

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 18 June 1997

The Council met at Nine 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, J.P.

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 PHILIP WONG YU-HONG

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE HOWARD YOUNG, J.P.

THE HONOURABLE ZACHARY WONG WAI-YIN

THE HONOURABLE CHRISTINE LOH KUNG-WAI

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

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE CHAN KAM-LAM

THE HONOURABLE CHAN WING-CHAN

THE HONOURABLE CHAN YUEN-HAN

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE PAUL CHENG MING-FUN J.P.

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, J.P.

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

DR THE HONOURABLE LAW CHEUNG-KWOK

THE HONOURABLE LAW CHI-KWONG

THE HONOURABLE LEE KAI-MING

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE BRUCE LIU SING-LEE

THE HONOURABLE LO SUK-CHING

THE HONOURABLE MOK YING-FAN

THE HONOURABLE MARGARET NG

THE HONOURABLE NGAN KAM-CHUEN

THE HONOURABLE SIN CHUNG-KAI

THE HONOURABLE TSANG KIN-SHING

DR THE HONOURABLE JOHN TSE WING-LING

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

THE HONOURABLE LAWRENCE YUM SIN-LING

PUBLIC OFFICERS ATTENDING:

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

MR LAM WOON-KWONG, J.P.
SECRETARY FOR THE CIVIL SERVICE

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

CLERKS IN ATTENDANCE:

MR RICKY FUNG CHOI-CHEUNG, J.P., SECRETARY GENERAL

MR LAW KAM-SANG, J.P., DEPUTY SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

MEMBERS' MOTION

PRESIDENT (in Cantonese): Members' Motions. 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 16 June. The movers of the motions will each have 15 minutes for their speeches including their replies, and another five minutes to speak on the proposed amendments. Other Members, including the movers of the amendments, will each have seven minutes for their speeches. Under Standing Order 27A, I am obliged to direct any Member speaking in excess of the specified time to discontinue his speech.

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 *to move the following motion:*

"That this Council endorses the 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, the Select Committee to Inquire into the Circumstances Surrounding the Departure of Mr LEUNG Ming-yin from the Government and Related Issues (Select Committee) was formally set up shortly after a motion for its formation had been passed by the Council on 23 October last year. Since then, 10 members of the Select Committee, who are either independent Members of the Council or Honourable colleagues affiliated to their respective political parties, and I have worked in sincere co-operation with each other for the past eight months. In a spirit of finding out the whole truth of the matter and overcoming all obstacles, the Select Committee held 13 open hearings and 29 lengthy meetings to repeatedly examine and deliberate the evidence collected word by word and case by case. After many vigorous and rational debates, we finally came up with the Report laid before Honourable Members. After submitting the Report to the Council last Tuesday, the Select Committee has now concluded its duty.

The Select Committee was set up by the Council in accordance with the powers set out under the Legislative Council (Powers and Privileges) Ordinance, and this was the fourth time that the Council invoked the Ordinance. As hinted by various traits and information, this inquiry is probably the one in which the powers concerned have been put into the best and fullest use. This inquiry has also proven and demonstrated fully the importance of the Ordinance. In this connection, members of the public were able to learn more about the truth of the matter from each and every open hearing, while public opinions could also criticize and supervise the Government sufficiently. If the Select Committee did not have the power conferred by the Legislative Council (Powers and Privileges) Ordinance, the true reasons behind the departure of Mr LEUNG Ming-yin, a case which has given rise to a lot of problems, would still be in the dark after five or even 10 years. All kinds of rumour and hearsay might still be spreading around in the community, making it impossible for the public to learn about the truth in any way, thereby creating yet another "rousomon" case.

Mr President, during the entire inquiry process which lasted eight months, government officials have time and again challenged the source of power of the Select Committee, as well as questioned the powers we have. In this connection, the Secretary for the Civil Service has refused to produce the documents related to the departure of Mr LEUNG Ming-yin, while the Chief Secretary has refused to produce the Independent Commission Against Corruption Report to the Operations Review Committee (ORC Report). What is more, an application claiming a court declaration was made before the Select Committee had formed an opinion as to whether the Chief Secretary's refusal to produce the ORC Report on "public interest grounds" was justified, thereby giving me the "honour" of being involved in court proceedings because of my public service. If every one would be involved in court proceedings for the first time, then I should take "pride" in this first time of mine. The unco-operative attitude of the government officials has no doubt reflected that the Government did have the intention to obstruct the Select Committee from exercising its proper powers. In addition, this has also proven that the Government has not observed its duty and role in being accountable to the legislature and the public. It is disappointing that instead of co-operating sincerely with the Select Committee, the Government has all along "tailored" efforts to frustrate the Select Committee's investigation work. One cannot but remain in doubt as to why the Government has chosen to respond in such a way which not only brought it into disrepute and undermined its credibility, but also damaged the trust between the Government and the Legislative Council.

In the course of the hearings, in order to uncover the whole truth of the matter, Honourable colleagues of the Council have to "press for the truth on the basis of legal provision"; and since government officials have to "argue on the basis of reason", the resultant heated debates have aroused attention of the media and become the talk of the town. All these have sufficiently proven that even under an executive-led political system, the legislature could still exercise the powers conferred to it to discharge its monitoring duty against any maladministration on the part of the Government. Nevertheless, of even greater importance is the principle that while the Government could explain with appropriate reasons its refusal to disclose the information regarding decisions that should be kept confidential, it should never seek to intentionally mislead the Legislative Council and the community at large or conceal the truth by telling lies or giving untrue answers and still making serious claims that it has already disclosed everything. That is unacceptable to us.

Mr President, during the entire process of the inquiry, the witnesses summonsed to give evidence, including the Personal Assistant to the Secretary for the Civil Service, the Secretary for the Civil Service and the Chief Secretary, have time and again refused to give evidence or produce documents on the ground of public interest immunity. The question as to how "public interests" should be defined was therefore the focus of argument. In my opinion, while the meaning of public interests should be interpreted differently in accordance with the time and place concerned, the interpretations made should always be in compliance with the overall principle that the effective operation of the Hong Kong Government as well as the effective monitoring of the Administration by the legislature should remain intact and be well balanced with the people's right to know exercised to the full. However, neither of the three parties should seek to employ public interests as its pretext for extending its own power indefinitely. Bearing in mind that these three parties may not necessarily be confronting each other under the general premise of public interests, I am sure members of the Select Committee, other Honourable colleagues of the Council or the community at large will never endorse the evasive attitude of the Government as demonstrated in its repeated attempts to employ public interests as an "all-purpose" shield to keep itself from being monitored by the Legislative Council.

As pointed out by Lord LESTER QC, balanced against the need to maintain the effective operation of the Government in this case is the public interest of protecting the integrity and effectiveness of the investigative process

in which the Select Committee inquires into a subject of legitimate public concern. Under the premise of striking a balance between the two aspects of public interests, it should therefore be all the more essential for the Government to co-operate with the Select Committee and to cater for the needs of the Select Committee to the greatest extent, so as to enable the legislature to discharge effectively its functions in acting as a constitutional watchdog. If the Government is accountable to the legislature, the principle that the Government has a duty to be held responsible would then be implemented. This is the proper approach which is worthy of our support and which the Government should adopt.

To the legislature, this inquiry has rendered the Select Committee rather helpless in the pretext of public interests. It was exactly for public interest reasons that we could not but agree to receive, peruse, as well as put into use certain evidence in closed sessions so as to enable the Select Committee to understand and analyse the truth of the matter more effectively. As such, not every part of the proceedings involved in this inquiry has been disclosed to the public. So these are the two sides of the same coin. It is for these reasons that the Select Committee cannot give the public a full account of the case or disclose everything involved. In my opinion, this is most regrettable.

Mr President, upon the passage of the Legislative Council (Powers and Privileges) Bill by the Legislative Council, the then Chief Secretary, Mr Arker JONES, stated very clearly that the principle of separation of powers of the executive, the legislature and the judiciary should not be affected by the Bill. And indeed, the inquiry recently completed and the inquiries conducted in the past have all proven this to the full. Looking back on the history of Hong Kong, this inquiry should be the one in which the powers conferred to the Legislative Council have been completely and systematically put into use. No doubt this inquiry could serve as a good example for the Government of the Hong Kong Special Administrative Region (SAR) to come, and thereby urges the SAR Government to remain liberal and be accountable to both the legislature and the community at large.

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

Question on the motion proposed.

MR CHEUNG MAN-KWONG (in Cantonese): Mr President, in regard to the departure of Mr LEUNG Ming-yin, the Select Committee has already submitted its Report to the Council. In this Report, strong words were used to criticize and censure the Government and Mr LEUNG Ming-yin. As to the motion debate we are conducting today, I wish to speak a few words on the lessons that we should draw from this incident.

Firstly, the case of Mr LEUNG Ming-yin has drawn our attention to the emergence of government-commerce politics. Hong Kong should establish a clean tradition of separation of the government and the business circle so as to avoid any collusion between the Government and business interests. If public officers were allowed to affiliate with the business circle and become businessmen themselves, the interest of Hong Kong as a whole would be gravely affected. In regard to the case of Mr LEUNG Ming-yin, the Honourable LAU Wong-fat and Mr TSUI Tsin-tong, member of the Chinese People's Political Consultative Conference have been involved in Mr LEUNG's business activities respectively. If such business partnership or relations had not been uncovered or were allowed to develop, people would certainly question if the neutrality and impartiality of our Civil Service would give way to business interests. Mr President, Hong Kong will soon re-unite with China. However, the government-commerce politics which has been developing in China since the implementation of the policy of reform and openness is in fact one of the major source of the country's corruption problems. We certainly do not wish to see this improper trend of government-commerce politics be introduced into Hong Kong after 1997. The case of Mr LEUNG Ming-yin has alerted us to the need to have in place a stringent declaration system as well as a long-term monitoring system regarding the private investment made by our public officers. In this connection, we need to ensure that such private business activities will not involve any members of the political circles in Hong Kong, China or countries overseas; otherwise, a black hole of corruptness will be created amongst our civil servants, thereby causing the Civil Service which Hong Kong always takes pride in to lose its most precious attribute, which is neutrality and impartiality.

Secondly, the case of Mr LEUNG Ming-yin has led us to face squarely the fact that our government officials would not admit their fault or feel guilty after taking dishonest actions collectively under the pretext of public interests. Mr President, when we were drafting the Report, I kept thinking that while we had in

place a system under which we could monitor and even dismiss the dishonest public officer concerned, if the Government lacks integrity, do we have enough resources and power to monitor it against any dishonest conduct and to require it to shoulder the political responsibility?

It is beyond doubt that the Government has all along been committing mistakes of dishonesty in dealing with the case of Mr LEUNG Ming-yin: withholding materials, tailoring evidence, misleading the public, using high-handed methods, to name just a few. It looks as if Hong Kong had relapsed into the ruthless days of the 1960s. More frightening still is that the entire Government, from the Governor to the Chief Secretary and the Secretary for the Civil Service, simply collaborated with each other to give untrue but well-tailored evidence on oath. What they did was not far from telling lies. Although the grounds on which the Government had required Mr LEUNG Ming-yin to retire were later justified with proofs, the means and ends are just hideous and disgusting.

