish his speech if he has had enough time to do so. I wish to do it now on his behalf.

PRESIDENT (in Cantonese): Mr Albert HO, you are not allowed to deliver other people's speech. You can only say that it is a speech of yours, but to your viewpoints Mr Martin LEE agrees.

MR ALBERT HO (in Cantonese): Yes, Mr President. Mr Martin LEE has agreed to my stating the following, which should be the concluding remarks of the speech he delivered just now.

PRESIDENT (in Cantonese): Mr Albert HO, you are not allowed to deliver other people's speech. You can only say that it is a speech of yours.

MR ALBERT HO: Mr President, I would start by stating the following which I understand my friend, the Honourable Martin LEE, would have liked to say if he had sufficient time.

It appears that the policy of the British Government under the Conservative Party is that when something goes wrong with Hong Kong after 1 July, it wants to be able to put the blame on the Chinese Government. And insofar as the Labour Party which expects to win in the next election on 1 May is concerned, its policy is that when something goes wrong with Hong Kong after 1 July, it wants to be able to put all the blame on the Conservative Party.

And of course there is a third point which I think that Mr Martin LEE would also like to say but has not put into his speech. Insofar as the Hong Kong SAR Government is concerned, if anything goes wrong after 1 July, the Chief Executive or the Chinese Government will probably say it is due to the wrong doings of the Democratic Party and the pro-democracy activists in Hong Kong. So God bless Hong Kong!

MR ALBERT HO (in Cantonese): The report does not have much to say in this aspect. It only mentions that Britain has submitted a few reports according to

the human rights covenants which were applicable to Hong Kong. Yet there is no reference in the report as to whether Britain has been practically able to fulfil its responsibilities under the human rights covenants, particularly as to whether it has been able to implement the covenants to the expectation of the supervisory body, the United Nations' Human Rights Committee (UNHRC).

Mr President, the British Government signed the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights in 1976, but unfortunately, for a prolonged period, it has made no corresponding amendments to the relevant legislation to protect human rights in Hong Kong, so as to ensure that such protection in the territory satisfies the requirements of both covenants. It was not until the latter part of the 1980s and beginning of the 1990s did the British Government begin to take a more active approach and start working in this area. With the enactment of the Bill of Rights Ordinance in Hong Kong, the British Government, however, vigorously prompted the Hong Kong Government to finalize the relevant legislation, so as to comply with the Bill of Rights Ordinance.

Mr President, this might be the cause of the Chinese side's extreme dissatisfaction, who views the substantial amendments made to the existing legislation in the latter part of the transitional period as a deviation from certain common expectations shared in the signing of the Sino-British Joint Declaration, or even a violation of the Joint Declaration.

Mr President, I, or for that matter, the Democratic Party, must point out that even if the British and the Hong Kong Governments have indeed done something wrong, the mistake does not lie in the reforms which, under the covenants, provide more human rights protection to the people of Hong Kong. It lies in that the reforms are too late, too slow, and too inadequate.

Mr President, concerning the opinion that the reforms have been too slow and inadequate, I am not the only one who holds this viewpoint. It has been declared by the UNHRC at the hearing of the human rights covenants reports. On the issue of discrimination, the Hong Kong Government, for instance, reiterated that according to some studies, discrimination had to be eliminated step by step and the community's level of acceptance should be taken into consideration. However, the UNHRC has made it clear to the British and the Hong Kong Governments that it was not a correct approach. The issue of discrimination ought to be promptly addressed by way of legislation and

education, so that people are aware that all forms of discrimination should be totally prohibited as soon as possible. But the British Government did not share this view. This leads to another issue: how the British Government understands its role in the implementation of the covenants, and how it interprets the meaning of the provisions of the covenants. In fact, when the report was being studied by the relevant panel of this Council, we were strongly disappointed that the British Government disagreed with the UNHRC's understanding and insisted that a more suitable approach for Hong Kong was to explore ways on making reforms, so as to comply with the requirements of the covenants. I was totally astonished about this. We are obliged to raise our strongest objection, because the UNHRC is the paramount machinery in interpreting human rights issues.

Finally, on the matter of submitting further reports after 1997, the British Government has also been on the slow track. The British Government should, as a matter of fact, arrange Hong Kong to submit further reports after 1 July, 1997. On the other hand, the British Government has set a very bad precedent by not consulting the people of Hong Kong in the preparation of such reports about Hong Kong. I am very worried that, even if China is willing to submit such reports, it will follow this bad precedent. Mr President, I feel very sorry about this.

Thank you, Mr President.

MR NGAN KAM-CHUEN (in Cantonese): Mr President, just now the Honourable IP Kwok-him from the Democratic Alliance for the Betterment of Hong Kong (DAB) has already pointed out that the Annual Report on Hong Kong 1996 to Parliament reflects that the British Government is perfidious, turns a blind eye to the interest of Hong Kong and acts in a way which does not conform to its promises. It also enables us to see that it just ignores the reality and deliberately creates disputes.

The White Paper says that Hong Kong people are worried that the Chinese Government will neither implement certain promises embodied in the Joint Declaration nor submit Hong Kong's human rights situation report to the United Nations Human Rights Commission. This has aggravated the anxiety of Hong Kong people. I think such description has confused the truth and misled the public. According to the findings of a territory-wide opinion poll conducted by the Asian Studies Centre of the Chinese University in the end of March, over

80% of the people are confident that after the transfer of sovereignty, the Chinese Government will be able to implement the concept of "one country, two systems" and "Hong Kong people ruling Hong Kong", and 23.2% of the respondents said that their confidence has been enhanced. When the Foreign Secretary says that Hong Kong people have anxiety about their future, does he have any evidence to support his statement?

The allegation that the Chinese Government's refusal to submit human rights situation report on the Hong Kong Special Administrative Region (SAR) will aggravate the anxiety of Hong Kong people is sheer nonsense. First of all, according to the Joint Declaration, there is no stipulation that the Chinese Government is obliged to submit human rights situation report on Hong Kong to the United Nation Human Rights Commission. Secondly, under the Joint Declaration and the Basic Law, there is already sufficient safeguard on the human rights and freedom being enjoyed by Hong Kong people. According to Article 39 of the Basic Law, the provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and international labour conventions as applied to Hong Kong shall remain in force and shall be implemented through the laws of the SAR. Whether the Chinese Government will submit human rights situation report on Hong Kong or not will not affect the safeguard enjoyed by Hong Kong people. Thirdly, JIANG Zemin, the President of the People's Republic of China, has recently expressed openly that the Chinese Government will become a signatory of the International Covenant on Economic, Social and Cultural Rights by the end of this year. This will further enhance the safeguard to the human rights and freedom of the Hong Kong people. In view of the above, the views of the White Paper should be rectified.

In the White Paper, it is also insisted that the representatives on the British side of the Sino-British Joint Liaison Group (JLG) should remain in Hong Kong and keep monitoring the development of the territory after 1 July, 1997. According to the paragraph 6, Annex II of the Joint Declaration, however, it provides that "The Joint Liaison Group shall be an organ for liaison and not an organ of power. It shall play no part in the administration of Hong Kong or the SAR. Nor shall it have any supervisory role over that administration." According to the above provision, has the British side not blatantly contravened the Joint Declaration and failed to abide by the agreement? The DAB hopes that the British side will not arouse any new problems or disputes. On the other

hand, the British representatives on the JLG should discharge their duties within the jurisdiction laid down by the Joint Declaration which include full co-operation with the Chinese side in order to reach mutual agreement as soon as possible in respect of the hand over of civil servants' archives, transfer of government's assets and assisting the function of the Provisional Legislative Council. This is to ensure a smooth transition for Hong Kong.

Mr President, I so submit.

MR AMBROSE LAU (in Cantonese): Mr President, 1997 is not only an important year in Chinese history, it is also an important year in British history. July 1 is the day when, according to the Sino-British Joint Declaration (the Joint Declaration), China will resume sovereignty over Hong Kong. On that very same day, Britain will also hand over Hong Kong to China. After July 1, 1997, Hong Kong affairs shall be part of the internal affairs of China. China has the sincerity and determination to apply in Hong Kong "one country, two systems", "Hong Kong people ruling Hong Kong with a high degree of autonomy". The British Government should have no doubt about this.

Mr President, through rational and peaceful talks the Chinese and British Governments have successfully signed the Joint Declaration. The two parties have set a good example in having successfully solved a problem left over from the past through peaceful talks and have gained wide recognition from the whole world. As the late leader Mr DENG Xiaoping told Mrs THATHER, the former British Prime Minister, "From a macro point of view, the return of Hong Kong to China is beneficial to Hong Kong because this means the end of British colonial rule then and Britain will be applauded in front of the whole world." Therefore, the Hong Kong Progressive Alliance (HKPA) hopes that the British Government can act in good faith throughout and will not interfere after July 1 in the application of "one country, two systems", "Hong Kong people ruling Hong Kong with a high degree of autonomy" in the Hong Kong Special Administrative Region (SAR).

Time and again, Hong Kong people have been assured by the Chinese Government that after July 1, except on matters about defence and foreign affairs, it will not interfere in the application of a "high degree of autonomy" in the SAR. This is the kind of assurance China as the sovereign state of the SAR can provide.

The HKPA hopes that Britain can similarly refrain from interfering in the affairs of the SAR after the hand-over on July 1. Mr President, after the reunification of Hong Kong with China, Britain still owns immense economic interests in Hong Kong and it cannot simply ignore them. In this connection, China unequivocally undertakes in the Joint Declaration that the SAR may establish mutually beneficial economic relations with the United Kingdom and other countries, whose economic interests in Hong Kong will be given due regard. Therefore, it is unnecessary for the British Government to submit to Parliament after 1997 an Annual Report on Hong Kong in the form of a White Paper. If the White Paper involves interfering with the "high degree of autonomy" in Hong Kong, it will undermine "Hong Kong people ruling Hong Kong" and will compromise further and better Sino-British co-operations after 1997. The HKPA hopes the British Government will understand that amicable Sino-British relations after 1997 means a lot to maintaining the prosperity and stability of Hong Kong and to the protection of British economic interests in Hong Kong. A basis on which to build good co-operation between nations is mutual respect and non-interference in each other's internal affairs. Mr President, an ancient Chinese poet, WANG Mingsheng wrote: "All nine branches of the Long River flows eastwards; why should a lone boat row against the tide?" Just like the flow of the Long River heading eastward, historical trends cannot be stopped. Working against the tide is futile. We hope that after 1 July 1997, the British Government can go along with the historical trend and would not interfere with the internal affairs of Hong Kong after its rule over Hong Kong ends. This is beneficial to the application of "one country, two systems", and "Hong Kong people ruling Hong Kong with a high degree of autonomy". This is also beneficial to British interests in Hong Kong.

Mr President, I so submit.

MR CHAN KAM-LAM (in Cantonese): Mr President, this year's Annual Report on Hong Kong (the Report) is the last of its kind before China resumes its sovereignty over Hong Kong. Supposedly, it should also be the last report submitted to the Parliament by the British Government. However, Mr Malcolm RIFKIND, the Secretary of State for Foreign and Commonwealth Affairs, states in the foreword of the Report that the British Government would submit six-monthly reports to the British Parliament and the United Nations after 1 July 1997. I really do not understand in what capacity the British Government submits the so-called reports and what it can report in these reports.

I believe that the whole Report, except for the foreword, does not worth debating at all. Nevertheless, I spot seven big questions in Mr RIFKIND's voluminous foreword to the Report.

1. *Saying one thing and meaning the other*

Mr RIFKIND says, "The British and Hong Kong Governments are committed to providing assistance to the Preparatory Committee and the Chief Executive (Designate)." As a matter of fact, the British and Hong Kong Governments have adopted a confronting attitude and refuse to co-operate in every respect. Take the recent issue of the right of abode in the SAR as an example, the Hong Kong Government is fully aware that the legislative procedures concerned must be completed by 1 July but it has announced that the Blue Bill would not be published until 30 June. The official of the Legal Department who is responsible for the drafting of the Bill has even said that without the assistance of the Hong Kong Government officials, the Chief Executive's Office will not be able to draft a "severe bill without loopholes" on the right of abode in the SAR. Can uttering words that take pleasure in others' misfortune be regarded as the right attitude to assist the Preparatory Committee and the Chief Executive of the SAR resolutely?

2. *Putting the blame on others*

Mr RIFKIND says it is regrettable that "China has taken the unwise and unnecessary step" to set up a provisional legislature. He also points out that neither the Joint Declaration nor the Basic Law makes any mention of a provisional legislature and such a legislature is not justified. But, has the British Government ever asked itself the reason for the Chinese side to set up a provisional legislature? It is all because Mr PATTEN has dismantled the through train arrangements stipulated in the Basic Law with his own hands by proposing political reforms which constitute three violations. Besides, the provisional legislature is set up by virtue of the National People's Congress and the SAR Preparatory Committee. How can we say that it is not justified?

3. *Misleading the public*

Mr RIFKIND said, "There is no reason why Members of the existing Legislative Council should not be allowed to serve the usual four-year term." I have no idea what the Secretary of State for Foreign and Commonwealth Affairs

means by "usual term". Actually, the usual term of Members of the Legislative Council in the past was three years. Nevertheless, in order to pave way for the original through-train arrangements in 1997 and to comply with the four-year term stipulated in the Basic Law, from 1991 onwards, the term of Members of the Legislative Council changed to four years. But now, as the through-train has been dismantled by the British side, it is natural that the term of Members of the Legislative Council under the British Administration in Hong Kong will terminate with the change of sovereignty.

4. *Falling between the devil and the deep sea*

On the one hand, Mr RIFKIND says that the removal of the Bill of Rights and parts of the related legislation by the Standing Committee of the National People's Congress is unnecessary and unjustified. Yet on the other hand, he says, "(We) hope that the resulting legislation (made by the Chief Executive) will reflect the clearly expressed wishes of the people of Hong Kong." Obviously, the British side in fact agrees that according to the Basic Law, the Standing Committee of the National People's Congress has the right to decide not to use the Hong Kong legislation which is inconsistent with the Basic Law. At the same time, it approves of the public consultations of the Chief Executive on the new legislation. The so-called strong opposition is but "empty words". At the same time, as the consultation exercise is still underway, we certainly have good reasons to believe that the resulting legislation will reflect the wishes of most Hong Kong people.

5. *Trumpeting anxieties*

Mr RIFKIND says he is "aware of the anxieties not far below the surface" and sets out four so-called anxieties which include the anxieties that the promises in the Joint Declaration might not be honoured in quite the way intended, the Chinese Government might not understand the complex organism of Hong Kong, the depth of China's commitment to DENG Xiaoping's concept of "one country, two systems", and the erosion of Hong Kong people's rights and civil liberties. I find these are but ill-founded alarmist talk aiming at stirring up trouble.

6. *Overrating its own abilities*

Mr RIFKIND advises that the British Government will "remain engaged" in Hong Kong and claims that it will remain engaged commercially,

economically, culturally and politically. Besides, he cites the new building of the British Consulate-General in Hong Kong as the symbol of Britain's engagement. He may be said to have overrated his own abilities to the utmost. What have the internal affairs of Hong Kong, namely political and economic affairs after 1997, to do with the British Government? It shows that the British Government is not willing to hand over Hong Kong to China, so it racks its brains to find excuses to interfere directly or indirectly with Hong Kong affairs after 1997 and to undermine the "high degree of autonomy" to be enjoyed by the people of Hong Kong.

7. *Being arrogant and conceited*

Mr RIFKIND also points out that after 1 July, "the onus will then be on China to fulfil the remarkable series of undertakings made to Britain" in the Joint Declaration. I would like to ask the British Government to see clearly that both the Chinese and British sides are the co-signatory of the Joint Declaration. Both sides have equal status. The British Government should not be so arrogant as to believe that Britain plays a major role in the Joint Declaration whereas China has to make the so-called undertakings to Britain.

Mr President, as the saying goes, "One who recognises one's past shortcoming of not taking advice should realize that it can be rectified in the future", the British Government is advised to admit its errors and mend its ways, fulfil its promises and co-operate sincerely with the Chief Executive and his team in the remaining 69 days. It should also provide the Chief Executive's Office with all necessary assistance to hang together the words it has uttered.

These are my remarks.

MR JAMES TO (in Cantonese): Mr President, the White Paper on the Annual Report on Hong Kong to Parliament is actually a report to "square accounts", which means that it is a report of the British Government to the British Parliament, the Hong Kong people and the whole world about what it has done for Hong Kong in the last year, and what it will continue to do for Hong Kong in the future.

I would like to put forward several points here. But before I do so, I want to say that I actually have all sorts of feelings well up in my mind. The British

Government has made a lot of promises about its obligations and undertakings, including political and moral ones, which stride 1997. But the series of happenings that took place recently proved to be very disappointing. For example, lately, some Hong Kong citizens took their children to the British Trade Commission to apply for a British National (Overseas) (BN(O)) passport. This is in fact a second-class passport the holder of which cannot reside in the United Kingdom. It just provides one more means to facilitate convenience in travelling. However, all these applicants were refused because of some so-called technical reasons. I do not deny that if we work purely according to the rules, the Commission has the right to demand reasonable explanations from the applicants before it takes their applications into consideration. But we should not forget that when the Immigration Department was still issuing BN(O) passports on behalf of the British Foreign and Commonwealth Ministry before April, according to the information I have, tens of thousands of Hong Kong people did apply after the deadline had passed yet none of them was refused. The Honourable Miss Emily LAU and I have been appointed as members of the BN(O) Late Registration Appeals Advisory Committee for more than two years, but we did not have to deal with a single appeal case. So when we received a letter of thanks from the Governor, we were really embarrassed. We have not done anything at all. Why should we be thanked? If one says that it is because the Immigration Department was lenient and the British Foreign and Commonwealth Ministry was stringent, then it shows clearly a change in the policy. To be frank, this is very unfair to Hong Kong people. If a person is refused his passport only because he applies several days late, what is the use of talking about political and moral responsibilities?

The problem of the Vietnamese migrants and refugees has been annoying Hong Kong people for many years. The Annual Report points out that at the end of 1996, there were still more than 6 000 Vietnamese migrants and refugees in Hong Kong. Now we have less than three months before China resumes sovereignty; yet 4 000 odd of them are still stranded here. Recently, the Vietnamese authority has issued a strange statement which I do not know whether it serves to bluff. It has the impudence to ask the Hong Kong Government why its nationals have not been repatriated after such a long time, as if we did not want the repatriation. This is baffling. It seems that the Security Branch officials do not have much reaction. After all, is its censure or allegation true? If not, should we not rebut? To go a step further, should we not ask the Vietnamese Government if it has done its best to screen as soon as possible the migrants and the refugees and to expedite its reception of

repatriation? I think that this problem of the Vietnamese migrants and refugees brought to Hong Kong by the British Government foreign policy has to be solved before China resumes its sovereignty. If not, the Legislative Council should have a consensus that the British Government has to take all of them in. There are only a few thousands of them as only 4 000 odd people are left. I think that if the British Government cannot even do this or make any promise while it brags about political and moral responsibilities, it had better stop talking about those things.

On the other hand, with regard to the billion-plus dollars that the United Nations High Commission for Refugees owes the Hong Kong Government, the British Government should also take up the responsibility and continue to assist the Special Administrative Region Government to recall the money at international level. If the British Government fails to do so within a certain period, it should pay the money back first on behalf of the United Nations.

Since the Governor, the Right Honourable Chris PATTEN, took office, he has stated many times, even in the recent Question Time, that all the ordinances and executive orders which infringe the Bill of Rights, especially those hindering freedom of speech and press, would be amended before the transition. But we are sceptical. If the Honourable LEE Cheuk-yan were here, he would naturally point out that many labour laws are in breach of the International Covenant on Economic, Social and Cultural Rights. I can also quote another example here, that is the Interception of Communication Bill. Up to now, this Bill has still not been tabled to the Legislative Council, which is a blatant violation of the Bill of Rights. Mr President, the Panel on Constitutional Affairs which you chaired a few years ago, the present Panel on Security and several other Panels have followed up the Bill but the Government still drags it on and on. Until very recently, the Government still says that it has not decided what to do after drafting the consultative White Bill.

Mr President, later I shall move the Bill for First and Second readings. Although I cannot say that this is a perfect version, if the Government is still impudent enough to ignore the problem, I believe the retreat of the British Government will definitely leave a very big smirch.

Finally, if Mr PATTEN does not table the Blue Bill concerning the right of abode to this Council in the shortest time possible, I would think that the United Kingdom has violated the relevant provisions in the Joint Declaration. Why?

Because the British Government is responsible for ensuring a smooth transition, which includes the smooth transition of all the necessary laws, executive orders, resources and systems. Lastly, if the British Government tables the Blue Bill but it is negated by this Council, then the United Kingdom will not be held responsible. Besides, if China decides to cancel or repeal the relevant laws irrationally, the United Kingdom will not be held responsible either. However, if the Government under Mr PATTEN's leadership does not table the Blue Bill until 30 June, it should absolutely feel ashamed in front of Hong Kong people and it will have directly violated and broken the Joint Declaration.

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, the Annual Report on Hong Kong (1996) to Parliament, which is the subject of today's motion debate, is the 12th in the series. The purpose of such reports is to keep Parliament informed of the developments in Hong Kong on a regular basis, given its strong and continuing interest in the territory.

Under the Sino-British Joint Declaration, the United Kingdom Government is responsible for the administration of Hong Kong up to 30 June 1997. The publication of the annual report series demonstrates the United Kingdom's interests and commitment in Hong Kong. Further, as a co-signatory of the Joint Declaration, the United Kingdom is fully committed to ensuring the implementation of the important principles embodied in the Joint Declaration, that is, the principles of "one country, two systems", Hong Kong people ruling Hong Kong and the high degree of autonomy.

The continued application of these principles will be fundamental to ensuring that Hong Kong maintains its prosperity and stability. The obligations on both the British and the Chinese Governments to ensure the continued application of these principles are well known to Members and the community. The preparation of the annual report on Hong Kong helps the United Kingdom Government keep track of important developments in Hong Kong and ensure that their obligations to Hong Kong can be fully met.

Senior British officials have time and again stressed that the United Kingdom's commitment to Hong Kong, both political and moral, will not stop at the transition. In the 1996 Annual Report, the Foreign Secretary has

specifically stated that the British Government and Parliament and all those in the United Kingdom with any kind of interest in Hong Kong will remain committed to Hong Kong over the next five decades.

Although the 1996 report is the last in the series before the transition, the Foreign Secretary in his statement issued on 20 December last year has undertaken to report to Parliament on Hong Kong at six-monthly intervals, starting with a report on the period January to June 1997 and promised that these six-monthly reports would continue at least as long as the Joint Liaison Group (JLG) existed, that is, until the year 2000. The reports would focus on the work of the JLG covering the implementation of the Joint Declaration with special reference to the protection of human rights in Hong Kong.

Mr President, I would now like to comment on a couple of subjects raised by Members in the debate on which the Hong Kong Government has a special interest.

First on the provisional legislature. Some Members have touched upon the question of the provisional legislature. The British Government's and the Hong Kong Government's corporate position on the question of the provisional legislature is well known and consistent all through. There is no reason for the provisional legislature to get involved in any legislative process before 1 July 1997. As far as the British Government and the Hong Kong Government are concerned, any legislative process carried out by the provisional legislature before 1 July will have no validity in Hong Kong under our current constitutional framework. We have always made clear our view that any laws processed by the provisional legislature prior to 1 July could be vulnerable to legal challenge. If indeed there were to be legal challenges, that would be a very bad way for the Hong Kong Special Administrative Region (SAR) to come into being. We therefore urge those who are in a position to make decisions on the provisional legislature to act with the greatest prudence in the interests of Hong Kong.

A few Members have expressed concern on the preparation for the transition. Mr President, I would like to assure this Council that preparation for a smooth and successful transition is well on track. Through the JLG and other channels, much preparatory work has been done since 1984 to lay a sound, solid foundation for the SAR and the SAR Government. These include work which

underpins the continuation of the rule of law which ensures the continued protection of individual rights and freedoms, which ensures that Hong Kong will remain a leading international, economic and financial centre, and which ensures that Hong Kong will continue to have an efficient and dedicated Civil Service.

For the few transitional issues which are still underway, the British Government and the Hong Kong Government will use their best endeavours to complete them to the maximum extent possible before 1 July.

Mr President, the full and faithful implementation of the Joint Declaration is a historical enterprise. I agree fully with the view expressed by some Members that, whilst the success of the transition needs the co-operation between Britain and China, we the people of Hong Kong have a very important role to play. It is us more than anyone else who will shape Hong Kong's future and our own destiny.

Members can rest assured that their views and concerns raised at this debate will be conveyed to the British Government.

PRESIDENT (in Cantonese): Dr LEONG Che-hung, you are not entitled to reply. You have four minutes out of your original 15 minutes.

DR LEONG CHE-HUNG: Mr President, I thank Members for their speeches. At the start, I said the title of this debate is a very general one and therefore anything under the sun could be discussed, and I think this is exactly what Members did. But be that as it may, they all did it with full commitment and true to their heart, including even that "God does not trust Britain in the dark".