In the name of the people, the Government, with its stringent investigation machinery, well developed intelligence system, enormous executive mechanism and professional legal department, could do good or harm to the community. If it chose to do harm, who could stop it? This is a grave issue that warrant our careful thoughts.

I hereby demand seriously that the Government make apologies to the public and this Council for the fault it has committed in dealing with the case of Mr LEUNG Ming-yin. The apologies I am asking for is not a mere formality but rather an affirmation that honesty is the basic quality of a government. A government which has lost this quality would lose the pillar of its integrity and, hence, the trust of its people. The Hong Kong Government is not an elected government, and so it is not be required to step down for grave political misconducts. However, it should at least discipline itself as a liberal and open government which has the courage to apologize openly for its fault.

Mr President, from the case of Mr LEUNG Ming-yin we can see that independent press and an elected legislature are the essential forces to check the dictatorship of an autocratic government. Had it not been the widespread coverage and investigation by the media, as well as the persistent inquiry and hearings conducted by the Legislative Council, the case of Mr LEUNG Ming-yin would have remained a mystery, with the course of events as well as the rights

and wrongs thereof lying in the dark forever. After almost a year, we have finally reached a conclusion regarding the matter. However, it is regrettable that the Council has not been able to probe into the truth of the political allegations due to the forthcoming end of term and hence insufficient time. Besides, the power of the Council is not sufficient to enable it to conduct investigations overseas or in China, and therefore we have no choice but to leave that part of the story untouched. Nevertheless, we have done our best to inquire towards that end, although our efforts are of no avail due to the refusal on the part of the Government and the witnesses to disclose any information.

From this experience of failure we see that both the inquiry conducted by the Legislative Council and the relevant powers and privileges involved therein are still subject to much limitation. Take this inquiry as an example, the Government could refuse to give evidence or produce information selectively on the grounds of public interests. What is more, it could even institute legal proceedings against the Legislative Council so as to shirk off its accountability. According to the Basic Law, the Chief Executive can, after 1997, determine whether senior government officials or other public officers will give evidence and produce documents to the legislature or the committees formed under it. Suppose such privileges of the executive have fallen into the hands of a ruthless and autocratic government, would the executive co-operate with the legislature if the inquiry conducted by the latter involves the interest of the Government of the Special Administrative Region or the Central Government, or perhaps involves prominent political figures who are in need of protection due to their love for China and Hong Kong. This is indeed questionable. Moreover, whether the media would yield to pressure or self-interests and hence exercise self-discipline or even chicken out, or the future legislature would give up gradually its power and eventually surrender, we have yet to find out. I just hope that inquiries such as the one regarding the departure of Mr LEUNG Ming-yin will not disappear with the status of Hong Kong as a colony. I also hope that Hong Kong will still be blessed with an independent press community and a legislature that fears no repressive powers, and that the two will stand up for the people to monitor the government, to check its power, as well as to prevent it from turning corrupted or autocratic.

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

MRS SELINA CHOW (in Cantonese): Mr President, in view of the fact that open hearings regarding the departure of Mr LEUNG Ming-yin have been conducted one after another in the past few months, and that the Select Committee set up to inquire into the matter has also submitted its report, I think our attitude in this respect should be known to all.

For my part, as I had participated in the enquiry into the case of Mr Alex TSUI before, I did feel that I could perform my duties more smoothly this time.

Mr President, I do not wish to give a long speech. However, in addition to the majority view and conclusion of the Select Committee which I identify myself with, I would like to make a few personal comments as follows. In regard to the approach adopted by the Government to require Mr LEUNG to leave the service, we do have some reservations. Yes, the conduct of the Government in that respect calls for criticism, but this does not justify Mr LEUNG's conduct. Mr LEUNG has all along taken lightly the requirement that senior government officials should refrain from establishing any ties with the business circle, be they business relations or ties of other kinds. During the hearings, Mr LEUNG frequently remarked that his business relations were not in any way conducted in any improper manner. However, in a well developed commercial society like Hong Kong, the personal relations and interests of senior government officials may in one way or another compel the officers concerned to compromise certain decisions. Yet such compromise should never be accepted or excused. If senior government officials are interested in business investment, they had better switch to the business sector completely. But if they do not want to give up their "gold rise bowl", they had better confine their investment activities to buying stocks and real estate property and then rest assured that there should not be any potential conflict of interests whatsoever.

On the other hand, I still remain in doubt as to why Mr LEUNG chose to submit his retirement application when told to retire, without knowing or challenging the reasons for the Government's decision to require him to do so. In the ordinary course of events, people will react angrily if they feel aggrieved; besides, they should also go through all possible channels available to redress their grievances if they consider themselves innocent. Yet Mr LEUNG has chosen not to take these sensible routes. This strange decision of Mr LEUNG's would easily lead others into thinking that he might have found his case too

awkward to make or have even found himself in the wrong.

I would now switch to the government's actions which may deserve reviews. Despite the case of Mr Alex TSUI, the Government has still handled the case of Mr LEUNG Ming-yin so inappropriately. This is indeed regrettable. The inappropriate actions come in several categories. First, it required an employee to leave the service without giving any reasons. Second, it tried to mislead the public. Third, it refused to recognize or respect the role played by the Legislative Council. Someone from the press has asked a question. Given that I repeatedly questioned a public officer as to whether Mr LEUNG had retired for personal reasons, and that evidence before us invalidated his alleged personal reasons, had the officer not been telling lies?

In my view, the public officers were indeed dishonest before the Council. And I want them to understand that it is wrong to mislead the Legislative Council, however sufficient or noble their reasons are. They could just tell the public, without giving reasons, that certain senior government officer had retired or left the service, but they should never fabricate any non-existent reasons. In this connection, however, I think the most inappropriate action on the part of the Government should be that it has instituted legal proceedings to claim a declaration from the court that the production of the evidence required by the Select Committee could be properly withheld, even though the Select Committee had already taken into account the worries of the Government and reduced the request to allowing its Chairman to examine certain documents. I just could not understand why the Government had to adopt such an approach, as this was in effect an attempt to challenge the Legislative Council and the Select Committee under it. What the Government did was absolutely unnecessary. It achieved nothing more than a waste of time. The attitude of the Government was even more conservative than that adopted by the Commissioner for the Independent Commission Against Corruption in regard to the enquiry into the case of Mr Alex TSUI. This was certainly a regressive move on the part of the Government.

Mr President, someone remarked to me that as the Legislative Council had admitted that the inquiry was not free of limitations, the Select Committee should not be able to ascertain whether political motives were involved in the departure of Mr LEUNG Ming-yin. To this I could only say that our right to know could certainly be exercised to the full if we were living in a perfect world, but the fact is that we are living in an imperfect world. Looking back on the past, however, we should at least realize that if we did not have this Select Committee or this

inquiry, the truth of the matter that we were able to uncover would be far more limited.

It is my hope that the Government will reflect and conduct a review on this incident as a whole and accept the recommendations made by the Select Committee, with a view to preventing the occurrence of similar cases. Having said that, I do remember that I have made similar advice to the Government upon the closure of the enquiry into the case of Mr Alex TSUI, but apparently my advice has not been respected or noted. I just hope that the Government will adopt a different attitude this time. Thank you, Mr President.

MISS MARGARET NG: Mr President, as a member of the Select Committee, I identify myself with the views in the Report before Members and do not wish to repeat them at any length. However, I would like to lay emphasis on a few points.

First, I endorse the Government's decision to require the former Director of Immigration to leave immediately. We reacted very strongly against the Government's attempt to cover up the true facts and true reason for requiring the former Director to leave, and quite rightly so. In this Report, strong words were used to censure the Government, and quite rightly so. Any elected government which has sailed as close to the wind in withholding the truth and knowingly misleading the legislature would have faced a crisis. When an official tried to fob off the legislature with frivolous remarks knowing that it was a matter of serious public concern, he can hardly expect to be let off lightly.

So, as the Government's conduct calls for severe criticism, we have severely criticized it. However, this does not alter the fact that the Government's decision to require the former Director to leave the Government was justified.

I have to say that I am not personally satisfied that the Select Committee had got to the whole truth of the matter. As stated in the Report, the Select Committee is simply not equipped for the kind of investigation necessary to uncover the whole truth in the circumstances of cases of this kind. However, on what, according to the Government, was known to it at that time, I do not think the Government could have made any other decision. One must not forget that

the Government has a duty towards the public to ensure that matters affecting vital public interests are in safe hands. The Select Committee has not been shown the full material and is not privy to the full factual findings or conclusions. We cannot draw any independent conclusion as to the correctness of these findings of the Government in relation to Mr LEUNG. We draw none. But we accept that the Government did believe, on the basis of these findings, that there were strong doubts as to whether immigration matters were still in safe hands. If so, action had to be taken to put an end to all risks. I agree with my colleagues that the method adopted to achieve this was high-handed and to be criticized. The end must not be made to justify the means.

I have no doubt in my mind that the grounds stated in preparation for the Colonial Regulation 59, action were, by themselves, sufficient to require a Director of Immigration to leave. The fact that they may not have fully explained why his immediate departure had to be secured by hook or by crook, and that there must be some further reasons behind the scene, should not lead us to play down the seriousness of these grounds. I was most distressed to hear comments that these were merely technical or at any rate trivial offences. One thing which is, and ought to be held up as, the hallmark of our Civil Service — and indeed anyone in public service — is the scrupulousness with which one conducts oneself and one's personal affairs. Upholding the highest standard of honesty and integrity, the most scrupulous avoidance of any real or potential conflict of interest, is expected of everyone in such a position. There must be no compromising for these standards. To defend any breach by arguing that no actual benefit or advantage has in fact resulted is to compromise those standards hopelessly. A public officer who accepts and excuses such compromise thereby puts in doubt his own standards and integrity.

Mr President, this Select Committee was appointed and exercised its powers under the Legislative Council (Powers and Privileges) Ordinance. Enacted in 1985, the Ordinance was the first declaration of the autonomy of this Council. No one can miss the significance of the Select Committee so near to the handover and the demise of this Council.

Towards the end of our enquiry, the Attorney General chose to bring proceedings against the Chairman and members of the Select Committee for a declaration by the court that the Chief Secretary was justified not to produce the Independent Commission Against Corruption report to its Operations Review

Committee on a claim of public interest immunity and on the grounds that the report was unnecessary for the Select Committee's enquiry. This was a serious attempt to challenge the autonomy of this Council under the Ordinance. Under the Ordinance, the court's intervention is not precluded altogether, but is confined, as to time, to a point after the Chairman has made his ruling on the claim, and as to ambit, to whether the Select Committee has exercised its powers lawfully.

In view of the challenge of the Attorney General, it was entirely appropriate for the Select Committee to seek expert legal advice. Indeed, we would be failing in our duty if we had not done so. Had the matter been proceeded with and heard before the court (assuming the court does not send the Attorney General away with a ring in his ears for involving the court in a political dispute), I am of the firm belief that it would have benefited the public in obtaining an authoritative decision on such an important constitutional issue. I accept that when the Attorney General saw fit to discontinue, any further expenditure out of the public purse on our part to pursue the matter would be unjustified. Had it been otherwise, we would have gladly met the Attorney General in court.

I do not believe it will be involving the court in a political controversy. There is never any question of vindictiveness on either side, but in a true spirit of willingness to abide by the law and submitting to the decision of the court which is the constitutional authority for the interpretation of the law under which we hope we shall always operate.