I think the British Government should really be well-advised to take heed if it intends to go down in history for leaving this last colony with honour. I remember during the British Parliament debates on Hong Kong, many of us in this Chamber and perhaps even outside this Chamber listened to it attentively and this Council actually sent delegates to Britain to listen to those debates. Yet I wonder how many in the British political circle or in Whitehall would actually take even the slightest interest in this debate we are holding today. I presume this is understandable for when has Hong Kong been an actual issue for Britain? Definitely not now when it is only about seven days before the General Election.

Therefore I am glad to hear our Secretary for Constitutional Affairs said that all the speeches will be properly conveyed to the British Government. But let the British Government take note that the role of the British Government in the future of Hong Kong should never be based on the magnificent new building which on 1 July will become the British Consulate General in Hong Kong, nor their intention to remain engaged in Hong Kong because of commercial, economical and cultural reasons. Britain's responsibility to Hong Kong goes far beyond a moral obligation when it put its signature on that international document. It takes deeds rather than words to uphold British honour when the whole world is looking and watching. Furthermore, history will be the judge.

But much, of course, as Mr TUNG said, will depend on or be left to Hong Kong people to do. Therefore let us hope that the ingenuity and the doggedness, if I could use the Honourable Miss Margaret NG's words, of Hong Kong people to prevail and that all those who are committed to Hong Kong, whether they will still be in this Council or outside, will work together, and will co-operate to work for a better future in Hong Kong.

Last week, Mr President, I was the odd man out when I was the only one who voted on one direction opposite to the others. I do hope this sort of situation will not repeat this evening, so I appeal to all Members to support this motion. Thank you.

Question on the motion put and agreed to.

BUS FRANCHISE

MR WONG WAI-YIN to move the following motion:

"That this Council urges the Government to abolish the profit control scheme of the Kowloon Motor Bus Company Limited (KMB) when the existing franchise of the KMB expires at the end of August this year and actively encourage other bus operators to operate bus routes in Kowloon and the New Territories in competition with the KMB, with a view to improving the bus services in Kowloon and the New Territories."

MR WONG WAI-YIN (in Cantonese): Mr President, the Kowloon Motor Bus Company Limited (KMB) is the largest bus company in the Territory. According to the latest Government statistics release, the KMB owns more than

3 500 buses, with 2.9 million passenger trips every day, which represents 27% of the total daily passenger trip of all means of public transport in the territory. It is currently the public transport operator with the biggest passenger volume in Hong Kong.

At present, the KMB is allowed to operate more than 380 bus routes, covering the Kowloon peninsular, the entire New Territories, and, through some cross-harbour bus routes, the Hong Kong Island. In Kowloon and the New Territories, the KMB is virtually operating in monopoly. Though the KMB always argues that it has to face fierce competition from the Mass Transit Railway and the Kowloon-Canton Railway, they are, at the end, not direct competitors as the KMB and the railways operate in different modes, each offering its own attractions to passengers. Hence they cannot replace one another. Besides, at present there are many newly developed areas in Kowloon and the Territories which are still beyond the reach of mass transit systems. The KMB has hence become the sole choice on which the residents must depend. In other words, the service quality and fare level of the KMB have direct impacts on people's livelihood.

The franchise of the KMB expires at the end of August this year. As its service has been satisfactory, the Democratic Party agrees that the Government should renew the franchise with the KMB. However, as the market environment is different from what it used to be and in order to promote the interest of the consumers through the further improvement of bus service in Kowloon and the New Territories, I think the Government should, when granting the KMB new franchise, look further ahead. It should consider actively encouraging other bus operators to operate bus routes in Kowloon and the New Territories in competition with the KMB. Besides, the Scheme of Control that is still applicable to KMB has long been criticized. To be fair, as the Schemes of Control on other bus companies have all been abolished, the KMB should not be protected under this scheme any more in the new franchise.

Abolishing the Scheme of Control

Looking back, the fare increases by the KMB over the last few years have been surprisingly high. Between 1990 and 1994, the increases were between 12-15%, and each time it attracted vehement criticism from the media and strong opposition from organisations of the public. As for 1995 and 1996, even though the inflation and unemployment rates were high then and there were demands from political parties and organizations of the public for a fare freeze,

the KMB still went ahead to apply for fare increases, which were subsequently approved by the Traffic Advisory Committee. The KMB can apply for substantial fare increases even though it makes big profits year after year because it is still under the protection of the Scheme of Control. Though the Scheme only states that the annual return of the KMB cannot exceed 16% of its average net fixed assets, the KMB has interpreted it as a promise of an average annual return of 16%. Hence, the KMB fixes its target of annual return at 16%. In other words, what originally meant to be a system for monitoring the KMB has become a tool for the company to ensure a high profit and to harm the interest of the consumers.

At present, among the public utilities, only the two power companies, that is the China Light and Power Company Limited (CLP) and the Hongkong Electric Company Limited (HKE), and the KMB are still under the protection of the Scheme of Control. I believe that the recent case in which the CLP had an excessive reserve margin of its power production has given Members a good lesson on the disadvantages of the Scheme of Control. This system of pegging profits to the assets of the company has been criticized by scholars as harbouring the temptation for capital investment expansion. It induces the company to indulge in over-investment, and subsequently leads to the waste of resources and over-pricing. It, on the other hand, does nothing to spur the company to strive for greater efficiency and better service. The scholars hence suggested abolishing the Scheme of Control for all public utilities. The Democratic Party totally agrees with these views. That is why we urge the Government to repeal the Scheme of Control clause from the new franchise for the KMB.

Encouraging Competition and Improving Service

Mr President, an ideal market should be one with competition. It will result in not only more efficient distribution of resources and more reasonable pricing, but also better service. Of course, we understand that for some public utilities, the introduction of competition is not the most desirable means. However, I have to emphasize here that this applies only to public utilities of "natural monopoly", which generally means that, in industries that require technology of substantial scale and whose market does not support the existence of more than one company, monopoly is the only efficient mode of operation. Though the KMB is a company of substantial scale, there is still room for development in Kowloon and the New Territories which allows the operation of other bus companies. Moreover, current franchise of the KMB covers routes

rather than regions. If the Government is willing to open up the market of Kowloon and the New Territories and actively encourages new operators to enter into the market, the Democratic Party believes that many bus operators are willing to submit their tenders. The present monopolised situation is the result of the Government favouring the KMB.

As a matter of fact, the Government currently allows more than one operator to operate the bus services on Hong Kong Island and the shuttle and outgoing bus services for the new airport and Northern Lantau, which were just approved at the end of 1996. In other words, Kowloon and the New Territories are the only regions in which the public bus services involve no direct competition. The Democratic Party is of the view that the Government has to be fair to all bus operators. It should not favour a particular one by allowing it to corner the bus service. Not only is this practice in conflict of the principle of fair competition, it also deprives the public of their right to choose. For promotion of the consumer interest and further improvement of bus services in Kowloon and the New Territories, the Democratic Party thinks that the Government should actively encourage other bus companies to compete directly with the KMB.

Introducing Competition Is Not Penalising the KMB

Some Members may say, "The KMB has done a good job which satisfies the Government and the community, thus it is not necessary to encourage competition. The Citybus is allowed to operate on Hong Kong Island just because the services of the China Motor Bus was very poor and the Government granted franchise to Citybus to penalise CMB." Of course, the Democratic Party is fully aware of the reason why the Government allows the Citybus to join the market in the first place. However, for whatever reason, that the bus service on Hong Kong Island has been improved is a fact for all to see. In the old times when there were no choices, people could do nothing but endure the poor service of the CMB. However, since the Citybus joined the competition, it has been trying hard to attract customers by purchasing new buses and providing better services. Residents on Hong Kong Island are directly benefited. If the Government were to conduct a survey on the improvement to the bus service on Hong Kong Island after the introduction of the Citybus service, I think the answers from all the people would be positive and affirmative. Hence it is obvious that encouraging competition is better than all forms of regulation.

I have to emphasis here that the Democratic Party absolutely does not mean to penalise the KMB when it asks the Government to encourage competition in Kowloon and the New Territories. The introduction of competition is for the provision of better service and promotion of consumer rights. For a company capable of competition, operating in a competitive market will only act as incentive for higher efficiency in its operation, continuous improvement and better performance. Hence, I believe that the KMB has nothing to worry about.

Allowing New Operators into Newly Developed Areas

Mr President, to create a competitive environment and to allow a new bus operator to establish good bus services in a new area, the Government has to give the company the necessary assistance and allow it time to grow gradually. Currently there are some newly developed areas in Kowloon and the New Territories where both the population and the demand on public transport are increasing sharply. However, as the mass transit system is not yet completed, bus services have become the necessary means of transport that residents have to rely on every day. In fact, in some newly developed areas, as the services offered by the KMB fail to meet the residents' demand, residents' bus services have cropped up, and the number is increasing every year. According to Government estimates, there were 90, 120 and 160 routes of residents' bus service in operation in 1994, 1995 and 1996 respectively. They serve mainly areas in the New Territories. Hence, the Democratic Party proposes, if competition is to be introduced into Kowloon and the New Territories, the Government should first of all open up some new bus routes in the newly developed areas such as Tseung Kwan O and Tin Shui Wai North for other bus companies to submit their tenders.

As far as market development and technology are concerned, allowing other bus companies to compete with the KMB in Kowloon and the New Territories should pose no problems at all. The issue lies in whether the Government has the sincerity to actively encourage it. With the problem of traffic congestion aggravates by the day, it is necessary to encourage people to make use of public transport facilities by constantly improving the quality of their services. The Democratic Party thinks that encouraging appropriate

competition in the bus services in Kowloon and the New Territories is beneficial to the overall improvement to the transport services in the territory and consumer interests. Hence, the Democratic Party hereby moves this motion, and hope that the Government will encourage new bus services to compete with the KMB.

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

Question on the motion proposed.

PRESIDENT (in Cantonese): Mrs Miriam LAU has given notice to move an amendment to this motion as set out on the Order Paper circularized to Members. I propose that the motion and the amendment be debated together in a joint debate.

Council shall debate the motion and the amendment together in a joint debate. I now call on Mrs Miriam LAU to speak and to move her amendment. After I have proposed the question on the amendment, Members may speak on the motion and the amendment.

MRS MIRIAM LAU to move the following amendments to MR WONG WAI-YIN's motion:

"To delete 'actively encourage other bus operators to operate bus routes in Kowloon and the New Territories in competition with the KMB' and substitute with 'take appropriate measures to monitor the operations of the KMB and to urge it to improve the quality of its service, and at the same time to actively encourage public transport operators to engage in healthy competition' and to delete 'the bus service in Kowloon and the New Territories' and substitute with 'public transport services in Hong Kong!'."

MRS MIRIAM LAU (in Cantonese): Mr President, I move that the Honourable WONG Wai-yin's motion be amended as set out under my name on the Order Paper.

Before 1993, all franchised bus companies were subjected to Schemes of Control under which the permitted returns of the franchised bus companies are calculated on the basis of their net asset value. The purpose of this arrangement

is to encourage the franchised companies to reinvest their profits in their assets, with a view to improving their services. With the change of time and progress of our society, the public have higher expectations for the quality of bus service. Even without government encouragement, bus companies have to modernize their fleets of buses regularly and acquire air-conditioned buses to satisfy public demands. Under such circumstances, upholding the policy of pegging permitted return to net asset value will only mislead the public into thinking that acquisition of assets by these companies is simply a pretext for making higher profits. The Scheme of Control will also be denounced as an excuse for increasing bus fares.

I believe that abolition of the Scheme of Control will be much more effective in urging bus companies to make reasonable returns on their investments through improvements in their productivity, efficiency and quality of service, and to materialize the principle of "do more, get more", rather than that of "buy more, get more". In 1993, the franchise of the China Motor Bus Company Limited (CMB) was renewed and the Citybus Company Limited (Citybus) began to provide franchised bus service respectively. Since then, neither of these two companies are subjected to the Scheme of Control. If the KMB has its franchise renewed and the Scheme of Control abolished at the same time, all franchised bus companies will then be put on equal footing and be able to engage in a fair competition under the same conditions of franchise.

Hence I support the abolition of the Scheme of Control applicable to bus companies. At the same time, I support competition. However, the competition I support is a healthy one, not a vicious one. If the management and operation of a bus company are in bad shape, the introduction of other operators to compete with that company will give no cause for much criticism. Firstly, it can serve as a penalty on the mismanaged bus company and secondly, the company will be forced to upgrade its quality of service.

Nevertheless, I think it is unfair to target at the existing KMB bus routes by ushering deliberately or actively other operators into the scene. Such a policy may give rise to undesirable results. There are essentially two main ways to bring in competition to the bus service. The first one is to cut down the number of routes run by the existing operator and grant these routes to a new operator. The other is to let other operators compete with the existing operator while maintaining the existing routes. The Honourable WONG Wai-yin has mentioned this point earlier in his speech. That is to say, the existing KMB routes will be preserved while letting in other operators. The former proposal is

unfair to the existing operators which manage their operations well and provide high quality services. Furthermore, investors will get an impression that the Government is not fair in meting out rewards and punishments. As a matter of fact, among the four bus companies, the percentage of passenger complaints received by the KMB is the lowest. In 1995, there were only about 1.2 complaints per five million passengers. Mr WONG Wai-yin has advised earlier that the service of the KMB was, on the whole, satisfactory. He will not oppose to renewing the franchise of the KMB and it seems that he prefers the second proposal. In other words, the existing KMB routes will still be run by the KMB but other competitors will be let in. The question is: How can the proposal be implemented? I think that if this proposal is not implemented properly, vicious competition will be caused and the quality of bus service will not be improved at all. Even worse, such a proposal may generate more troubles than benefits to the public.

Concerning bus services in newly-developed areas and operation of new bus routes, I support the proposal of granting new bus routes and franchised bus service in newly-developed areas through competition among public bus companies. This is exactly the policy approach already adopted by the Government. For example, the franchised bus service to and from the new airport has been split into two franchises, which are now awarded to the Citybus and the KMB.

The problem with the original motion is that it does not state clearly the scope of competition and it fails to restrict the scope of competition to routes other than the existing KMB routes. The original motion asks the Government to "actively encourage other bus operators to operate bus routes in Kowloon and the New Territories in competition with the KMB" and this can be interpreted as competing with the existing KMB routes and the new routes as well. Hence, this motion has a rather wide coverage and this is one of the reasons why I seek to amend Mr WONG's motion. If his motion is interpreted as introducing direct competition to hit the existing routes, it may give rise to the vicious competition I have mentioned. It will do more harm than good to the public.

Regarding the routes in newly developed areas and new routes, I think we should not target the competition at the KMB only. We can see that the Citybus has already joined the operation of the existing new routes such as the new airport service, and cross harbour routes are jointly run by the CMB and the KMB. Why does the competition mention in the original motion only target at

the KMB? If there is any competition, it should be a competition among all public bus companies and the KMB should not be singled out.

Mr President, concerning the Scheme of Control, I think that even if the scheme applicable to the KMB is abolished, it will still reinvest its profits in its assets with a view to improving its service. However, whether the service provided by the KMB can meet public demands should be a matter of supervision for the Government. Hence I believe that the Government, when considering the renewal of the KMB's franchises, should conduct a review to look for more effective measures to monitor the operation of the KMB and to ensure that the quality of its service will be upgraded.

I think that bus companies should spontaneously keep upgrading the quality of their service. For example, they should make their seats more comfortable, install equipment to keep air fresh in the compartment, implement route information plates at bus-stops and improve the environment of waiting areas.

Mr President, in a free market economy, "competition" is an attractive yet dangerous word. Concerning public bus service, I believe that competition should be the means to achieve the goal but not the goal itself. Instead of putting competition in the most prominent place, we should make the best use of it to achieve the ultimate goal of improving bus services.

In my opinion, to improve public transport service, the Government should make full use of the characteristics of different means of transport to create positive conditions for competition. For example, bus companies should be allowed to compete among themselves and competition among buses, taxis, public light buses and even mass transit systems should be encouraged so that these means of transport can co-ordinate with and complement one another. Only through these competitions can we provide the public with more comprehensive and complete transport services.

Thank you, Mr President.

Question on the amendment proposed.

MR CHEUNG HON-CHUNG (in Cantonese): Mr President, among all public transport companies, the Kowloon Motor Bus Company (KMB) is the only

company to which the Scheme of Control is still applicable. At the end of August, this Scheme will be abolished. Actually, in the early days of Hong Kong, the Scheme of Control did ensure that companies investing in public utilities would have their profits safeguarded. Having their mind set at ease, these companies could keep on making investments and the public could be assured of receiving such services in return. Unfortunately, at a later stage, this scheme was exploited by some companies. They inflated their assets deliberately to boost their profits directly in accordance with the Scheme of Control. Public interests were thus undermined. Abolition of the Scheme will therefore benefit the community. In fact, upon the abolition of the Scheme, the franchise of public utilities will still be subjected to control and these companies have to subsidize the operation of the bus routes probably being run at a loss with those routes of high profit margins. They have to consider the overall routing arrangements according to the practice sometimes called "package deal of good bargains and bad ones".

Mr President, at present, new towns in the New Territories, particularly those in the eastern part, rely mainly on the Kowloon-Canton Railway (KCR) as their transport lifeline because the routes operated by the KMB in these areas are still inadequate. For example, there is an acute shortage of bus routes plying between the northern part of the New Territories and the urban area. There are only two external bus routes, one running between Sheung Shui and Kwun Tong (70X) and the other between Sheung Shui and Jordan (70). In the past decade or more, the North District Board kept on asking for more external bus routes to relieve the shortfall of bus services. Quite often, no positive response was received. We all know that the Government obviously wants to safeguard the interest of the KCR by forcing the public to sacrifice their right to choose from diversified transport services and to patronize the KCR. At present, the population of these new towns are soaring and the situation is deteriorating. During the rush hours in the morning, people who live in new towns in the eastern part of the New Territories, including the North District, Tai Po, and Sha Tin, have to queue up for at least two to three trains before they can get on board. To get themselves a seat is beyond their wildest dream. Even if a passenger is willing to pay more to travel by first class, he or she can only stand in the first class compartment instead of having a seat. Apparently, the KCR has already reached its capacity. If no other means of external transport are exploited, the problem will only be further aggravated.

Mr President, we all understand that resources are rare in our society. If the KCR network could cope with the development of new towns and do away with the disgusting situation at present, people would not mind choosing such a speedy mass transit system. Yet the KCR has obviously reached its capacity. It is irresponsible for the Government to safeguard the interest of the KCR by refusing to open more external bus routes for new towns.

Mr President, housing problem is everyone's concern in Hong Kong. It is an indisputable fact that there is a serious shortage of flats. The Government has been encouraging the development of different types of housing and favours particularly the proposal to move the population to new towns. As a matter of fact, by carrying out arbitrarily large scale construction projects in new towns before finding a solution to external mass transit systems, including the KCR and external bus routes, the Government only makes things worse and aggravates the already deplorable traffic condition. Even if the housing problem can be solved, the acute traffic problem is another hard nut to crack. When I was a member of the North District Board, the Government tabled a proposal to develop a piece of land where the Northern Hospital stands today to house 50 000 people. The proposal was voted down unanimously by the North District Board on the ground that transport network in the North District could not cope with the increased population. If housing and other facilities were to be developed on that piece of land, traffic would be the first problem to be solved.

Mr President, I recently joined several colleagues of this Council to pay an overseas visit to look into the operation modes of transport systems in different countries. In Singapore, public transport services are well co-ordinated. For example, bus companies are required to provide shuttle bus service between any district with a population over 2 500 and the interchange of the local mass transit system. For a district with a population over 20 000, there is always direct bus service to the urban area. Such arrangements ensure that bus companies will not ignore the interest of the public on the grounds of profits or because they enjoy the protection of the Government against their competitors.

Mr President, we hope that the Government will make efforts to encourage all means of transport to build up their strength to compete on a level playing field. It should not show any favouritism. If the Government refuses to develop bus routes with a view to safeguarding the operation of KCR, the needs

of new town residents for external transport services can never be well catered for. In fact, the Government should encourage positive competition between the KMB and the KCR. This will allow the public to make their own choice and their demands for transport services will be effectively met.

Mr President, since the Citybus began its operations on the Hong Kong Island, we have observed that bus services on Hong Kong Island have improved significantly. The introduction of the Citybus acted as a catalyst to reform and improvement of the services provided by the China Motor Bus Company. Positive competition will ultimately benefit the public. Hence, I believe that if bus services in the New Territories are also open to competition, the KMB will have the incentives to strenuously upgrade its services as well as offering more new bus routes to meet public demands. As "competition brings improvement", the introduction of competition will eventually benefit the public. We absolutely believe that the introduction of competition will not downgrade the quality of bus services. "The fittest survives." Competition allows the society and the public to eliminate those transport service operators who do not seek self-improvement. Such changes are also in line with public interest.

Mr President, these are my remarks. The Democratic Association for the Betterment of Hong Kong supports the motion as amended and the original motion.

MR LAU CHIN-SHEK (in Cantonese): Mr President, I recall that five and a half years ago when I first joined this Council, the first motion debate I moved was a request for a review of the Scheme of Control for public utilities and public transport companies. As far as I can recall, most colleagues in the Council supported "profit control", which they thought would encourage investors to invest and would thus ensure that consumers could enjoy the relevant services; otherwise, public utility companies would cease operation and the consumers would become the loser. However, today I believe it is a consensus in the community to abolish the Schemes of Control, which are equivalent to "profit guarantees". The recent case in which the China Light and Power Company Limited has produced excessive reserve capacity exposes the fallacy of Schemes of Control under which consumers have to shoulder the consequences of improper investment!

In 1991, the two major bus companies in Hong Kong, Kowloon and the New Territories — the Kowloon Motor Bus Company Limited (KMB) and the China Motor Bus Company (CMB) — were both covered by Schemes of Control. Later, the Scheme of Control for CMB was abolished in 1993. The new franchisee, the Citybus Limited (Citybus), is not subject to any "profit control" or "profit guarantee". Therefore, there is no reason to renew the Scheme of Control for the KMB.

As a matter of fact, the Government has all along thought that only when a company is given a high "permitted return" will it be encouraged to make huge investments in fixed assets. This is not true. The progress made by the Citybus is a solid counter-example. In 1993, when the Citybus was awarded the franchise to operate 26 bus routes through public tender, there was neither "profit guarantee" nor "permitted return". However, the Citybus was still willing to make huge investments. After some three years of development, it has become a transport company taking up 48% of the capacity of buses running on Hong Kong Island. The Citybus expects that by the end of this year, it will surpass the CMB and become the largest franchised bus company on Hong Kong Island. Thus, it can be seen that even without any Scheme of Control, a bus company may still put in a lot of money to buy buses and open new routes!

I believe that under the prevailing trend the Government can never again grant a "profit guarantee" to the KMB. We want to abolish the Scheme of Control scheme not because we do not allow the company to make money. The question is the Scheme of Control as it is has become a guarantee from Hong Kong people for the KMB to reap huge profits and any mismanagement or depression has to be shouldered by the public. So, the Scheme of Control must be abolished. However, what worries me is that after abolishing the profit control for the KMB, the Government will give it some other preferential treatment so that it will continue to enjoy some form of "privilege". Recently, there have been reports that the KMB would want to earn rent at market value for a depot obtained through public tender. Such rent is estimated to be at least 250 million dollars, which is equivalent to half of KMB's annual net profit. When in future the Government considers the application for fare increases by the KMB, the rent should be discounted first. I am not sure if the arrangement is true or not. If it is, the arrangement is obviously very unfair and unreasonable to the passengers. I hope the Secretary for Transport will later clarify this beyond doubt when he responds.

I must point out that all the pieces of land at the depots bought by the KMB have been included as part of the fixed assets of the bus services, regardless of whether the land was obtained through public tender or private treaty grants. So, the passengers of the KMB have already borne all the costs for acquiring land to build the depots. In addition, the KMB can earn a profit of 16% annually on the net fixed assets. One can say that the KMB has been making "enormous profits"! I think the land at KMB depots should not be regarded as "private property" of the KMB. Instead, it should be the "assets" belonging to the passengers of the KMB. The situation is similar to the construction of the Cross-Harbour Tunnel, the Eastern Harbour Crossing and the Western Harbour Crossing funded by private groups. After 30 years of franchise the tunnels will become Government property.

I strongly oppose to the proposal to grant to the KMB the right to earn rent at market value, otherwise the KMB would increase its fares substantially, thereby causing great harm to passengers!

Mr President, to bring public transport to open competition has become a trend. But in encouraging competition, it is important that there should be control, in particular on fare increases. I have found it difficult to understand why, despite huge cuts by the Government on KMB's intended fare increases in the past few years, the KMB could still earn a "permitted return" of nearly 16% or more. For example, in 1994, the KMB applied for a fare increase of 19.6% but the Executive Council only approved a 12.9% increase. In the end, the KMB had a return of 15.5%. In 1995, the KMB applied for a fare increase of 8.3% but the executive Council only approved a 7% increase. However, the KMB recorded a rate of return as high as 16.1%. In 1996, the KMB applied for a fare increase of 7.8% and the Executive Council cut the figure to 3.8%, but the KMB still had a 15.6% rate of return. I wonder whether the regulating department of the Government made wrong calculations year after year or they were just being rather "lenient" with the KMB.

So, I must re-iterate that in order to effectively protect the interests of passengers, increases in bus fares should, in addition to approval by the Executive Council, be monitored in effect by this Council.