With these words, Mr President, I support the motion.

MR YUM SIN-LING (in Cantonese): Thank you, Mr President. In regard to the inquiry into Mr LEUNG Ming-yin's case, the major obstacle this Select Committee has encountered was that the Government frequently resorted to refusing to answer our questions on "public interest" grounds. As we all know, to uncover the truth of this case, series of inter-related questions that probe further and further into the core of the matter were certainly required. However, starting with questions that asked for the most frivolous, simple, or peripheral information of the case, government officials all along tried to give evasive answers as the first step, and then refused to answer categorically our questions on the grounds that it would not be in public interests to disclose the ways or

means that the Government had handled the matter. It was only after Honourable colleagues had employed various methods to ask repeatedly for the facts that certain piecemeal or indirect answers were obtained. The entire process was similar to the way one "squeezes" a tube of toothpaste; a little bit of toothpaste would come out after every "squeeze". Very regrettably, this time we had an extra large tube of toothpaste from which only a very tiny bit of toothpaste would come out after every "squeeze". In the end, as time was running out and this session would come to an end, and after taking into account all the pros and cons, we finally presented this Report after we had drawn a major conclusion for the enquiry. In view of the experience gained, we are now giving consideration to the enactment of a "public interest law" to define clearly the meaning of "public interests", with a view to preventing the Government from refusing to disclose the facts regarding its various executive aspects or to pay due respect to the Legislative Council on "public interests" grounds. However, Hong Kong will soon be put under the Government of the Special Administrative Region. When are we going to have a democratically elected legislature and a liberal government that legislates in public interests? It is our hope that this will be realized as soon as possible, otherwise we will still have many difficulties in finding out the truth should there be similar cases in the future. I hereby urge Honourable colleagues to lend their support to this Report. Thank you.

MR CHOY KAN-PUI (in Cantonese): Mr President, for eight months the Select Committee to Inquire into the Circumstances Surrounding the Departure of Mr LEUNG Ming-yin from the Government and Related Issues (the Select Committee) has been working hard to conduct investigations and hearings. However, with its limited power and resources, it could not go any further and has therefore submitted this Report. But are there any political factors among the true reasons for requiring the former Director of Immigration to leave? It is regrettable that the Select Committee has not been able to conduct a thorough investigation into the matter and thereby arrive at a conclusion due to its limited power and resources. Taking into consideration the existing limitations, I find this Report acceptable.

In the opinion of the Select Committee, the claims made by the Hong Kong Government that Mr LEUNG Ming-yin had breached the Civil Services Regulations have clearly indicated that Mr LEUNG has failed to meet the high standard of honesty and integrity expected of him as the head of a disciplined

force, and it is therefore reasonable for the Government to require Mr LEUNG to retire from the service.

I endorse this view. However, I do have some reservations as to whether there are clear and compelling reasons for the immediate departure of Mr LEUNG. Both the Report and the series of hearings have sufficiently reflected that Mr LEUNG has not retired voluntarily for personal reasons as asserted by the Government. Instead, he has been compelled by the Government to retire. From here we could see that the way in which the Government has handled the entire matter was disputable in at least three aspects:

Firstly, the Government has adopted a high-handed method to compel Mr LEUNG to retire. Should Mr LEUNG be provided with the reasons for the decision of the Government to require him to retire from the service, he might have made a decision otherwise. In this connection, the Government could be reasonably suspected of trying to deprive Mr LEUNG of the right to know.

Secondly, the Government as a whole, including the Governor, the Chief Secretary, the Secretary for Security, the Secretary for the Civil Service, the Financial Secretary and so on, have made a concerted effort to attempt to mislead the Legislative Council and the public, as well as to create a false impression to lead others into believing that Mr LEUNG retired voluntarily for personal reasons. This has seriously undermined the credibility of the Government.

It is possible that the intention of the Government to adopt such an approach was only to take drastic measures to do away with the whole thing. Yet it is equally possible that the Government was really trying to cover up other reasons behind the scene. In any case, this can by no means be regarded as the proper conduct of a government which prides itself on high degree of transparency. Such an approach adopted by the Government "in public interests" has blatantly disregarded both the Council's right to hold the Government accountable and the people's right to know.

Thirdly, the case has also revealed the problems with the existing integrity vetting system regarding senior government officials. Certainly, it is essential for us to require senior government officials to be of a high standard of personal conduct and integrity. On the other hand, as integrity vetting has a direct bearing on the promotion prospect and the continuous employment of the officer

concerned, it is of utmost importance to both the public officers and the people of Hong Kong. As such, we need to have a highly stringent system in this respect. However, the existing integrity vetting system does not have in place an adequate supervisory mechanism, and reports are therefore prepared in a rather subjective manner. What is more, as the officer concerned does not have the opportunity to make representations in respect of the contents of the report, the officer would just be "condemned without knowing the reason why". This is unfair. The existing vetting system therefore calls for a thorough review.

Mr President, in regard to the enquiry, it is most regrettable that the Government has all along been unco-operative and distrusted this Council. As representative of the people, this Council has a responsibility to require the Government to give an account of the whole truth of the matter. However, the Government has been trying to cheat the public and this Council from the outset. Government officials have been using "public interests" as their grounds for withholding the facts from us. The Chief Secretary, in particular, has all along refused to produce the Independent Commission Against Corruption Report to the Operations Review Committee (ORC Report) on "public interest grounds". Further still, she has even refused to disclose the ORC Report to the Select Committee or its Chairman. All these have gravely damaged the trust between the Government and the Legislative Council. Worse still, the Government had even instituted legal proceedings before the Chairman of the Select Committee made his ruling on the Chief Secretary's claim and thereby impaired gravely its co-operation with this Council. I support the opinion formed by the Chairman of the Select Committee that the Chief Secretary has not provided sufficient reasons to justify her refusal to produce the ORC Report to the Select Committee on "public interest grounds".

Mr President, this case has sufficiently demonstrated how essential it is for the Legislative Council (Powers and Privileges) Ordinance to confer to this Council the powers to investigate into the operation of the Government. In regard to this case, although the Government tailored evidence to frustrate the Select Committee's investigation work, the Select Committee has still managed to uncover the truth of the matter in a circuitous way and given an account of the case to the public. I hereby endorse the Report submitted by the Select Committee and commend the Chairman and members of the Select Committee for the efforts they have made over the past few months.

Mr President, I so submit.

MR JAMES TO (in Cantonese): Mr President, I support the recommendations made by the Select Committee as well as the conclusion made in the Report. In regard to the entire incident, I am very much disappointed with and regret the response the Government has been making so far, that is before Mr LAM Woon-kwong speaks on behalf of the Government. The Government simply has not drawn any lesson from the incident, and that is why I am afraid the Honourable Mrs Selina CHOW would once again be disappointed. I just hope that the Secretary for the Civil Service will think carefully before he gives his speech later.

As the Chief Executive of the Special Administrative Region has always referred to a "strong government", the Chief Secretary has been advocating an executive-led strong government all along. The Chief Secretary was still talking about her principles and baseline recently, and said that she would consider her resignation should those principles be violated. I respect her for that. The problem is what principles she was holding fast to and what kind of principles the Government is holding fast to. If we held fast to some improper principles, the Government could, as referred to by the Honourable CHEUNG Man-kwong, do grave harm to us eventually. Honesty is our baseline. But what about our principles?

As for the public officers giving evidence on oath before the Select Committee or at any hearing sessions, no matter how senior or junior their ranks are, each of them should have his or her own separate responsibility to refrain from telling lies. On the grounds of honesty, apart from merely refraining themselves from committing criminal offences, they should also make efforts to hold themselves honestly accountable to the Government, the Select Committee, the legislature, as well as any other institutions responsible for monitoring the Government.

There have in fact been similar cases in the past. Let me cite an American experience. One or two of the former heads of the Central Intelligence Agency lied when giving evidence at the hearings held by the Congress. No body was aware of that until after quite some time. In one case, although some twenty to thirty years had gone by, the former head concerned was

still called for account by the Congress right before he passed away.

Even if the motive of these former heads of the Central Intelligence Agency was out of national security reasons, they should not have responded by telling lies when summonsed by the Congress. Likewise, if any public officer feels that it is in agreement with his baseline not to disclose certain information relevant to this inquiry for public interest reasons, he should say so to the Select Committee instead of trying to make up another story, as it is utterly irresponsible to try to mislead the public into believing that another story or a tailored version of the real case is the truth.

If the entire elected government has to step down, the crisis would be even more serious than that referred to by the Honourable Miss Margaret NG. Who should have the capacity to make judgement in regard to public interests? Should that be confined to the Government exclusively? Who could determine whether certain confidential information could be disclosed to the Select Committee or otherwise?

Systems will naturally vary with different governments and regions. While the governments of most of the democratic regions are elected by the people, the existing Hong Kong Government is not an elected government. In 1995, our legislature experienced a fundamental change and became an elected legislature. There is nothing improper for a non-elected government to be held responsible to an elected legislature. Is the Government afraid that members of the Select Committee would irresponsibly disclose the information concerned?

As we look back on the past and read through the Report before us or the report of the inquiry regarding the case of Mr Alex TSUI, we could in fact find ample examples which could prove the responsible attitude of the Members of the Council. If the Government finds the existing system regarding the confidentiality of information inadequate, should it consider reviewing the system regarding the access to confidential information by Members of the Council and the confidentiality of information concerned? In her court declaration as well as the evidence and affidavit she gave, the Chief Secretary has mentioned that after taking into account all possibilities, including the oath of confidentiality taken by Members of the Council, she was still of the opinion that the information concerned should not be disclosed. In other words, the

Government has taken into consideration the relevant confidentiality system. However, it was referred to in the affidavit of another government official that the system of confidentiality could not be applicable by Members of the Council because they had not signed the Official Secrets Act. This view is completely contradictory to that expressed by the Chief Secretary. I just could not understand why the Government would think like that!

As a matter of fact, in many regions in the world, say the United States, the so-called security check taken by Members of the Congress is of the same level as that taken by the United States President. In other words, the confidential information that is accessible to the United States President would also be accessible to Members of the Congress after they have passed the same level of security check. There are of course stringent provisions in law, appropriate venue, as well as system of confidentiality to safeguard the information concerned from being disclosed.

It is my hope that the Government could really draw lessons from this experience. However, the performance of the Government in several recent incidents was indeed regrettable in my eyes. I have been following up a case regarding the home of a former senior government official being burglarized, with a view to finding out whether the so-called informer-fee has been abused to redeem the stolen goods, the amount involved, as well as the approving officer concerned. In its first reply letter, the Government had provided me with detailed information. But when I asked for further information a month later, the Government replied, "We cannot comment on an individual case." If the Government found that it could not make any comment after considering the matter for a month, why did it give me the first reply letter? Why did it answer some of my questions but refuse to answer others? It is very obvious that the Government will try to conceal everything whenever some of its mistakes have been uncovered or the dark side of the story has been revealed.

With regard to the recent indents, I find the performance of the Government very disappointing, and I think it is of utmost importance for it to draw lessons from the present case. Since Members of the Council will have in future even less power to summon government officials under the Basic Law, it is indeed my grave concern that if the Government retained such kind of attitude, the system of rule of law in Hong Kong would be dealt a heavy blow.