Mr President, I so submit.

DR LAW CHEUNG-KWOK (in Cantonese): Mr President, since the franchise of the Kowloon Motor Bus (KMB) will due to expire by the end of August, the Hong Kong Association for Democracy and People's Livelihood (ADPL) and I suggest the changing of the monitoring mechanism on the KMB and the abolition of franchise in the hope that this will lead to better service and eliminate the pressure for higher fares. Furthermore, this will increase co-operation among different means of public transport and prompt the bus companies to increase investment and upgrade their technology.

Under the profit control scheme, although the KMB is subject to direct and indirect monitoring by the Government, the Legislative Council, the Transport Advisory Committee and district boards, it is still facing many serious problems in its operation. For instance, the fare increases it sought have always exceeded the profit margin ceiling. It cannot meet the demand in rush hours, let alone the unfair fare structure. While the design and frequency of air-conditioned buses do not conform to public demand, the air quality at bus terminals is poor and the service quality of the staff is less than desirable. In addition, the sale of bus depots is the subject of controversy. All in all, I believe that the profit control scheme applicable to the KMB and the monitoring mechanism so devised are out-of-date; a thorough reform is badly required.

Under the premise of abolishing the franchise, the Government should also consider setting up an independent public transport management committee which will have real power. Its functions should include vetting investment projects of all bus companies, approving fare increases, setting up supervisory mechanisms and stipulating service standards for public transport.

Whether this management committee can better protect the public interest when formulating transport policies will mainly depend on the composition of its members. I suggest that apart from government officials, entrepreneurs and professionals, it should embrace elected Councillors, academics, representatives of the labour sector, women, the elderly, the disabled and the consumers. This will extensively reflect the views of all social sectors and allow their participation in drawing up transport policies.

Mr President, when we are discussing bus franchise of the KMB today, some Members of this Council also demand direct supervision of the fare increase of the two railway corporations. The Government should conduct a

thorough review on the monitoring mechanism of all means of public transport with a view to improving the services of bus companies and public transport.

In fact, I do not see any basic difference between the two motions. Both Members support competition but they might have different understanding of competition. This is not contradictory to the position of the ADPL. With this remarks, I support both the original motion and the amendment.

Thank you, Mr President.

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

MR CHOY KAN-PUI (in Cantonese): Mr Deputy, as a matter of the policy towards public utilities, the Hong Kong Government in general leaves their operation to private companies. An example is the Kowloon Motor Bus Company Limited (KMB). The Government only takes up a monitoring role to ensure that the company provides reliable service to the public, promotes the economy and charges reasonable fares. Public utilities require huge investments on plants, equipment and facilities. In the early days, it was difficult to raise capital from the market in Hong Kong. Therefore, to attract investors, the Government would provide them with protection by granting them franchises and signing Schemes of Control with them so that they could develop steadily and reap reasonable profits. Nowadays, the economic environment of Hong Kong has changed. Channels to raise capital are abundant. The number of financial groups with the potential to enter the market to compete correspondingly increases. On the other hand, the population in Hong Kong has increased rapidly in recent years and market demand has surged, making it possible for more competitors to enter the market. As the KMB is a franchised monopoly with no competition from the market, it often fails to provide better service or operate at a higher efficiency. So, consumer interests cannot be rightly safeguarded. In August this year, the franchise for the KMB will expire. It will be the right time for the Government to review the terms of the franchise and the Scheme of Control.

Mr Deputy, a Scheme of Control is there to protect the interest of a public utility. Investment according to a certain plan will guarantee a steady return. Hence, some public utilities increase their profits by increasing their asset values.

Despite the Government mechanism to monitor their plans and scale of investment, discrepancies may arise. We should learn from the recent case in which the China Light and Power Company Limited has produced excessive reserve capacity, causing increased costs, wasted resources and higher tariff. Last year, Hong Kong Telecom adopted an investment policy under which telephone charges were linked with inflation after an early cancellation of the Scheme of Control with the Government, in the light of rapid developments in technology, opening of the communications market and keen competition. Consumers have been benefited. The KMB, on the other hand, has the protection of the Scheme of Control, making it unnecessary for the company to take any risks in investment. To reap profits, the KMB increased its asset value by purchasing large numbers of air-conditioned buses, which runs counter to the real needs of the people, who in the lack of any alternatives have to pay for higher fares.

Mr Deputy, Schemes of Control are meant to protect public utilities. Such schemes are out-dated. To protect consumer interests, we should, instead of controlling prices by administrative means, abolish such schemes, open the market, allow healthy competition and let the market demand determine the price. This can encourage healthy competition between transport operators and enhance service quality so that consumers can enjoy quality service at a low and reasonable price. The Hong Kong Progressive Alliance is of the view that the Government must play the important monitoring and balancing role, as a public utility has the nature of serving the public. Hence, it must act to the interest of the public and be responsible for the community and the people. In balancing the interests of all parties and in laying down an effective regulatory system, the Government must bear in mind the development in new towns. Services should be provided to remote areas to ensure people are duly serviced with sufficient buses, although such services may not be profitable.

Mr President, I so submit.

MR LEUNG YIU-CHUNG (in Cantonese): Mr Deputy, in our discussion about the operation of buses, we often touch upon the Scheme of Control because it affects the development of the entire institution and the nature of services. As a matter of fact, the Scheme of Control has long been criticized as only helping the operators to reap huge profits continuously under a kind of unreasonable condition at the expense of the general public. For example, at the time when

these institutions keep on reaping huge profits, they can still increase the fares and charges unjustifiably through expanding their net assets. When they ask to protect their profits, they can increase the fares and charges without any reasons at all. In view of this situation, the general public and many civic organisations in Hong Kong have long been putting up their protests. I recall that in the 1980s, a lot of these organisations formed confederations of their own and held joint meetings. They did voice their strong opposition and even took actions. However, it is very unfortunate that the Hong Kong Government has been turning a deaf ear to these voices of opposition, and has been indifferent to the fact that the Scheme of Control is doing more harm than good to the general public of Hong Kong.

When I was listening to the speeches of Honourable Members, I, however, find that the situation this time seems different. When every colleague mentioned the Scheme of Control, he or she expressed that this Scheme should no longer exist. Basically, they oppose this Scheme. The Members who spoke just now are from different political groups or parties and they all oppose this Scheme. Therefore, I very much want to tell the Government that Members of this Council oppose this Scheme and hope that the Government will announce the abolition of this Scheme in due course. Nothing can be better than that. Otherwise, I hope that the Government will tell us the attitude that it takes towards this Scheme of Control.

The subject today is bus franchise and thus, I would also like to talk about the issue of open competition of bus services.

Before the 1990s, we could say that the three franchised bus companies, namely, the Kowloon Motor Bus Company (1933) Limited (KMB), the China Motor Bus Company Limited (CMB) and the New Lantao Bus Company (1973) Limited (NLB), each had its own "territory". Apart from tunnel buses, they basically did not cross over to the territories of others. This kind of regional monopoly was not necessarily the result of franchise, as the existing bus franchise system is only "franchise on routes", instead of "franchise on regions". The situation was resulted only because the Government and the bus companies had long been contented with this kind of "franchise on regions" in disguise. Nevertheless, from 1993 onwards, the emerge and continual expansion of the Citybus Limited has driven this regional franchise off Hong Kong Island. Hence under such circumstances, we cannot see that the KMB should continue to monopolize the franchise of bus services in the regions of the New Territories and Kowloon.

At the same time, with the experience gained from allowing competition of bus services on the Hong Kong Island, we can see that the participation and competition from more companies does not bring negative but positive effect. How can we continue to tolerate and accept the "monopoly" of the KMB?

Besides, the development of road network in Hong Kong is very rapid at present. With the Lantau Fixed Crossing open to traffic, I believe that the road network of Hong Kong will link up the so-called regional boundaries of the New Territories, Kowloon, the Hong Kong Island and Lantau Island. The routes will no longer be so clearly divided according to regions as they are now. The situation of buses crossing regions will become more and more common. It will not be meaningful to divide the routes into "Lantau bus routes", "Hong Kong Island bus routes", "Kowloon bus routes" and the like. I reckon that when considering the continual granting of franchise to the KMB, the Government should also examine the feasibility of other major franchised bus companies operating the bus routes in the New Territories and Kowloon in the future. The purpose is to release the routes being operated by the bus companies gradually for other bus companies to participate in the competition in the hope that the services can be improved.

Some colleagues mentioned a moment ago that if we opened the bus routes for more companies to compete among themselves, the quality of service might not necessarily be improved. Of course, some people may worry that open competition will give rise to vicious competition and thus may not definitely benefit the general public. However, I reckon that this depends to a large extent on our supervision. As a matter of fact, many colleagues have mentioned just now that open competition does not mean to let them do whatever they like. Apart from the Government, the general public should also participate in the supervision. Therefore, the so-called adverse consequence may not necessarily exist. It mainly depends on whether we can have a comprehensive system of supervision. Thus, on the topic of bus franchise today, I hope that the bus routes can be opened to allow more benign competition.

Mr Deputy, these are my remarks.

MR SIN CHUNG-KAI (in Cantonese): Mr Deputy, first of all, the development of a competitive environment is not a matter of days; it takes a long time. In

July 1995, the Government opened up the telecommunication market, and introduced three new local fixed telecommunication network services into the competition. At the end of 1996, the Government also encouraged the formation of the so called "Type Two Network Interconnection Agreement" between Hong Kong Telecom and three services, thus allowing new fixed telecommunication network services to provide cheaper local telephone service. However, the fact is, two years later, the fixed telecommunication network service industry will not see total competition in the foreseeable future. Hence, the creation of a total competitive environment is not a matter for a short period. We can, of course, list out many other such examples.

At present, the Kowloon Motor Bus Company Limited (KMB), strictly speaking, virtually corners Kowloon and the New Territories for itself. Of course, as what the Honourable Mrs Mariam LAU and other colleagues mentioned, the KMB has to face competitions from other transport facilities, such as the Mass Transit Railway (MTR), minibus and taxi. However, the KMB has its own type of service, such as by schedule, timetable and runs. Its type of service is not the same as others. Hence, nurturing a competitive environment actually takes time. What the Government should now consider is some more long-termed policies. It should try to forecast what bus service we are going to need in ten or fifteen years' time, and then trace back to see what action we have to take up now.

Mrs Miriam LAU just kept on saying that she is pro-competition, but the conclusion she drew at the end was that we did not need to introduce what she called vicious competition. Such an argument is somewhat like "oppose the red flag in the name of red flag." What she does is to "oppose competition in the name of competition." In fact, the KMB needs the challenge of a new environment. Several years ago, when the China Motor Bus Company Limited (CMB) employees were on strike and the Government was looking for ways to handle the situation, I too found it quite impossible to set up a second bus company in short notice. Hence, though the performance of the KMB has been good so far, we still have to be prepared that, before KMB goes downhill, there are potential competitors in the New Territories and Kowloon to replace one another and to overtake one another.

It was just mentioned that the Citybus Limited (Citybus) may shortly, in three to five years' time, overtake CMB. But we have to know that before taking over the operation of the CMB routes, the Citybus has had many years of experience, though not gained from operating on Hong Kong Island. Hence, if the Government really desires a competitive environment, it needs a long nurturing period. When is the right time for such nurturing? Do we need to wait till the KMB has become a terminal case, like that of the CMB a few years ago, and then will we take up actions? Is this a good practice? I hope the Government will give it more consideration.

Mrs LAU just mentioned that there are no tangible competition proposals at hand. This is actually not a problem. The Government has the green minibus scheme. If there are people interested in applying for the operation of a certain route, and there is no direct competition, then the application will be approved after a consultation procedure. Of course, the Government will first ask green minibus operators and district members for advice. Assuming the total opening up of bus service and the existence of a competitive environment, any company can apply to the Transport Department at any time for the operation of a new route. After a consultation procedure and finding out that there is no direct competition with existing bus routes, then the Transport Department can approve the operation. Such a mode allows new competitors to acquire operational experience in a longer period of time, and can motivate existing operators to do better as well.

If the KMB does its job well, it will fear no competition. The KMB is a company of strength and experience, which made a profit of half a billion dollars last year and 400 million dollars the year before. It is not that easy for a new competitor to undermine or really compete with a company of such massive strength. It is indeed hard for a new operator to break into a market in which the KMB has such a stronghold.

To conclude, it takes a long period to nurture a new company into a competitor. Though, strictly speaking, breaking into this market of bus service is already easier than breaking into other public facilities such as electricity. It actually takes a long time for a company to grow into a certain scale. Prior to the taking over of the CMB routes, the Citybus has been operating for a long time. Hence, the Government should give this more consideration. We

propose the introduction of competition at this moment to give the Government a chance to plan longer ahead. We also have to consider the point that, should the service of the KMB deteriorate, whether it would be even more difficult to find a replacement than it was the case with the CMB several years ago.

The Honourable WONG Wai-yin has said that our proposal of introducing competition is not to penalize the KMB. The introduction of competition is to put the current operator on constant alert that its position will be challenged. When the operator realizes that its position will be shaken, it will take up the so called "aggressive" tactics in its counter-attacks on new operators.

Mr Deputy, I support the original motion, and oppose its amendment.

THE PRESIDENT resumed the Chair.

MR NGAN KAM-CHUEN (in Cantonese): Mr President, the Kowloon Motor Bus Company Limited (KMB) is the one and only one bus company in Hong Kong that can enjoy the Scheme of Control; the one for the China Motor Bus Company Limited (CMB) has already been repealed. The Government is now negotiating with the KMB on the withdrawal of this Scheme and the Democratic Alliance for the Betterment of Hong Kong (DAB) is in support of this idea. In fact, all along this scheme has been the target of criticism. Under this Scheme, the bus company can enjoy a certain rate of return based on its average fixed assets as permitted profit. The bus company, as a result, will keep on investing, for example, building new depots and procuring new buses, in order to increase its fixed assets. Actually, the bus company may not have a real need in doing so, which is very unfair to the consumers.

Taking the KMB as an example, its permitted return is set at 16% of its average fixed assets. Although the KMB always emphasizes that permitted profit is not the same as guaranteed profit, if we take a look at the information of the KMB in 1994 and 1995, we can see that the actual rate of return of the KMB in these two years are 15.5% and 15.7% respectively, of which the difference is insignificant as compared with the 16% permitted return. Last year, the KMB has granted \$1.76 million from the development fund in order to secure the 16% return rate. In other words, the KMB has set this percentage as its target profit.

However, although the KMB can yield profit every year, it still applies for fare increases and turns a deaf ear to the public protest. For example, in last year, the KMB has already applied for a 7.5% increase in fares, but later it was drastically cut to 2.7% by the Executive Council. Despite that, we do not see a drastic drop in the profit of the KMB this year, and the profit after tax can still amount to \$525.5 million, of which the increase is 13%. It can then be proved that the KMB is really a covetous company.

The DAB is also in support of the idea to actively encourage other modes of transport to compete with the KMB. However, introducing other bus operators is not the only way to introduce competition. Undoubtedly, since the introduction of the Citybus Limited (Citybus) on the Hong Kong island, even the bus service offered by the CMB has been improved. However, it is not appropriate to say that the introduction of other bus operators is the panacea for improving the service of the KMB. We have to understand that it may not necessarily be a good thing to introduce competition. For example, regarding the Guangzhou-Shenzhen Super Highway bus routes, many bus companies are operating at a loss since they are all competing for the same routes. In a short term, consumers may be benefited, but in the long run, these operators tend to provide cheap services at the expense of the quality owing to fierce competition. As a result, their service standard will be affected and the consumers will suffer eventually. Furthermore, the Government has to take into consideration the road capacity at present. For example, is it possible to increase the traffic flow in Nathan Road?

Apart from buses, the Government can in fact encourage other public transport operators to compete with the KMB. For example, the coach services in the housing estates, which are more flexible in their routings, can supplement the inadequacies of public buses, and the Government can also provide boarding and alighting points for the convenience of passengers. The ferry service, which has high capacity, can also assist in improving public transport services. The Government should implement a review on the ferry policy, and create a better investment environment for the ferry companies. For example, bus-stops can be located near the ferry piers, and the existing ferry companies can also be encouraged to purchase high-speed vessels with high capacity in order to enhance the ferry service.

In fact, the Transport Department has the right to decide the routings and frequencies of every bus route, and the Government has full discretion on

whether the market should be opened or not. When granting new bus routes in future, the Government should allow all bus companies to participate in the tendering exercises, so that more competition can be introduced. Let us take as examples the Western Harbour Crossing and the Lantau Fixed Crossing, which are opening to traffic shortly, the Transport Department has not granted all the routes to the KMB; other operators also have a share in the market. As long as the Government is sincere in introducing competition, it can make proper arrangement without removing the franchise of the KMB.

However, the Government has to spend much effort in renewing the franchised routes. Before deciding the routes in which competition can be introduced, the Government has to make clear whether the patronage of a particular route can support two bus companies, the capacity of the roads and the allocation of bus-stops and so on. Therefore, a pilot scheme should be implemented before the Government introduces any new ideas so that it can get hold of the actual situation and difficulties. Also, the present operation of the KMB is subsidizing the losing routes with the lucrative ones. Therefore, the Government should think of granting the routes in groups when it introduces competitions in future.

Mr President, with these remarks, I support the amendment of the Honourable Mrs Miriam LAU.

MR LEE WING-TAT (in Cantonese): Mr President, today many Members talked about competition. From what I heard, I have learnt a great deal about economics although I am very confused. First of all, I heard Members talking about "healthy competition" and "vicious competition". However, different people have different definitions for the term "competition". According to the Honourable Mrs Miriam LAU's interpretation, new operators should not be introduced into the bus routes currently operated by Kowloon Motor Bus Company Limited (KMB), otherwise there will be vicious competition. However, for new routes, new operators can be brought in because in so doing, healthy competition will be encouraged. Just now, the Honourable CHEUNG Hon-chung indicated his wish for bringing in competition in the bus services in North District and Tai Po. He hopes that by bringing in new operators to compete with the KMB, the unsatisfactory bus services in those districts will be improved. Therefore, he considers competition a good thing. However, he

then supports the amendment to the motion, and the Member moving the amendment considers that bringing in new operators will foster vicious competition. I wonder if our colleagues are in support of the healthy competition as they have stated or the vicious competition as stated by the Member moving the amendment.

Just now, the Honourable NGAN Kam-chuen indicated that he was not in favour of vicious competition because vicious competition would trigger off a cut-throat price war among the companies, which in turn would lead to a lowering of service quality. However, he is not opposed to bringing in competition by awarding routes by groups. He seems to have implied that doing so, there will be cross-subsidization with profitable routes subsidizing those making a loss. In this way, he will not raise any objection even though the routes concerned are existing ones in the New Territories. Does the Democratic Alliance for the Betterment of Hong Kong support bringing in competition or otherwise? From what I heard this evening, I feel very confused.

Of course, according to some economic theories, if competition is in the form of cut-throat or atrocious price war, those small-size firms which have just entered the market or have yet to develop a firm business base will be forced to close down. Of course, we are against this form of competition and it is not what the Honourable WONG Wai-yin is proposing today. We are only saying that competition can be brought into existing services.

Some people have raised the issue of whether KMB is providing a good service or not. I think that different people may have different views. According to Mr CHEUNG Hon-chung, bus services provided in North District and Tai Po are far from satisfactory and despite his repeated complaints, little improvement has been made. In my case, I find that bus services in Kwai Chung and Tsing Yi are not satisfactory either. Members representing other districts also reckon a need for the KMB to make a substantial improvement of its services. Therefore, the premise that KMB provides a good service does not hold water.

Secondly, even if we assume that the KMB does provide a good service, does it mean that it is no good bringing in competition? Let us look back. Five or six years ago, there was only one telecommunications company in Hong Kong, and that is the Hongkong Telecom International (HKTI). After years of competition in the trade, have the mobile telephone service or other

telecommunications services turned for the better or the worse? Does it mean that competition cannot be brought into the services presently provided by the HKTI but it can be introduced into new services? It seems that the answer is in the negative. At present, providers of telecommunications services are all competing for their market share, but we never find any vicious competition in the trade.

Take the Hong Kong Air Cargo Industry Services Limited as another example. No complaints have been lodged against its services and the firm is a monopoly of air-freight services in the territory. However, there will be another company operating the same services in the new airport. Judging from this, does it mean that as long as services are good, there is no need to bring in competition? I do not think so. Depending on the needs of the market, we should bring in new operators with a view to enhancing services. This will not jeopardize the profits made by existing operators. On the contrary, existing operators can go on making money and the interests of consumers can be safeguarded.

In my opinion, what Mrs Miriam LAU was saying is in fact a pseudo-competition, the kind of competition faced by the KMB when it is under Government protection. To put it simply, it is "competition within a bird cage". I am puzzled by the remarks that competition can be brought into new routes but not existing ones.

Mr President, I am a bit confused this evening. Sometimes, I am not sure whether I am a supporter of the Liberal Party's economic views or the Democratic Party's economic views. I take it for granted that the Liberal Party, basing on its economic views, is in favour of a maximum amount of market forces, a maximum amount of competition and a maximum amount of deregulation. However, who would have thought that it is not the case? This evening, regarding the conduct of economic activities, it seems that the Democratic Party is in support of a kind of economic operation with more market forces, more competition and more deregulation whereas the Liberal Party is in favour of more control, more protection and introduction of competition at a later stage. Therefore, sometimes I feel rather confused.

Finally, when we come to this motion debate, I am not very happy with the Secretary for Transport. The reason is that last year when the Panel on Transport discussed the issue of the imminent expiry of the franchise of the KMB, many Members asked the Secretary for Transport what measures would be taken. From what I gathered, in the very beginning, the Transport Branch really intended to take measures as proposed by Mrs Miriam LAU, that is, no competition would be introduced into all existing routes. In my opinion, these measures will do the greatest harm to the interests of consumers. From the experience of bus service on Hong Kong Island, we cannot see any justifiable reason for the Transport Branch or the Transport Department to have all existing routes operated by the KMB alone. We do not mean to open all existing KMB routes to other operators at one time. In fact, we are in support of Mr NGAN Kam-chuen's view that inviting tender for the operation of a group of routes is a way proved to be effective in introducing competition. I do not mean that for every KMB route which makes a profit, competition should be introduced and no competition should be introduced for routes which do not make any profits. I think that awarding routes by groups can best ensure that operators should cater for the needs of the passengers while making a profit.

I think there are numerous ways to promote further development of those companies having a stable business while at the same time introducing competition. It is unfair to introduce competition only into new routes. How can we be sure that consumers will not benefit most from more competition? It is regrettable that up to this day, that is, 23 April, the Secretary for Transport is still unable to give any firm commitment to a government policy of introducing competition into the bus services in the New Territories, Kowloon and even on Hong Kong Island upon the expiry of KMB's franchise.

Thank you, Mr President.

PRESIDENT (in Cantonese): I now invite Mr WONG Wai-yin to speak on the amendment to his motion. Mr WONG, you have five minutes to speak.

WONG WAI-YIN (in Cantonese): Mr President, just now two of my colleagues, the Honourable LEE Wing-tat and the Honourable SIN Chung-kai, have responded to a certain extent to the Honourable Mrs Miriam LAU's amendment, so I would just speak on it briefly.

When I read Mrs Miriam LAU's amendment, I was unable to make head or tail of it because even after repeated scrutinies, I did not find any difference

between my motion and her amendment. I cannot help but quote a famous phrase said recently by our Party leader: "It is really baffling." I can only try to convince myself that if a Member moves an amendment, he or she must have a different view on my motion, otherwise he or she would not do so.

In fact my motion is very simple. Firstly, the Scheme of Control should be removed. Secondly, competition should be introduced. We all know that competition can promote the interests of the passengers as consumers and can enhance the services of the companies. The wording of Mrs Miriam LAU's amendment is "take appropriate measures to monitor" and "actively encourage public transport operators to engage in healthy competition". It resembles the following situation: I say the river is a bit muddy and we should clear it up and improve the water quality, whereas Mrs Miriam LAU says the sea is very muddy and let us clear up the sea. I do not know if this is what she mean, or it is actually like what Mr LEE Wing-tat said a moment ago, that although Mrs Miriam LAU repeatedly emphasized "competition, competition", she does not really subscribe to competition and actually thinks that the Kowloon Motor Bus Company Limited (KMB) has done well and we should let it continue to operate; new companies should not be allowed to poke their noses into the routes currently operated by the KMB.

I have not mentioned vicious competition at all in my whole speech. Neither have I said that we must find some new operators to compete with the KMB for the current routes. My emphasis is to assign a group of routes in certain newly developed areas and put it up for new operators' tender, with a view to fostering one company of considerable strength in Kowloon and the New Territories so that it can eventually provide service in the area. In fact, it is impossible to have a company as competitive as the KMB overnight. We have to assist and foster a new company step by step, so that it can organize itself and develop its strength.