MR CHIM PUI-CHUNG (in Cantonese): Mr President, I had intended to join the Select Committee to inquire into the case of Mr LEUNG Ming-yin, but certain environmental factors prevented me from doing so. As such, I have to rely on the television broadcast and the press for any news concerning the inquiry, just like any other members of the public. In regard to the inquiry conducted by the Select Committee, I must first state clearly that I appreciate very much the efforts made by the Select Committee to conduct dozens of meetings and investigations. However, the findings of the inquiry and the subsequent report only serve to give the public an impression that the inquiry goes up like a rocket but comes down like a stick. Why do the public have such an impression? What has gone wrong? Let me put it plainly, the present Hong Kong Government has.

As we all know, the so-called allegations and charges as disclosed by Mr LEUNG Ming-yin during the hearing sessions were but groundless. While the conduct of the officer concerned and other external circumstances may well be the reason behind the criticisms, but that should not be enough to constitute a formal charge. I am sure members of the public all share my view. So how can the Government not recognize that? How can it put forth such reasons? I therefore have to stress that I do not believe that the Secretary for the Civil Service had the guts or power to form an opinion regarding a colleague who was of a rank not much lower than his.

As referred to by Mr LEUNG Ming-yin, the Secretary for the Civil Service was just instructed to execute the order made by the ultimate decision maker of the Hong Kong Government. Unless the Secretary swears by the name of his religion or belief that he will tell the truth, I will not trust his words. Should the Secretary decide to write his own memoir after he has retired, I certainly hope that he will disclose the whole truth of the matter to the people of Hong Kong as well.

My rationale is very simple, for what has happened to Mr LEUNG may one day happen to the Secretary as well. As such, politicians with political conscience have to hold themselves responsible for the votes they have cast. No doubt the Secretary for the Civil Service is under a lot of pressure, but I do not think he should worry about that. In slightly more than a dozen days his existing boss will be going back to his home in Britain with a fortune of tens of millions Hong Kong dollars. Would it not be much better than just having his own home? As regards the Secretary for the Civil Service, he certainly has to

hold himself responsible to the community at large, the Legislative Council, as well as all parties concerned.

Mr President, from this incident we can see the importance of the Select Committee formed under the power and privileges conferred to the Legislative Council. There has been three similar cases over the past six years, and each time we did make every effort to discharge our duties, but the most regrettable fact is that we could never measure up to the many privileges that the Government had. As we all know, the Government is in fact hiding from us a lot of secrets, privileges and powers that it could not afford to disclose, albeit it has all along stressed that it is a democratic government with authority. As such, I wish to give the people of Hong Kong my sincere advice and that is the information and knowledge we receive from the media and the press just may not be true. The fair, uncovered and lawful reasons which the Government claims to have adopted are sometimes not very sufficient. In regard to this incident, we know that Mr LEUNG has joined the service for 31 years during which he has occasionally been subject to queries of all kinds. Nevertheless, he is just an ordinary person; naturally his conduct or other aspects may somehow call for criticism or improvement.

In any case, being the employer, the Hong Kong Government should let the community at large learn about the whole truth of the matter. Otherwise, it will remain a stain in the history of the British Hong Kong Government, which is about to cease governing the territory, despite the fact that its judiciary system and administrative system are applauded by the people of Hong Kong.

It is certainly my hope that the Government of the Special Administrative Region will draw lessons from this experience so as to bolster the confidence of the people in "Hong Kong people ruling Hong Kong" after the re-unification with China. It is also my hope that the legislature to come, with the powers conferred to it by the relevant law, will do better in dealing with matters that are regarded as unfair by the public. Further still, I hope the various Secretaries or Secretaries of bureaux will in future discharge their duties in a more responsible manner. They should never use pressure as the excuse for telling tales at the hearings held by the Council that even the community will consider inconsistent, just like what they have been doing in the so-called open, fair and democratic circumstances.

Mr President, I wish to stress it once again that I appreciate the efforts made by the Select Community very much. I so submit.

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Mr President, first of all, let me thank all those Honourable Members who have expressed their views on this incident. We are pleased to note the Select Committee's conclusion: "The majority of the Committee consider it understandable and reasonable for the Government to doubt the character and integrity of MR LEUNG and to have lost confidence in his integrity and suitability to remain in the post of Director of Immigration. From this perspective, most members regard the Government's decision to require Mr LEUNG to depart from the service as reasonable in the circumstances."

What delights me most is that the Select Committee has not only supported the decision of the Government, but also recognized the need for the Hong Kong Government to impose stringent requirements on the integrity and conduct of civil servants, especially top-level civil servants. Hong Kong possesses a team of first-rate civil servants which is noted for its professionalism, efficiency and integrity. Such a reputation is indeed the fruit of many years of conscientious efforts, and the ability and integrity of our civil servants have won the admiration of many other places and countries all over the world, in addition to being widely supported by the people of Hong Kong themselves. Since we must seek to protect this hard-earned achievement of ours, there is every reason and every need for us to require that our civil servants, especially those belonging to the top leadership, must adhere strictly to the rules and regulations we have set down. This was precisely the reason why we decided to take decisive actions against a top-level civil servant whose conduct had obviously failed to meet our expected standards. From the perspectives of maintaining our civil servants' good conduct and of safeguarding public interests, such actions should be considered as both sensible and reasonable, and this view is also supported by the Select Committee.

However, the Select Committee has still made some comments on the actions of the Government, and these criticisms are centred around two aspects.

First, while the Select Committee finds it understandable for the

Government to require Mr LEUNG to leave the service immediately, it is also of the view that the approach of the Government to put pressure on Mr LEUNG to opt for voluntary retirement was high-handed and fell far short of the proper conduct expected of an open and fair Government. Second, the Select Committee views that Government officials have tailored their evidence and consciously withheld material information in an attempt to mislead the Legislative Council and the public into accepting an account of Mr LEUNG's departure from government service. Let me now respond to these two points of criticisms.

Regarding whether or not it was necessary to put pressure on Mr LEUNG to opt for immediate resignation, I wish to point out that Mr LEUNG was not only a head of department, but also the head of an important disciplined force the work of which affects virtually every Hong Kong resident and numerous foreign visitors. And, since the reputation of the Immigration Department will produce a very great bearing on our overseas promotion of the Special Administrative Region passport and negotiations on visa arrangements with other countries, it is only natural that we should demand exemplary honesty and integrity from Mr LEUNG, who was the Director of Immigration. For these reasons, when there was concrete proof evidencing Mr LEUNG's breaches of the Civil Service Regulations and failure to meet the high standard of honesty and integrity expected of senior civil servants, it was indeed necessary for the Government to take decisive management actions against him.

Our judgement at that time was that the early departure of Mr LEUNG would be most conducive to public interests. If we had not given Mr LEUNG the option of voluntary resignation, and if we had instead chosen to take immediate disciplinary actions against him, we would have to spend a very long time on dealing with the ensuing complicated procedures, and this would adversely affect the staff morale and reputation of the Immigration Department. What is more, we also noted that if we chose to deal with the case by invoking section 59 of the Colonial Regulations, the severest disciplinary action we could take would just be compulsory retirement. To a civil servant who is already in his retirement age, compulsory retirement and voluntary resignation would not be very much different in effect. Therefore, having considered all relevant factors, we decided to adopt an alternative under which Mr LEUNG could opt for an early departure, because our judgement at that time was that the immediate departure of Mr LEUNG would be most conducive to public interests and the smooth operation of the Immigration Department.

Mr President, when the Government decided to take such decisive actions against Mr LEUNG, its only concern was the overall good of the community. Admittedly, the means adopted might be a bit lacking in compassion, but I must say that the actions were not unjustified. Regarding the Select Committee's second point of criticism — the allegation that Government officials attempted to mislead others, I must reiterate that as a civilized government and employer, we must conduct all disciplinary investigations and take all management actions in strict accordance with the principle of confidentiality. We do not want to, and we simply should not, subject a civil servant who has committed no more than a disciplinary offence to a public trial in the mass media and the Legislative Council. I am sure that all organizations with a responsible attitude should not, and will never, lightly disclose the personal circumstances of an employee who has just committed a disciplinary offence instead of any criminal offences. This is a principle which all civilized communities should observe. What is more, on the day in question, I promised Mr LEUNG that if he opted for voluntary resignation, we would treat his retirement strictly as a private personnel matter between him and the Government. Therefore, during the initial stage of the Committee's public hearing, although many questions were directed at me, I still felt that I was obligated to honour this promise, unless Mr LEUNG himself voluntarily chose to abandon the principle of confidentiality. And, before Mr LEUNG himself chose to do so, the most I could do was to dodge members' queries and interpret their questions in the narrow sense. I understand very well that this has led to the dissatisfaction of the Committee.

Mr President, I want to stress that our insistence on confidentiality at that time was very much motivated by a desire to protect the interests of the public, and to honour a commitment which an employer had made to an employee. There was no attempt to conceal any malpractices, and this is accepted in the report compiled by the Select Committee. However, the Committee has also lashed out at me for the remarks which I made during the initial stage of the public hearing, saying, among other things, that I failed to respond sincerely to the concern of this Council and the community over this incident. I will certainly reflect over these criticisms and draw lessons from them. And, if any of my responses during the public hearing have misled this Council and the community in any way, I am more than prepared to apologize to the Committee and members of the public. That said, I still want to stress that I have absolutely no regret for having taken part in making the decision of requiring Mr LEUNG to leave the service.

The Committee has also made several recommendations, and these include the drawing up of some standards for civil servants to deal with their private business relations, the incorporation of sufficient checks and balances in the system of extended checking and the practice of informing the officer concerned of the fact that he/she has not passed the extended checking. Actually, shortly after the commencement of the public hearing, the Civil Service Branch has started to explore the feasibility of these two recommendations. In fact, we very much welcome these two recommendations, and will consider them alongside other issues in our review.

Mr President, before I conclude my remarks, I must reiterate that the Government is in full support of the broad principle that it must remain accountable to the Legislative Council. However, I must at the same time add that we must be given sufficient management authority. This should cover our authority under relevant rules and regulations to employ, transfer and dismiss individual civil servants. What is more, we should be allowed to handle the personal and private information of civil servants in strict confidence, unless otherwise indicated by the officers concerned. Lastly, we must be given the authority to maintain the effective operation of the Government's management and investigation systems, and this will involve applications for Court rulings for the protection of public interests.

Our decision to require Mr LEUNG to leave the service was based entirely of Mr LEUNG's breaches of the Civil Service Regulations and his failure to meet the required standards of conduct and integrity. Such a decision has had nothing whatsoever to do with any political factors as has been widely rumoured. We are convinced that our decision at that time is fully in line with public interests and is thus correct and justified. I am very pleased that the Select Committee has endorsed our decision.

Let me also take this opportunity to pay tribute to our colleagues in the Immigration Department. Surrounded by rumours and gossips, they have still managed to perform their duties with dedication, and their services to the public have not in any way been adversely affected. Their professionalism and calm responses have proved to us once again that ours is indeed a team of first-rate civil servants and that our civil service is working under a sound system. I am indeed very proud that I am able to work with such high-calibre colleagues during the transition period.

Thank you, Mr President.

PRESIDENT (in Cantonese): Mr IP Kwok-him, you are now entitled to reply and you have four minutes 35 seconds out of your original 15 minutes.

MR IP KWOK-HIM (in Cantonese): Mr President, just now a total of eight Honourable colleagues have spoken on the motion as well as the case concerned. In regard to the inappropriateness of the approach adopted by the Government to handle the departure of Mr LEUNG Ming-yin, Honourable Members have supplemented the report with their own observations. I think the Government needs very much to, and it is my hope that it will, re-consider carefully and listen to the views supplemented by Honourable colleagues just now.

The speeches made by Honourable colleagues have in fact manifested a very strong message. Not only do we hope very much that the Government will be an efficient government, we also hope very much that it can be accepted and recognized as a government with credibility by the people. This is what we expect of the Government. In regard to the entire incident, I think the Government needs to summarize all the proceedings involved, in particular the Colonial Regulation 59 action which has been referred to by Mr LAM Woon-kwong as a blitzkrieg launched to settle the matter quickly. In this connection, however, the important point which members of the Select Committee have all along put emphasis on is that the Government has chosen to handle the matter in a high-handed way when, in fact, other alternatives were available.

As pointed out by Honourable colleagues, if the Government has done more than giving Mr LEUNG the mere answer that he ought to know the reasons, and if it has issued the prepared letter to Mr LEUNG to inform him specifically of the facts concerned, the public would find it easier to accept the entire matter. The issue of the letter concerned could also enable public officers who consider themselves not trusted by the Government any more to better understand their circumstances.

Concerning the departure of Mr LEUNG Ming-yin, the difference between Mr LEUNG choosing to retire voluntarily and the Government requiring him to retire under Colonial Regulation 59 is in fact rather remarkable. However,

judging from the representation made by Mr LAM Woon-kwong in this respect, I am of the opinion that the Government has not yet realized or understood the real problems with the approach it has adopted. It is my hope that the Government would conduct a review in regard to this after the sitting.

In addition, the integrity of senior government officials has also been referred to by members of the Select Committee. In this connection, even though we accept the decision of the Government to require Mr LEUNG to retire, we still believe that the Government needs to have in place a significantly improved integrity checking system for its senior officers. The majority view of the Select Committee appreciates that it is necessary to conduct the extended integrity checking on the grounds that the mechanism concerned could enable the Government to have a better understanding of its officers in such senior positions, and that senior government officials would be urged to meet the high standard of integrity expected of them.

In regard to integrity checking, in particular the question of how opportunities could be provided for officers who fail to pass or have been subject to an integrity checking to air their grievances or put forward their reasons, the Select Committee is of the opinion that the existing system calls for substantial improvement in many respects. Just now members of the Select Committee have also referred to this point in their speeches.

Mr LAM Woon-kwong has indicated that he accepts the comments made by the Select Committee, and that he would reflect on and draw lessons from the whole matter. I think, and I also hope, Mr LAM Woon-kwong should appreciate that the Select Committee has arrived at the present conclusions with a view to enabling the Government to enhance its credibility.

As regards the issue of public interests, apart from the different views and opinions expressed by members of the Select Committee just now, the Select Committee also hopes that "public interests" will not be extended indefinitely or used as an all-purpose excuse. This is our general opinion in this respect. Thank you, Mr President.

Question on the motion put and agreed to.

SETTLEMENT OF BEDSPACE APARTMENT TENANTS

MR DAVID CHU *to move the following motion:*

"That this Council urges the Government to arrange as soon as possible reasonable rehousing for tenants living in bedspace apartments, and to formulate legislation to prohibit owners from converting their properties into bedspace apartments for rent."

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

Mr President, Hong Kong will soon be re-uniting with its motherland. Journalists from all over the world have come here to report the event. I believe many Honourable colleagues have already been meeting members of the press many times, and I am no exception. The strange thing is that many foreign reporters have asked me to take them to visit bedspace apartments; it looks as if bedspace apartments have become a hallmark of Hong Kong, or an attraction like the Ocean Park, which no tourist could afford to miss! To the local community, nothing could be more sarcastic.

My motion consists mainly of two parts. Firstly, the Government should arrange as soon as possible reasonable rehousing for the 2 500 tenants living in 114 bedspace apartments territory-wide. Secondly, the Government should formulate legislation to prohibit owners from converting their properties into bedspace apartments for rent.

In regard to the issue of rehousing, which is the first part of the motion, there are two types of bedspace apartment tenants. They are, firstly, singleton elderly persons living on Comprehensive Social Security Assistance (CSSA), and secondly, middle-aged or young persons who cannot afford to pay high rents.

Concerning the singleton elderly persons who have reached the age of 60, the Government is now arranging rehousing for them through the compassionate rehousing scheme under the Social Welfare Department and the sheltered housing scheme for the elderly implemented by the Housing Department. However, progresses of the two schemes are very slow. According to government statistics, less than 1 000 elderly persons were rehoused by the Social Welfare Department during the period between 1994 and 1997. Given such a speed, elderly persons who are now living in bedspace apartments have to

wait until after the year 2000 to get rehoused. While the new airport could be constructed in just a few years' time, it takes Hong Kong almost a decade to rehouse just a few thousand elderly bedspace apartment tenants. How ironical! The only way to resolve the problem is that the Government expedites the construction work of singleton public housing units to rehouse the singleton elderly persons.

As regards those single persons who cannot afford to pay high rents, the weight of life on them is increasing every day. To support them, the Government should shorten their waiting time for public housing by speeding up the provision of singleton units. In the short run, the singleton hostel programme run by the Home Affairs Department should be extended aptly. The Department is currently operating 34 singleton hostels which offer a total of some 500 places at a flat rate of \$380 per month. However, the occupancy rate so far is below 30%, as only 133 single persons have moved in! Since these hostels require the tenants to observe quite a number of rules, most of the single persons concerned would rather live in bedspace apartments. As such, the Government should conduct a comprehensive review on the existing singleton hostels with a view to providing hostels that are acceptable to the single persons so as to put government resources into better use.

In regard to the issue of control by legislation, the existing ordinances governing the operation of bedspace apartments are the Landlord and Tenant (Consolidation) Ordinance and the Bedspace Apartment Ordinance. While the former deals with all tenancy-related matters, the latter, which was passed in April 1994, is targeted at the operation of bedspace apartments. Under the Bedspace Apartment Ordinance, only operators who comply with the rules and regulations concerned and have upgraded their bedspace apartments to meet certain safety requirements will be issued with operation licenses. The Ordinance can certainly help improve the living environment inside as well as the safety conditions of the bedspace apartments; its objective, however, is only to improve but not to abolish bedspace apartments. The Government would of course make use of the free economy as its pretext and claim that bedspace apartments should not be abolished as its existence is made necessary by market demand. Yet the single persons living in bedspace apartments are in fact forced

to suffer the abject condition there, as they can neither afford the high rent nor be allocated with singleton public housing. For this reason, the Government should never claim that bedspace apartments are products of the free market. It can only say that they are the only choice for the single persons in the low income group. The existence of bedspace apartments is a result of the inability and unwillingness on the part of the Government to provide proper rehousing for the tenants concerned.

As to the contents of the legislation, the Government can set down a minimum area and height requirement for bedspace apartments, say 40 sq ft and 8 ft respectively. The proper standard should of course be determined after careful deliberations.

As a conscientious government, the Hong Kong Government should undertake today to rehouse all bedspace apartment tenants before the year 2000. I hereby urge Honourable colleagues to take into consideration the long term interests of these tenants and lend their support to my motion.

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

Question on the motion proposed.

PRESIDENT (in Cantonese): Members have been informed by circulars on 12 June that Mr Frederick FUNG and Mr LEE Wing-tat have separately given notices to move amendments to this motion. Miss CHAN Yuen-han has also given notice to move an amendment to Mr Frederick FUNG's proposed amendment. I propose that the motion, the amendments and the amendment to the amendment be debated together in a joint debate.

This Council shall now debate the motion, the amendments and the amendment to the amendment together in a joint debate. I will first call upon Mr Frederick FUNG to speak first, to be followed by Mr LEE Wing-tat, and will then call upon Miss CHAN Yuen-han to speak, but no amendments are to be moved at this stage. Members may then express their views on the main motion as well as on the proposed amendments and the proposed amendment to the amendment to the motion. I now call upon Mr Frederick FUNG to speak.

MR FREDERICK FUNG (in Cantonese): Mr President, the Government statistics of 1997 show that there are a total of 113 caged homes, or the so-called bedspace apartments, in Hong Kong, and the number of tenants living there is about 2 000 to 3 000. Most of these bedspace apartments are situated in densely-populated urban areas, such as Sham Shui Po, Tai Kok Tsui, Kwun Tong and Kowloon City.

The bedspace apartment problem has all along been a matter of local and international concern. Apart from fire risks, bedspace apartment tenants have to endure a living environment which is extremely crowded and deplorable. In the hearings conducted by the Committee on Economic, Social and Cultural Rights of the United Nations on human rights in Hong Kong in 1994 and 1996, the Committee strongly criticized the Government for failing to provide proper accommodation for bedspace apartment tenants in spite of the fact that it was in possession of huge financial reserves. The Committee further urged the Government to eliminate bedspace apartments and provide the tenants with secure and comprehensive rehousing.

Nevertheless, the Government has turned a blind eye to the criticisms of the United Nations. The Housing Authority (HA) has even ignored the housing needs of single persons. It was not until 1985 that the HA allowed single persons to apply for public housing. Due to the shortage of public housing, a single person under the age of 60 usually has to wait for nine years before he can be allocated with public housing. Although the Home Affairs Department has provided 30 singleton hostels for bedspace apartment tenants under the age of 60 with economic means, the number of places available is 448 only. The Hong Kong Association for Democracy and People's Livelihood (ADPL) therefore proposes that the Government should provide more public housing units for single persons, expand the singleton hostel scheme administered by the Home Affairs Department, and rehouse existing bedspace apartment tenants in a comprehensive manner so as to improve their living conditions.

Mr President, the Government passed the Bedspace Apartments Ordinance in 1996 to exercise control on bedspace apartments by providing that bedspace apartments must comply with the standards and requirements on building safety, fire safety and sanitation before they can apply for operation licenses. Under

the Ordinance, a "bedspace apartment" is defined as any flat in which there are 12 or more bedspaces used or intended to be used as sleeping accommodation under rental agreements. In other words, the legislation is only applicable to bedspace apartments with 12 or more bedspaces. Subsequent to the passage of the legislation, many bedspace apartment owners sought to evade control by reducing the number of bedspaces to less than 12 and converting the vacated area into partitioned cubicles, or forcing the tenants living in bedspace apartments to leave and then converting the whole unit into a number of partitioned cubicles for rent in order to evade legislative control. Over the past three years, 37 bedspace apartment units have closed down one after another.

Recently, the demand for partitioned cubicles has been rising. Every day 150 mainlanders come to Hong Kong on a one-way exit permit for reasons of family reunion. The economic power of these people is mostly weak. Moreover, they do not necessarily meet the seven-year requirement for public housing. As a result, most of them live in partitioned cubicles in private buildings and this has resulted in the rising demand for partitioned cubicles. To meet the needs of the market, a number of owners have converted their bedspace apartments or properties into partitioned cubicles.