Mr President, I would like to respond to Mrs Miriam LAU's emphasis on vicious competition just now. Is it true that once competition appears it is doomed to be vicious? I do not think so. I believe that the most important thing is whether competition will benefit the passengers. I can cite a very good example. More than 100 thousand people live in South Tin Shui Wai at present. In 1991 and 1992, we urged to have the whole group of bus routes in that area to be assigned for public tender because the franchise of the KMB was a route franchise, not an area franchise. But in the end, the Government did not listen

to our proposal and the KMB was allowed to continue its operation. However, other than public housing estates, there are also private ones in that area which have their own estate bus services run by the Citybus Limited (Citybus). I believe that Mr NGAN is very clear about the present situation. The residents in South Tin Shui Wai come to our Member's Office every day to complain against the poor service of the KMB, whereas the issue is always on the agenda of the District Board. On the contrary, the Citybus constantly wins the praise of the residents and, as a result, although the Citybus was originally a service for the private housing tenants, a lot of public housing tenants now choose to walk more than 10 minutes and pay more to take the Citybus, simply because the service of the KMB is so bad. This is a very obvious example which proves that if there is competition in an area, the passengers can have a choice. If the service is not good, the passengers would not choose to take it even though the bus fare is lower.

There is another problem: when should the competition be introduced? Do we wait until the service deteriorates to a stage as inferior as that of the China Motor Bus Company Limited? Of course not. We cannot let it decline to such a poor stage and sacrifice the passengers' interests before we introduce the competition. We think that there should be appropriate competition and the competition should be introduced at an appropriate time. By slowly fostering the new bus operators, they can expand their scope of operation, enhance their own strength and in the end the passengers can benefit.

Thank you, Mr President.

SECRETARY FOR TRANSPORT (in Cantonese): Mr President, when preparing my reply to tonight's debate, I have studied very carefully on the wordings of the original motion and the amendment. In fact, the two Members share the same view on the Scheme of Control for the Kowloon Motor Bus Company Limited (KMB). However, their wordings are different on how to improve the services and promote competition. The more I listen to Members' speeches, the more I discover that our direction is completely the same, and what we are discussing are the method, time and space.

Mr President, I would like to talk about the views of the Government on three aspects: first, the Government's stance on the profit control scheme; second, the Government's plan on promoting the improvement of bus services, and what

method and pace should be adopted by the Government, and lastly, the stance of the Government on these two motions. It is not at all easy to cover the third aspect, because the more I listen, the more I discover that you all have very good intentions and arguments.

Scheme of Control

In fact, the Government's stance in this respect is very clear. In March last year, the Government already clearly stated its stance when responding to the Honourable LAU Chin-shek's written question. When the KMB's franchise expires on 31 August this year, the Government will propose to the Executive Council that a new franchise without the Scheme of Control be granted. As regards this point, I think the Government can meet the requirement of the two motions.

Regarding how to promote bus services and introduce competitions, I would like to state our principles.

Government's principle

All along, our policy is to promote competition among modes of public transport. We would like to provide an effective structure to encourage different modes of public transport to improve their efficiency and services through competition. More importantly, the passengers can have more choices and they will think it is value for money when using these public transport facilities.

It is mainly through the following two ways that this policy on franchised bus services is implemented:

- (1) making use of open tendering to grant the franchise of new bus networks to encourage more companies to participate in this kind of tendering; and
- (2) introducing provisions to unify the monitoring structure and enhance fair competition when renewing or granting new bus franchise.

The Honourable WONG Wai-yin proposes that the Government should actively introduce other bus companies to compete with the KMB. In fact, the Government is of the opinion that it is not necessary to wait till the expiry of the KMB's franchise in this year to promote competition. In early 1996, we already took the initiative to introduce competition into the service area of the KMB.

Open tendering on the new bus network between North Lantau and the urban area

Members may recall that in March 1996, the Government divided 25 new bus routes serving the new airport and Tung Chung New Town into two groups for tendering, and two new franchises were granted in October 1996. The Citybus Limited ("Citybus") has taken up some of the routes, including six new routes which have mid-way stops in different places of Kowloon and Tsing Yi, of which they are all within the area served by the KMB and the termini of some new routes are also in major districts of Kowloon. Also, three routes going to Tai Kok Tsui, Kowloon City and Mongkok will formally commence service on 1 June. Therefore, we do not have to wait till the granting of the new franchise to the KMB before introducing competition into its service areas.

Whenever there is the need to open new bus networks in the future, the Government will continue to adopt this method of open tendering. Our aim is to enhance competition and upgrade the service standard through a transparent and fair procedure. The next franchise that may be granted through open tendering may possibly be the new bus network to tie in with the development in the northwestern part of the New Territories.

The cancellation of the franchised bus routes

Apart from the above factors, recently, the Government also actively reviews how to eliminate restrictions that may have barred new operators from entering the bus services market. Members may have noted that the right of franchised bus routes in the past will be replaced when new bus franchises are granted and put into effect, and this is no exception for the KMB. In other words, starting from 1 September, the KMB will be operating non-franchised bus routes. This arrangement, on the one hand, can help the Government introduce

more new competitors in the future when necessary; on the other hand, it also gives flexibility to the bus operation to cope with the changes in the business environment.

The possibility of fully opening up the present bus networks

Some people may ask why we cannot be bold enough to fully open up the bus networks, so that interested companies can decide their routes and frequencies according to market forces to achieve the so-called comprehensive competition. I believe many Members will agree that this is a very good argument but it is not practical at all.

If the above suggestion is carried out, there will be fierce competition for the lucrative routes, and all the bus companies will be competing for their business. The passengers who live in these districts will be lucky as buses will be waiting for them. For those who are living far away from the districts with great supply, however, they may have to "make sacrifices" and wait for a long time for the buses to come back to pick them up to the districts with less passengers. This so-called comprehensive open competition in fact may not be the best choice for the public.

The possibility of overlapping the present bus routes

Some people may propose that in order to enhance competition, the Government can allow different bus companies to operate under the same network at the same time. This proposal is in fact also unrealistic. The Government has indeed spent much effort in designing the existing bus networks. We hope that the combination of lucrative and losing routes for each network will be cost-effective, and provide a mechanism which the Government can monitor without any duplication and waste of resources. We think this will be to the best interest of the public.

The possibility of segregating existing bus networks

Some Members suggest segregating some of the routes under the networks of the KMB, which is just like the arrangement on the Hong Kong Island. The Government is doubtful whether the same model should be adopted in all the networks of the KMB. The main concern behind the present mode of operation on Hong Kong Island was that the service offered by the original bus company was not satisfactory. The Government introduced fair competition at that time

to encourage the bus company concerned and the new bus company to upgrade their service standard at the same time, with a view to benefiting the public. If we adopt the same model to the present routes in Kowloon and the New Territories, it may not be fair to the KMB, which may still have room for improvement but has already attained a certain level of service.

Competition between KMB and other modes of transport

Among the 363 existing bus routes being operated by the KMB, many of them are in fact facing competition from different modes of transportation, including 220 green mini bus (GMB) routes and 160 resident bus service routes in the New Territories. As regards tunnel buses, the KMB has to compete with the China Motor Bus Company Limited (CMB), the Citybus, the Kowloon-Canton Railway Corporation (KCR) and also the Mass Transit Railway Corporation (MTR).

The service quality of the KMB

The Government will spare no effort in encouraging the KMB to keep on improving its services. In fact, it cannot be said that all along the KMB is not active in this aspect. Over the past five years, the KMB has purchased 1 100 new buses, opening up 83 new routes and over 530 additional bus trips have been introduced. The KMB has also spent much effort in building covered bus stops and in the provision of facilities for the convenience of the handicapped.

Information disclosure

As regards the disclosure of information, Members may recall that every year the KMB will publish a pamphlet on its operational and financial information for the passengers and the public.

Bus fares

As regards bus fares, a Member mentioned that the increase in bus fares of the KMB is relatively higher. However, if we compare the cumulative increase in bus fares with the cumulative inflation rate for the past five years, we discover that inflation is 45.1%, and the increase in KMB's bus fares is 39.2%, which is lower than the accumulated inflation.

Mr President, after stating the policy of the Government, I have to make a difficult choice because the wordings of these two motions are different. The Government is in support of encouraging the KMB to improve its services as proposed by Mr WONG, but the difficulty lies in the wordings. The original motion of Mr WONG is to "actively encourage other bus operators to operate bus routes in Kowloon and the New Territories in competition with the KMB". If Mr WONG's motion includes the wordings like what he is just talking about, especially including wordings like "the newly developed areas", then it will not be so difficult for me to make the choice. Given the wordings of the two Members' motions, the Government supports the Honourable Mrs Miriam LAU's amendment. It is because the wording of her amendment is more extensive and forward-looking, while their directions are the same.

Thank you, Mr President.

Question on the amendment put.

Voice vote taken.

Mrs Miriam LAU claimed a division.

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

PRESIDENT (in Cantonese): I would like to remind Members that they are now called upon to vote on the question that the amendment moved by Mrs Miriam LAU be made to Mr WONG Wai-yin's motion.

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

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

Mr Allen LEE, 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 CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr David CHU, Mr IP Kwok-him, Mr Ambrose LAU, Dr LAW Cheung-kwok and Mr NGAN Kam-chuen voted for the amendment.

Mr Martin LEE, Mr SZETO Wah, Dr LEONG Che-hung, 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, Dr Anthony CHEUNG, Mr Albert HO, Mr LAU Chin-shek, Mr LAW Chi-kwong, Mr LEUNG Yiu-chung, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE and Mr YUM Sin-ling voted against the amendment.

THE PRESIDENT announced that there were 20 votes in favour of the amendment and 21 against it. He therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr WONG Wai-yin, you may now reply and you have three minutes and 32 seconds out of your original 15 minutes.

MR WONG WAI-YIN (in Cantonese): Mr President, I thank the colleagues who were just drinking nearby for rushing back to vote on the motion.

Mr President, after hearing the speech by the Secretary for Transport, I, of course, welcome the idea that when the Government discusses with the Kowloon Motor Bus Company Limited (KMB) about the new franchise, it will consider abolishing the Scheme of Control. However, I am really puzzled at his remark that the amendment moved by the Honourable Miriam LAU has foresight. My

motion is directed to the KMB and I very much hope that there is direct competition with the KMB. Therefore, I hope that Honourable Members will support my original motion to the effect that there will be direct competition with the KMB so that services will be improved to the benefit of the passengers.

Thank you, Mr President.

Question on the original motion put.

Voice vote taken.

Mr TSANG Kin-shing claimed a division.

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

PRESIDENT (in Cantonese): I would like to remind Members that you are now called upon to vote on the question that the motion moved by Mr WONG Wai-yin be approved.

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

PRESIDENT (in Cantonese): 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 Michael HO, Dr HUANG Chen-ya, Mr LEE Wing-tat, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-Yin, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Dr Anthony CHEUNG, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr David CHU, Mr Albert HO, Mr IP Kwok-him, Mr LAU Chin-shek, Dr LAW Cheung-kwok, Mr LAW Chi-kwong, Mr LEUNG Yiu-chung, Mr NGAN Kam-chuen, Mr SIN

Chung-kai, Mr TSANG Kin-shing, Dr John TSE and Mr YUM Sin-ling voted for the motion.

Mr Allen LEE, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr Eric LI, Mr Henry TANG, Dr Samuel WONG, Dr Philip WONG, Mr Howard YOUNG and Mr James TIEN voted against the motion.

THE PRESIDENT announced that there were 30 votes in favour of the motion and 10 against it. He therefore declared that the motion was carried.

MEMBERS' BILLS

First Reading of Bills

INTERCEPTION OF COMMUNICATIONS BILL

UNFAIR DISMISSAL BILL

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

Second Reading of Bills

INTERCEPTION OF COMMUNICATIONS BILL

MR JAMES TO to move the Second Reading of: "A Bill to provide laws on and in connection with the interception of communications transmitted orally,

or by post or by means of a telecommunication system and to repeal section 33 of the Telecommunication Ordinance."

MR JAMES TO (in Cantonese): Mr President, Article 14 of the Hong Kong Bill of Rights Ordinance (BORO) stipulates that no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks. This identifies with Article 17 of the International Convention on Civil and Political Rights (ICCPR), and is similar to Article 8 of the European Convention on Protection of Human Rights and Fundamental Freedoms.

However, according to the current law of Hong Kong, under Section 33 of the Telecommunication Ordinance, whenever he considers that the public interest so requires, the Governor may authorize public officers to carry out any interception operations. Under Section 13 of the Post Office Ordinance, the Chief Secretary may authorize the Postmaster General, or any other post office staff to open any specified postal packet, or packets of any categories.

The Ordinances do not clearly define the circumstances under which this power can be exercised, nor do they specify the uses of the intercepted material, or the persons who may have access to the intercepted material. Though the Ordinances state that such power has to be exercised in line with public interest, but what does "public interest" really refer to? It is The Democratic Party's opinion that the power given by these Ordinances is too extensive and unrestricted. It may easily be abused for serious infringement of privacy. This will contravene Article 14 of the BORO, which states that the privacy of the individual has to be protected.