The existing Bedspace Apartments Ordinance is targeted at bedspace apartments only. There is no control on the sublet units of partitioned cubicles. Nowadays, a partitioned cubicle of approximately 100 sq ft may accommodate a family of five or six persons. As one unit is made up of seven or eight partitioned cubicles, an 800 sq ft unit might accommodate 50 to 60 people. The living density in these building may even be higher than that in a bedspace apartment. As such, problems pertaining to building safety, fire safety and sanitation in these partitioned cubicles may even be more serious. It is therefore imperative for the Government to pay attention to these problems and exercise control to ensure that these sublet units are up to the safety standard.

The ADPL objects to the immediate enactment of legislation to prohibit owners converting their properties into bedspace apartments or partitioned cubicles for rent. The reasons are as follows. Firstly, these are normal commercial activities, and it will not be easy to enact legislation to prohibit such activities. Secondly, even if the HA builds more singleton hostels immediately, a single person still has to wait for at least five years before he is allocated a place. The ADPL is of the view that, the Government should, in the long run, tackle the problems pertaining to bedspace apartments and partitioned cubicles by way of rehousing. With adequate rehousing, the demand for bedspace

apartments will naturally drop or even disappear. As to the reasons for the closure of 37 bedspace apartments one after another in the territory, in addition to the legislation in this respect, it is the result of the HA providing more public housing units for single persons over the past few years. Nevertheless, these public housing units are still insufficient. In my opinion, the solving of the problems pertaining to bedspace apartments and partitioned cubicles eventually hinges on the provision of adequate rehousing units by the Government.

Mr President, I so submit.

MR LEE WING-TAT (in Cantonese): Mr President, the bedspace apartment problem has obviously remained a housing problem which the Government finds it impossible to resolve so far. The Bedspace Apartments Ordinance enacted by the Government has failed to solve the problem of the public lacking proper accommodation. It has all along been stressed by the Government that as people in the community have a definite need for this type of poorly equipped but conveniently located and cheap accommodation, it has no intention to prohibit the renting of bedspace apartments or bedspaces. Nevertheless, the Bedspace Apartments Ordinance only targets at the practice of dividing a unit into 12 bedspaces for subletting and fire safety problems. The living environment of these bedspaces remains deplorable, but the rents are not necessarily cheap. More than 70% of bedspace apartment tenants draw an income of less than \$4,000 and some of them even live on Comprehensive Social Security Assistance. In spite of this, they are required to pay a rental of more than \$800 for their bedspaces. The rental of some bedspaces can be as high as \$1,500. As a result, the tenants can only economize on food and clothing, and are forced to live in extreme poverty and without dignity. Since the implementation of the Bedspace Apartments Ordinance, more than 20 bedspace apartments have closed down one after another. Those remained have to raise the rental because of the need to comply with the requirements of the Ordinance. Under such circumstances, the life of bedspace apartment tenants will only become increasingly worse, and the tenants may even be forced to live in abject poverty. As the Government has no intention to make commitments to provide proper accommodation for bedspace apartment tenants, it can only choose to put the Bedspace Apartment Ordinance into implementation instead of providing comprehensive rehousing. With this as an excuse for shirking its responsibility, the Government is far from safeguarding the housing rights of the public.

We are all aware that the environment of bedspace apartments is

deplorable. The international community has all along criticised the existence of such an inhumane living environment in Hong Kong, although Hong Kong is such a prosperous place. In fact, these criticisms have appeared time and again in the reports compiled by the international media and human rights bodies. This problem is mainly attributed to the fact that the Government has failed to achieve its declared policy target — to provide proper and affordable accommodation for the public. In particular, there is a shortage of public housing units for one or two persons. The Housing Authority has only started to provide one-person public housing units since 1985. However, the supply of this type of housing units has been suffering from an acute shortage. On average, a single person has to wait for over nine years before he can be allocated public housing. The Government has thus, in a disguised manner, forced them to live in those deplorable rented bedspace apartments which are not in compliance with safety standards. The singleton hostel situated in Sham Shui Po was originally scheduled to be completed by the middle of 1996. As the completion of the project has been delayed, the Bedspace Apartments Ordinance has to be postponed until 1998 before it can take full effect. In the past, the Government had no plans to address the problem of rehousing bedspace apartment tenants. Now it has got a plan but again it makes mistakes in planning. The Government is in fact completely ignoring the housing needs of grass-roots people who are in the lowest social strata.

Since the introduction of the Ordinance, more than 20 bedspace apartments have closed down. On the other hand, the singleton hostels provided by the Government are not well-received. At present, only four people are eligible for compassionate rehousing. The others have been rendered homeless, and most of them can only choose to live in rented bedspace apartments. A survey conducted by the Society for Community Organization at the end of last year showed that although 80% of the respondents indicated that they wished to live in public housing units, only 40% of them had filed their applications. The reason was that they were not clear about the application procedures. Moreover, the waiting time was too long. This shows that the Government lacks not only proper policies for rehousing bedspace apartment tenants but also publicity. The declaration made by the Government that it will provide proper and affordable accommodation for all people is in fact an empty promise.

As far as low-income single persons are concerned, they have only a limited choice of housing. Apart from public housing, they can only choose to live in singleton hostels provided by the Government, rented bedspaces or

partitioned cubicles. This phenomenon can well prove that the Government has all along failed to give proper care to the housing problems faced by this group of single persons.

We are of the view that the Bedspace Apartments Ordinance is, in the long run, unable to safeguard tenants' safety and their rights for proper accommodation. In the coming years, the Government should increase drastically the supply of housing units for one or two persons, as well as providing immediate rehousing for those bedspace apartment tenants who have been checked and registered by the Social Welfare Department. Given an abundant supply of housing units, single persons and bedspace apartment tenants will have to wait for only one or two years before they are allocated public housing. By that time, our community will have no more need for bedspace apartments. According to the social norm, the environment of bedspace apartments is extremely poor, and they absolutely fail to meet our requirements. As such, we should enact legislation to abolish them. Nevertheless, we can only do this when there is an ample supply of housing. We propose that the motion moved by Mr David CHU should be amended because the motion itself has not specified a requirement and it seems that bedspace apartments will be abolished immediately if the motion is carried. Of course, what Mr CHU is doing is very brave and is worth commending. Perhaps I am a bit too conservative. According to my amendment, we can only stop issuing licenses for bedspace apartments when there is an ample supply of housing units and when it only takes a single person one or two years to be allocated with public housing.

As the amendment moved by Mr Frederick FUNG involves a lot of safety problems and accommodation problems, which I feel are of no relevance to the crux of the issue, the Democratic Party is unable to support the amendments moved by Mr Frederick FUNG and Miss CHAN Yuen-han.

Thank you, Mr President.

MISS CHAN YUEN-HAN (in Cantonese): Mr President, the question concerning bedspace apartments has all along been a subject of public concern, but it has not been resolved even up to date. So far the Government has been turning a deaf ear to the needs of bedspace apartment tenants, thus leaving the problems unresolved.

Mr President, I believe all of us would like to live in spacious and proper accommodation. Indeed, who would enjoy living in shabby and improper places? By the same token, people who have all their hair on their heads do not wish to go bald. Should there be any need for bedspace apartments, such a need will serve as a fair indicator of the grave inadequacy of the government policy on the support for poverty-stricken single persons. We certainly would not want to see a situation in which the Government is unable to resolve the problem properly and has to resort to legislative means to control bedspace apartments. However, the major premise is that no legislation work should commence before reasonable rehousing has been arranged for single persons in the low income group. As a matter of fact, the time lag between these two projects can be rather considerable. The situation reminds me of the experience we had in dealing with cases of latchkey children. While the community at large urged the enactment of legislation to punish the parents concerned, the Federation of Trade Unions (FTU) was of the view that the Government should first provide sufficient nursery services before considering resorting to legislative means. In my opinion, the Government would just be putting the cart before the horse if it punishes the parents concerned without providing sufficient and reasonable nursery services for working couples. By the same token, I cannot support the suggestion made by the Honourable David CHU, mover of the original motion; nor can I agree with the last sentence of the speech made by the Honourable LEE Wing-tat just now.

Mr President, the Bedspace Apartments Ordinance will take effect from July 1998. From then on, all operators of bedspace apartments have to comply with relevant requirements if they are to be issued an operation license. I endorse the idea of the fire prevention requirement in principle, as it can reduce the fire hazard for bedspace apartments. However, the Ordinance was passed hastily before the Government had formulated any sound rehousing measures. If I were among the Members of the Council then, I would certainly propose amendments or voice out my opinion.

Mr President, the Government has forgotten that the Bedspace Apartments Ordinance would render many bedspace apartment tenants homeless. Since the passage of the Bedspace Apartments Ordinance in June 1994, at least 37 bedspace apartments have ceased operation. For the remaining ones, as the operators have to reduce the number of bedspace to comply with the provisions, the rent for each bedspace would naturally be pushed up. Bedspace which

could be rented out at \$200 odd in the past will cost as much as \$800 after the passage of the Ordinance. So, who do you think should be held responsible?

Regrettably, the Hong Kong Government keeps stressing that it has never intended to ban the operation of bedspace apartments, a feature that the people of Hong Kong should be ashamed of. On the other hand, the Government has in the past stated very clearly that its housing-related policies would not cause anybody to become homeless. Mr President, I wish to ask the Government not to say things like this any more. I just hope that the senior government officials will take a look at the street sleepers dwelling beneath flyovers or underneath the staircases of some buildings. Because the Government had not thought carefully before enacting the Bedspace Apartments Ordinance, landlords could therefore raise rents on the ground of improving fire prevention facilities; and those tenants who could not afford the increased rents were forced to become street sleepers as a result.

Mr President, in order to improve the living environment of the bedspace apartment tenants, the Government should increase the production of proper accommodation. In regard to the bedspace apartment policies, however, the Government has all along been unable to rehouse the affected tenants. According to the figures prepared by the Home Affairs Department in May, there are currently 2 500 tenants living in the 113 bedspace apartments over the territory. In other words, each of such apartment has housed on average 22 tenants. The Government has bought 34 flats from the private property market to rehouse bedspace apartment tenants, but the location and accommodation capacity of these flats are far from satisfactory.

In addition, the Ordinance has been passed for three years, but single person hostels are yet to be established. The Government agreed last year to construct multi-storey single person hostels with individual rooms. I certainly welcome this decision. However, so far only one of such hostel buildings is near completion. I really wonder how the Government is going to cater for the needs of the hundreds of tenants affected.

Moreover, bedspace apartment tenants are required to comply with the large number of rules set down by the single person hostels if they are to be rehoused there. For instance, they could only move in with very limited

belongings. That means some of their luggage has to be left elsewhere outside the hostels. Furthermore, the single person hostels in general expect their tenants not to bring in any visitors. Apart from that, the complicated application procedure, age limit, as well as the ability-to-work requirement have also made many bedspace apartment tenants unwilling to move into these hostels. All these factors are in fact part of the reasons for the vacancy rate of single person hostels standing as high as 30%.

Mr President, I urge the Government to provide more proper accommodation to help the said tenants resolve their housing problems. One of the means is to build more multi-storey single person hostels with individual rooms in areas where most bedspace apartments are situated, as well as to relax the existing application requirement. Another means is to provide subsidized housing in the public sector.

As the Government has agreed since 1985 to accept a single person to apply for public housing as a family, it should estimate the situation of supply and demand of small public housing units in the long run. At present, some 23 000 single persons have applied for public housing, and their average waiting time is nine years or even more than a dozen years. Miss Rosanna WONG, Chairman of the Housing Authority, has earlier on mentioned about reducing the waiting time for public housing from the existing seven years to two or three years. My view is that singleton applicants should be regarded the same as other applicants for public housing and enjoy the same rights to subsidized housing. As such, the Government should also promise to reduce their waiting time from the average nine years to three or even two years.

All in all, Mr President, the housing problems confronting bedspace apartment tenants are as urgent as other housing problems.

Thank you, Mr President. These are my remarks.

MRS SELINA CHOW (in Cantonese): Mr President, it is really shameful for Hong Kong, being a civilized and advanced society, to tolerate the existence of bedspace apartments. In particular, the majority of bedspace apartment tenants are single elderly persons who have no choice but to live in such "cages" even at their old age. We should therefore be determined to help these needy people to

improve their living conditions. Accommodation is the gravest and most common social problem in Hong Kong. It is also the most difficult one to solve. The number of people who need help in this respect is indeed very large. Given that the supply of public housing has all along fallen short of demand, who should then be allocated with public housing first? Should they be those applicants who have been on the Waiting List for ages, or perhaps squatter area residents living amidst abject environment? Those living in rooftop squatters or those sleeping on the streets? Or those 150 new immigrants with one-way exit permits arriving here from China every day? Who are the most needy among all? Who should be given priority?

As a matter of fact, if we view the problem from another perspective, resettling bedspace apartment tenants promptly can help speed up urban renewal programmes. Since the vast majority of bedspace apartment are situated in old urban areas, if the Government can resettle bedspace apartment tenants in a well-planned way, the pace of re-development of old urban areas can certainly be enhanced. However, one issue the Government must acknowledge is that most bedspace apartment tenants have got used to living in the urban area and will most probably be unwilling to move to remote areas. If they insist to have local rehousing, a lot of problems will then be forthcoming. As we all know, while public housing in the urban districts are favoured by most people, they are also in need of redevelopment. In view of the circumstances, unless all parties concerned are willing to give way to one another, the Government simply cannot have enough public housing units to cater for everyone's need.

Further still, we have to address another problem. One thing which I have noticed during my visits to some singleton elderly persons — and which people who have frequent contacts with bedspace apartment tenants have also referred to — is that these tenants have been living in their caged homes for such a long time that they have already accepted their environment, however deplorable their living conditions in the eyes of ordinary people are. Things will be a lot easier if psychological counselling and education have been provided beforehand to help them overcome their psychological sense of resistance. Otherwise, they will never be taking the initiative to strive for or willing to accept relocation. In this connection, there is indeed no way out. So, we are thankful to the Honourable David CHU for providing us with the opportunity to discuss the issue from different perspectives, albeit his proposition is to compulsorily prohibit owners from renting out the caged homes.

So long as we do not have a clear idea of how the Government is going to rehouse these tenants, Mr CHU's proposal will just be unworkable. In regard to the issue of formulating legislation to prohibit landlords from using their own properties, we are of the view that legislative means should never be resorted to causally, except for grave public interest reasons. As such, the Liberal Party does not support the motion. The Government has in place provisions in law to require, on safety and health grounds, owners to improve the conditions of the bedspace apartments they operate. We can always review the situation to see if the expected results have been attained.

The Liberal Party supports the basic substance of the amendments moved by the Honourable Frederick FUNG and the Honourable Miss CHAN Yuen-han respectively, as they both propose to delete from the original motion the section regarding prohibition by law and aim at effecting improvement to the conditions of bedspace apartments and public housing resettlement for the tenants concerned.

Thank you, Mr President.

MR CHOY KAN-PUI (in Cantonese): Mr President, the problem of bedspace apartments is an irony behind the prosperity of Hong Kong. Most tenants of bedspace apartments are middle-aged with low income. They live in extremely cramped places and it is not hard to imagine the poor hygiene, crowdedness and uneasiness of their living environment. As it is not easy for them to find a job, they either have unstable income or live solely on Comprehensive Social Security Assistance (CSSA) payments. Living in extremely poor bedspace apartments is the only option they can afford.

In regard to housing policies, the Government has all along neglected the housing problem of single persons. Under the existing policies, only CSSA recipients aged over 60 can live in public housing. As public housing falls short, quite often these applicants have to wait for 10 years before being allocated public housing. The rest can only apply to live in singleton hostels or rent private places. At present, singleton hostels are designed as open bedspaces, without room for private use or privacy. The living area is limited, and the regulations and requirements are stringent and complicated. That is

why those hostels are unwelcome by singletons.

To improve the living environment and safeguard the safety of bedspace apartment tenants, the Government has formulated a licensing system under the Bedspace Apartments Ordinance. Some bedspace apartments tenants are rendered homeless when the owners of these apartments have to cut the number of bedspaces to comply with the conditions of licensing, while some other owners are forced to close down their bedspace apartment business because of the huge debts incurred from renovation works.

I definitely agree to controlling sub-standard bedspace apartments through legislation to safeguard the safety of tenants. Yet the Government should provide these tenants with dwelling places as well. The gap between the rich and the poor in Hong Kong has been widening and the army of poor people keeps growing. Added to these are the high land price policy and inferior housing policy adopted by the Government. As a result, the housing problem of the lower social strata keeps worsening while the demand for bedspace apartments keeps increasing. If the Government does not come up with a fundamental solution to the housing problem of low-income singletons, merely legislating to prohibit owners from converting their properties into bedspace apartments for rent is doing bad deeds out of goodwill and intending to cover up our conscience with written provisions to avoid feeling a prick. If there are no bedspace apartments, where can bedspace apartment tenants live? In the streets or under flyovers?

Mr President, it is essential to regulate sublet units and safeguard tenants through legislation. However, I hope that the Government will really assist in settling bedspace apartment tenants who have been forced to move out so that they will not be reduced to vagrants. In addition, the facilities and partition of the existing singleton hostels should be improved and the requirements for applications and regulations should be relaxed to allow more singletons to move in.

In the long run, when the Government reviews its public housing policies, it should care for the singletons of the lower income group. Besides building housing for the elderly, it should also build public housing flats for singletons. In the final analysis, building adequate public housing and one-person public housing flats, speeding up the allocation of housing to qualified applicants and shortening the waiting time are the right ways that will thoroughly solve the

housing problem in Hong Kong at the root.

Mr President, I so submit.

MR LAW CHI-KWONG (in Cantonese): Mr President, early this month, I discussed the problem of poverty in Hong Kong at an international seminar and I naturally touched upon the phenomenon of bedspace apartments in Hong Kong. While the hourly rate of an assistant in a fast-food shop can be less than \$15, and a new immigrant has told me that his hourly wage is under \$10, which means less than \$3,000 a month, the monthly rent of a bedspace can be as high as \$1,500. Not only foreigners, even Hong Kong people of the upper middle class generally find it hard to imagine and understand such situations. After the said seminar, an American friend asked me softly, "Why don't they choose to sleep in the streets, instead of paying such unreasonable rents to live in bedspace apartments?" Members may find this suggestion of the American somewhat inhumane. In fact there are more than 1 million homeless street sleepers in the United States, and almost 400 000 in Los Angeles alone. Members who have been to the beautiful beaches of Los Angeles will not find it hard to see that the number of street sleepers may exceed that of beach-goers. So it is not hard to understand why my American friend asked such a question.

The monthly rent of a five feet by six and a half feet bedspace can be as high as \$1,500. With simple calculation, we will find that the rent for each square foot is almost \$100. Recently, the Democratic Party rented a place at only \$16 a square foot but the rent for each square foot of a bedspace is \$100! It is much more expensive than a fully furnished and carpeted luxurious flat. Astonishing indeed. The biggest problem is that the rents of these bedspaces keep increasing rapidly and I dare not imagine what the social phenomenon will be if this continues to be the case. Most probably, the number of street sleepers will continue to increase.

There are two major causes of the bedspace apartment phenomenon. Firstly, the problem of disparity between the rich and the poor aggravates, and secondly, the problem of a serious shortage of housing is worsening. On the one hand, the income of workers in the lowest class lags far behind inflation. On the other hand, rents keep increasing rapidly. Last October, a research report of the Hong Kong Council of Social Service pointed out that as housing rents had rapidly increased since 1989, several hundred thousand people

gradually became abjectly poor. To satisfy the basic need of a shelter, many people have to make stringent economies.

To solve the problem of bedspace apartments, we should firstly solve the problem with the supply of housing, especially the supply of rental public housing for singletons. We then have to sort out how we can provide assistance to the poor. As to the latter, we have suggested that the Government should establish a trans-departmental organization or working group to study, plan and co-ordinate the relevant work. As regards short-term work, the first task for the Government is to relax the requirements for moving into singleton hostels and the second task is to provide rental assistance to people in the lower class who have waited for public housing allocation for many years but have not yet been allocated flats.

I hope that the Government can look squarely at the bedspace apartment problem and will not allow the situation to worsen. Otherwise, as mentioned by the American above, people who live in bedspace apartments may ultimately have to become street sleepers. I believe that we all hope to see the disappearance of the bedspace apartment phenomenon.

I so submit.

MR CHAN KAM-LAM (in Cantonese): Mr President, but for the fire resulting in six deaths and 50 casualties in a bedspace apartment in Nam Cheong Street at Christmas in 1990, the Government officials, who stand high above the masses, would not have been aware of the existence of several thousand people who were living in bedspace apartments under conditions so miserable and dignity-depriving. Nor would they have been aware of the need to regulate these apartments through legislation. But for the film "Longmin (Cageman)" made by a Hong Kong director which gained international acclaim, the international community would not have known the shameful story behind Hong Kong, a prosperous city and an international financial centre. Nor would Mr CHEN Zuo-er of the Sino-British Joint Liaison Group have visited bedspace apartments.

However, having more people know about the living conditions of bedspace apartment tenants does not mean their living environment can be improved. Nor does it mean that the Government will build more public rental housing units for one-person households or make improvements in admission

requirements or in the living environment of singleton hostels. In fact, the Bedspace Apartments Ordinance passed by this Council only targeted at regulating bedspace apartments for fire safety. At the time, the then Secretary for Home Affairs resolutely refused the request of the Democratic Alliance for the Betterment of Hong Kong (DAB) and some Members of this Council to completely rehouse bedspace apartment tenants and to eliminate bedspace apartments step by step. He only agreed to grant a two-year exemption period from licensing and alleged that no one would be made homeless due to the enactment of the Ordinance.

Mr President, since the Ordinance was passed in 1994, 37 bedspace apartments have been forced to close down because of the increased operating costs. Some landlords even resorted to threats of all kinds to force evictions of their tenants. So, even though the bedspace apartment tenants were not made homeless, they had to move to other worse bedspace apartments. Over the past few years, the number of bedspace apartment tenants has not decreased significantly despite the closure of several bedspace apartments. Bedspace apartments which have not closed down double the rents. This has placed a heavier financial burden on bedspace apartment tenants.