Through Article 17 of the ICCPR, that is, Article 14 of the BORO on individual privacy protection, the United Nation Human Rights Committee has made the following General Comment:

"This right is required to be guaranteed against all such interferences whether they emanate from State authorities or from natural or legal

persons." "Relevant legislation must specify in detail the precise circumstances in which such interferences may be permitted. A decision to make use of such authorized interference must be made only by the authority designated under the law, and on a case-to-case basis. State Parties should provide the legislative framework prohibiting such acts."

In a recent European Court of Human Rights case, "HUVIG" versus "FRANCE", whether the telephone interception on HUVIG by the police was "lawful", the court decided that the law had to take the following issues into consideration: the specification of the crime and the person to be named on the court order, the valid period of the court order, the procedure governing the summarisation of the intercepted conversation, and the safeguards on the destruction of the tape. The court finally ruled that the interception was not lawful as the law had not been covered all of the above and there was no reasonably clear indication on the limit of discretion granted to the government agencies and the means of exercising this right.

In another European Human Rights Court case, MARLONE versus ENGLAND, on whether the interception of communication was lawful, the court ruled that the law concerned should have adequate indication for the public to know under what circumstances and conditions are government agencies allowed to carry out this disruptive action of communication interception. The court raised three necessary conditions. Firstly, "really serious" offence has been involved. Secondly, other conventional investigation methods have been tried but failed. Thirdly, there must be reasonable grounds to justify that the interception of communication would likely lead to the arrest and conviction of the offender.

In the end, the court ruled that the English law concerning the interception of communication is ambiguous and unclear. There is no reasonably clear indication on the limit of the discretion granted to the government authorities and the means of exercising this power. In its summary, the court remarks that the people are not given the minimum legal protection enjoyed in a society under the rule of law.

Against the rulings mentioned above, the Subcommittee on Privacy under the Law Reform Commission examined our Telecommunication Ordinance and Postal Office Ordinance, and found them equally short in the specification on the limit of discretion granted to administrative agencies in carrying out communication interception and the means of exercising this power, including no sufficiently clear guidance for the public to understand the circumstances and conditions under which communication interception is allowed. Hence, they are not in line with Article 14 of the BORO.

Obviously, a responsible government would lose no time in setting up the relevant legal framework to provide for the power of administrative agencies in the interception of communication, to protect individual privacy, and to ensure that the law of Hong Kong is in line with the BORO and other international conventions.

However, in recent years, many non-government organizations, including Justice and the Hong Kong Bar Association from the legal field, and the Legislative Council, as well as the International Human Rights Committee, have been of the opinion that there is insufficient safeguards regarding the laws "in and on connection with the power of interception of communication by administrative agencies", and they have urged the Government to provide more legal protections accordingly. Between 1992 and 1993, the Legislative Council Panel on Constitutional Affairs urged the government to study the issue. Since 1992, Members of this Council have repeatedly asked the Government for the general figures of authorized interceptions. The Government has all along avoided giving any answer. Let us ask, with this lack of transparency and "slippery" manner, and such disregard of human rights and the rule of law, how can the Government gain the trust of the people, and how can it answer to the United Nation Human Rights Committee?

The Government has been procrastinating. Last month, the Government released the White Bill as a means of consultation. But it has been reluctant to table the relevant bills to this Council. This is regrettable. The Governor Chris PATTEN once promised the completion of all amendments before 1997. However, the Government, well aware that there are provisions in the Telecommunication Ordinance and the Post Office Ordinance which are

incompatible with the BORO, has taken no substantial actions to right the wrong, consequently leaving behind these provisions before the resumption of sovereignty by China in 1997. How can he face the people of Hong Kong? Where is his credibility?

Under such unfavourable circumstances, the Democratic Party has no choice but to submit a private bill in order to start the legislative procedure for the setting up of a legal monitoring framework to strike a balance between the right of privacy and the power of communication interception enjoyed by authorized officers.

It was the Democratic Party's wish that the Government would table the Bill, as government bills provide more safeguards in monitoring than private bills. Despite our limited resources, the Democratic Party's Bill is produced with reference to the criteria set by the above-mentioned International Human Rights Committee and the rulings of the Human Rights Court. With the compatibility with the BORO as the premise, we hope to strike a balance between the need of efficiency of our law enforcement agencies and the right of privacy protection.

Today, on behalf of the Democratic Party, I move this private bill, the purpose of which is to provide for a court order application procedure for authorized officers in the interception of communication and post, and balance the need between individual privacy and fighting crime. The provisions are made with references to the practice of other common law jurisdictions such as Britain, Canada, and the United States.

The Bill essentially prescribes the minimum rank of officers who may apply for court order and be approved to carry out legal communication interception in stated circumstances. Legally intercepted material may be admitted as evidence. However, to ensure the fairness and justice of the law, it is subjected to the court's discretion not to admit it on the grounds that to do so would have adverse effect on the fairness of the proceedings.

It also provides that court order may be granted for serious crimes only. The application should be made 48 hours prior to the interception operation. *Post facto* court orders may be granted for emergencies or extraordinary cases.

In the application for court order, the authorized officer shall list out the name and address of the person to be intercepted, particulars of the offence, the method of the interception, duration of interception and what other investigative methods have been used and why they failed.

The maximum interception duration granted by the court is 30 days, after which an application for renewal is required.

The Court shall, 90 days after the termination of the court order and when there are no challenge from the authorized officer, order the destruction of the intercepted material, and notify the person named in the order of such actions.

A person who discloses the intercepted material without prior consent shall be guilty of a criminal offence.

Illegal interception of communication is an offence liable to the maximum penalty of two years' imprisonment or a fine.

We have proposed consequential amendments in the Bill to the effect that section 33 of the Telecommunication Ordinance and section 13 of the Post Office Ordinance be repealed.

Intercepting communication is a serious infringement on privacy, though we, at the same time, understand that for the prevention and fighting of crime, the authorized officers carrying out investigations may, under certain circumstances, have to take this approach to collect information and evidence in order to solve the case. However, as commented by the International Human Rights Committee, it should only be the authorized officer's last resort after all other

means of investigation have failed. Hence, it is necessary that certain procedures are established within the legal system to discourage the government departments from resorting to interception too often, to prevent the abuse of this power by the Government and to protect the public. It is not the intention of the Bill to weaken the law enforcing power of the police or other law enforcement agencies. In fact, it will not pose too great an impediment to their work.

I hope Members will support this Bill. I so submit, and move the Bill be read the Second time.

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).

UNFAIR DISMISSAL BILL

MR LEUNG YIU-CHUNG to move the Second Reading of: "A Bill to provide for the right of employees not to be unfairly dismissed."

MR LEUNG YIU-CHUNG (in Cantonese): Mr President, I move the Second Reading of the Unfair Dismissal Bill.

Purpose

The chief purposes of this Bill are to provide for the right of an employee not to be unfairly dismissed by the employer and to make provisions for sufficient remedies for unfair dismissal of an employee by the employer.

Inadequate protection

The present labour laws fail to provide adequate employment protection to employees. Under the existing legislation, as long as employers abide by the provisions for giving notice or payment in lieu of notice in the Employment Ordinance, they can "lawfully" dismiss an employee without giving any reason except in the following circumstances: female employees taking maternal leave, employees suffering from work-related injuries or taking sick leave with sickness allowance, employees exercising their right of union membership or taking part in union activities and employees testifying in legal proceedings in relation to the enforcement of labour laws. Due to inadequate legal protection, employees who demand the improvement of working conditions or other terms are frequently treated as "troublemakers" and dismissed by their employers on some pretext or other. When employees meet with unfair treatment by the employer, they can only swallow their anger, for fear of offending their employer and getting dismissed.

International labour standards

It is an internationally recognized basic labour right for employees to be protected from unfair dismissal by employers. According to Article 4 of the Convention Concerning Termination of Employment as the Initiative of the Employer (1982) (that is, International Labour Convention No. 158), unless the employer has a valid reason, such as reasons related to the employee's capability or conduct, or the employer's business needs, the employer has no right to dismiss employees. Article 8 of the Convention points out that if an employee considers himself unfairly dismissed, he is entitled to file a claim with institutions of justice, such as the court, labour court, arbitration committee or arbitrator. Article 9 provides that since it is the employer who makes the decision to terminate employment, the onus of proving that there are valid reasons for the dismissal shall be on the employer. Article 10 also stipulates that employees unfairly dismissed shall be entitled to reinstatement or adequate compensation. Singapore, the Philippines, China, Britain and some European countries have enacted, to different extents, laws on unfair dismissal.

Government Bill

Recently, the Administration introduced the Employment (Amendment) (No. 2) Bill 1997 to the Legislative Council, some sections of which have incorporated certain principles of Convention No. 158, such as a valid reason for dismissal and the onus of proof on the employer. However, the protection afforded to employees by the Government bill is different from that provided by

the Convention. The Government bill only provides for remedies in the event that an employee is unreasonably dismissed because the employer tries to evade payment for employee benefits (such as long service payment), while the Convention stipulates that an employee shall be protected by law as long as the employer has no valid reason for dismissing him, irrespective of what the employer's intentions are. The Convention also provides that an employee should be sufficiently compensated for unreasonable dismissal. As proposed by the Government bill, the unreasonably dismissed employee can only obtain long service payment on a pro rata basis as compensation, while there is no protection against loss sustained by the employee as a result of the employer's unreasonable acts.

Proposals

For many years, the community has demanded that the Government should enact legislation on unfair dismissal according to the principles of the Convention. Since the Government bill only plugs the loophole in long service payment and fails to meet the public's demand and the Convention's standards, I decided to introduce a Member's Bill to provide for the right of an employee not to be unfairly dismissed by the employer and to make provisions for remedies for unfair dismissal of an employee by the employer, in the hope of making employment relations more reasonable.

The Bill is substantially based on the provisions of Part V of the Employment Protection (Consolidation) Act 1978 of the United Kingdom. The judiciary hearing claims in relation to unfair dismissal can invoke case laws of the United Kingdom as the basis of judgment.

The legislative proposals of the Bill include the following:

- (i) unless the employer can show a valid reason for dismissing an employee, the dismissal shall be deemed unfair;

-
- (ii) the valid reason mentioned above includes the capability or conduct of the employee, or redundancy, or the employment being in contravention of the law, or any other reason of substance;
 - (iii) if the employee deems that he is unfairly dismissed by the employer, he may present a complaint to the Labour Tribunal within three months;
 - (iv) in determining whether the dismissal is fair, apart from considering whether the employer's reason for dismissal is reasonable, the Labour Tribunal must also consider whether the process of dismissal is equitable;
 - (v) where the Labour Tribunal finds that the employer has dismissed the employee unfairly, the complainant may ask the Tribunal to make an order for reinstatement or re-engagement. After taking into account whether it is practicable for the employer to comply with the relevant orders, the Labour Tribunal shall first consider whether to make an order for reinstatement. If it decides not to make an order for reinstatement, it shall then consider whether to make an order for re-engagement;
 - (vi) if the Labour Tribunal makes no order for reinstatement or re-engagement, it shall make an award of compensation, including a basic award and a compensatory award, to be paid by the employer to the complainant;
 - (vii) the amount of the basic award shall be calculated according to the number of years of service. An amount equivalent to one month's salary shall be awarded for every year of service. If the employer has unreasonably refused to reinstate or re-engage the complainant, the Labour Tribunal may increase the amount of the basic award.

If the complainant has unreasonably refused to be reinstated or re-engaged, or the complainant has to take part of the blame, or the employer has paid a severance payment or other similar payments to the complainant, the Labour Tribunal may reduce the amount of the basic award;

- (viii) the amount of the compensatory award shall be calculated according to the loss sustained by the complainant attributable to the unreasonable act of the employer, including loss of wages and fringe benefits;
- (ix) in the event of dismissal on grounds related to union membership or activities, the Labour Tribunal may make a special compensatory award subject to a maximum amount of \$150,000; and
- (x) the above proposals apply to all employees employed under a continuous contract of employment for a period not less than one year, including civil servants and government contract staff.

Mr President, I reiterate that the main purpose of this Bill is to make Hong Kong's employment relations more reasonable. It is hoped that this Bill can change the present situation where the boss alone has the say, and can threaten employees with dismissal so that they dare not voice their discontent.

Mr President, with these remarks, I move that the Bill be read a Second time.

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

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

ADJOURNMENT AND NEXT SITTING

PRESIDENT (in Cantonese): In accordance with Standing Orders, I now adjourn the Council until 2.30 pm on Thursday, 24 April, 1997.

Adjourned accordingly at twenty-six minutes to Eleven o'clock.

Note: The short title of the Interception of Communications Bill listed in the Hansard has been translated into Chinese for information and guidance only; it does not have authoritative effect in Chinese.