To solve the problem of bedspace apartments, the DAB is of the view that safety regulations are only stopgap measures. It is more important for the Government to provide suitable housing to properly rehouse all bedspace apartment tenants. We very much detest the idea of the Government officials that we should not eliminate all bedspace apartments because they are affordable accommodation for the lower classes. The Government seems to hold the view that the lower classes with limited means can only live in humiliating conditions for their whole life. Why can the Government not let bedspace apartment tenants live with more dignity by providing reasonable rental subsidy for the grassroots living in abject poverty? Why can the Government not build more public rental housing for singletons when it can provide all sorts of home ownership assistance for the middle-class?

Mr President, according the 1997 Government statistics, there are at present 113 bedspace apartments accommodating nearly 3 000 tenants. Compared with the figures several years ago, the number has not diminished. This is because the requirements for compassionate rehousing are very stringent. For instance, only people aged over 60 can apply, and the waiting time is three years. Single persons have to wait nine years on average to obtain public

housing. Probably, they will have to wait from below 60 to above that age to be able to obtain public housing.

Mr President, the Secretary for Home Affairs stressed that single persons below the age of 60 may apply for singleton hostels. Regrettably, such hostels can be regarded as "modern bedspace apartments" with poor living environment and open-plan designs. Admission requirements for such apartments are harsh. For example, tenants must have working ability and can only bring with them a small amount of personal belongings. Consequently, they have been unpopular among bedspace apartment tenants and occupancy rate has been low. Should bedspace apartment tenants without working ability not be taken care of by the Government?

At the beginning of last year, the Government indicated in this Council that the exemption period for licensing under the Bedspace Apartment Ordinance would be extended to the middle of next year to match the completion of the multi-storey hostel for singletons in the "Sham Shui Po Project". This is obviously an often-used method of stalling on the Government's part because the "Sham Shui Po Project" can only provide 600 spaces. Total rehousing is out of reach as projects for other districts have failed to materialise and the Housing Authority can only provide about 600 units annually for compassionate rehousing.

Mr President, following the influx of new immigrants, the average age of bedspace apartment tenants tends to drop. At the moment, half of them are aged between 41 and 60 and 40% of them are above 60. The Government's Long Term Housing Strategy Review — Consultative Document estimates that by 2005 the number of one-person households would increase by 14%. Therefore, the DAB regards it necessary for the Government to review the housing needs of singletons in order to completely eliminate bedspace apartments. It should build a sufficient number of public rental units for singletons to solve the housing needs of single people.

Furthermore, many bedspace apartment tenants suffer from chronic diseases. Their main source of income comes from the work they obtain near their homes and in urban areas. Once they move away from town they will lose their jobs and be cut off from the support network of the community which they are used to. So, we suggest that the Government should do its best to find small

sites at places such as Tai Kok Tsui, Sham Shui Po and Kwun Tong for constructing small-scale multi-storey singleton hostels with fixed partitions. It should also set up appropriate supporting rehabilitation and community services to enable the chronically-ill to receive proper care.

We also think the Government should relax the requirements for admission to singleton hostels by, inter alia, doing away with the requirement that tenants must have working ability. Thus the low occupancy rate can be improved and more people can be accommodated.

With these remarks, I support the original motion and the amendments.

MR LO SUK-CHING (in Cantonese): Mr President, according to statistics, there are around 150 bedspace apartments in Hong Kong, accommodating some 3 000 tenants, mostly old people and singletons. However, it is disclosed in a recent survey that there is a tendency for younger singletons to move into bedspace apartments. The situation really deserves our concern.

As its name implies, a place in a bedspace apartment is a bedspace that merely allows a person to shelter himself. Let us imagine how crowded and muggy it is for dozens of people to cramp together in an apartment of a few hundred square feet. Besides, these apartments have poor sanitation, limited public facilities and extremely disgusting living environment. Many bedspace apartment tenants prefer loitering in parks during the day, and they only return to their so-called homes in the evening. In addition, as a result of the cramped living environment, conflicts easily arise between people from trivial incidents and people easily feel alienated, let alone giving mutual help and protection. While the living and social environment is so disgusting, why are so many people still willing to move into bedspace apartments? Most of them are forced to take this option to avoid sleeping in the streets.

As the Government has been lacking a policy to help the poor, the problem of impoverishment, especially in housing, of the lower class has been aggravating. Many middle-aged bedspace apartment singleton tenants have been unemployed or working under capacity for a long time, and as the Government has neglected the housing demands of singletons, such dwelling

places as bedspace apartments at low rents become their better-than-nothing alternative.

Today, when Hong Kong is increasingly prosperous, it is really our shame that many people still live in such inhumane environment. However, it seems that legislating on prohibition cannot solve the problem. In order to keep these dwelling places barely affordable by bedspace apartment tenants, I do not approve of prohibiting owners from renting bedspace apartments before there are sound methods for rehousing them. As an expedient measure, there are still values for the existence of these bedspace apartments. To safeguard the safety of these tenants, the partitions, sanitation and fire prevention facilities of such apartments must be improved. Earlier on, the Bedspace Apartments Ordinance enacted by the Government caused many owners to close down bedspace apartments due to the huge decoration expenses. As a result, many tenants were forced to move out. As such, the Government should review and improve the enforcement of the Ordinance.

Although the Government will rehouse half of these tenants through such means as compassionate rehousing, care-and-attention homes and singleton hostels, rehousing for singletons aged under 60 is extremely inadequate. The singleton hostels under the Home Affairs Department are limited in supply and the living environment has always been criticized. The conditions of these hostels are more or less the same as those of bedspace apartments. There is not only a lack of space for private use but also a lot of requirements to be met. As a result, many bedspace apartment singleton tenants flinch from them.

Mr President, the Government is duty-bound to provide reasonable rehousing for bedspace apartment tenants who may be rendered homeless. The planned multi-storey singleton hostel under construction will be completed in mid-1998. I hope that the Government will get to know more about the lifestyles and needs of the tenants. The design and complementary facilities should satisfy the actual needs. The daily habits of the singletons should also be taken into account. For instance, they should be given separate rooms to ensure that their residence rights are duly protected.

The Housing Authority has recently set a 10-year target in the hope that the waiting time for public housing can be shortened from six and a half years now to two to three years in 2006. This move is worth supporting. I expect the Special Administrative Region Government to be determined to fulfil its commitment in respect of public housing to cope with the needs of thousands of people on the Waiting List, including the singletons of the lower class. Only

such a strategy will have permanent effects. If the Government only bans bedspace apartments through legislation and puts forward no specific and feasible measures to solve the housing problem of the single person, it will never get my approval.

Mr President, I so submit.

MR NGAN KAM-CHUEN (in Cantonese): Mr President, I speak in support of the motion. Hong Kong is a prosperous city but many people still live in nasty places like bedspace apartments. This is really Hong Kong people's shame! Despite the frequent criticisms from the United Nation Commission on the International Covenant on Economic, Social and Cultural Rights, Members and resident bodies, the Hong Kong Government is still unconcerned and refuses to make a commitment to thoroughly solving the bedspace apartment problem. This is disappointing indeed!

In the past, the Hong Kong Government was indifferent to the bedspace apartment problem. Only after the fire in 1990 at a bedspace apartment in Nam Cheong Street that it tried to take some remedial measures. It formulated the Bedspace Apartments Ordinance in 1994, specifying that bedspace apartments must comply with certain fire prevention and building safety standards before business licenses will be issued. The grace period under the Ordinance will expire by June next year. Has the Government collected statistics concerning how many bedspace apartments will close down at that time as they fail to comply with the licensing standards or the rise in rents as a result of the alterations to these flats? What contingency measures will the Government adopt?

The Government has always stressed that putting into effect the relevant licensing system to regulate the safety of bedspace apartments will not make any people homeless as a result of the need to move out of bedspace apartments. However, some social workers have said that some residents were really forced to become street sleepers after being removed by the owners.

When the United Nation Commission on the International Covenant on Economic, Social and Cultural Rights scrutinized the second regular report on the implementation of the Covenant in Hong Kong in 1994, it expressed concern about the conditions of bedspace apartments and when it scrutinized the third regular report by the end of last year, it stressed once again that the Hong

Kong Government should regard the thorough elimination of bedspace apartments as a pressing task. However, the Government only responded that there was demand for bedspace apartments, and so it would not gradually ban or eliminate bedspace apartments. Instead, it would safeguard the safety of those tenants through legislation. Today, when the Government has huge reserves, it has no reason to remain so miserly and refuse to get rid of the problem of bedspace apartments.

According to the information of the Home Affairs Department, around 2 500 Hong Kong people are living in 113 bedspace apartments and one-third of these tenants are aged over 60. When these old people were young, they made contributions to our society, but they have to live in such unpleasant environment at their old age. It is after all because the Government has not given them enough retirement protection. If the Government has put in place a comprehensive retirement protection system, these old people can take care of themselves in their later years and they do not have to live in the plight of cowering in bedspace apartments, not knowing when they will be removed.

I wish to urge the Government once again to consider the two-tier social security proposal made by the Democratic Alliance for the Betterment of Hong Kong. This proposal regards old age pension as the basic protection while central provident fund or private provident fund will give the second level of protection to retired old people so that they do not have to live on meagre Comprehensive Social Security Assistance payments.

Mr President, to solve the bedsapce apartment problem, the Government should give top priority to providing adequate housing flats. At present, as there are stringent and complicated intake requirements for the singleton hostels provided by the Government for rehousing bedspace apartment tenants, the occupancy rate is relatively low. This is a waste of government resources and it does not help resolving the problem. I suggest that the Government should learn a lesson and cater for the needs of tenants when building such hostels with separate rooms in regions where many bedspace apartment tenants live. Furthermore, it should build more public housing flats for one to two persons to shorten their waiting time.

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

PRESIDENT (in Cantonese): Since Mr Frederick FUNG has not had the opportunity to speak on Miss CHAN Yuen-han's amendment to his amendment, I now invite Mr FUNG to speak for the second time on the amendment moved by Miss CHAN Yuen-han for up to five minutes.

MR FREDERICK FUNG (in Cantonese): Mr President, Miss CHAN Yuen-han has moved an amendment to my motion. In fact, our basic directions are the same but she has added "increase the supply of proper accommodation to resolve their housing problem".

I would like to express some personal views on Miss CHAN's amendment. I find that people living in bedspace apartments or partitioned rooms can basically be classified into two types. Most of them are singletons, some are aged over 60, some are Comprehensive Social Security Assistance (CSSA) recipients while some are CSSA recipients aged below 60. For CSSA recipients aged over 60, the Housing Authority has basically pledged to provide them with rehousing. Therefore, I think that the problem of this type of singletons living in bedspace apartments or partitioned rooms can be solved within a short time.

The biggest problem lies with the non-CSSA-recipients aged below 60. As I have said just now, most of the people who have been forced to live in bedspace apartments or partitioned rooms are new immigrants or those who fail to conform to the requirement that the majority of their family members have lived in Hong Kong for more than seven years.

I agree with Miss CHAN's view that to solve this problem, the Government should increase the supply of proper accommodation. I attempt to propose a few feasible ways for the Government's consideration. At present, the two government departments, namely the Housing Authority and the Home Affairs Department, are building similar housing flats to solve the housing problem of singletons. I wish to give the Housing Authority two suggestions. Firstly, the proportion of single-person flats should be increased when it builds public housing in future. The Housing Authority is now providing singletons or two-person families with small flats but the proportion is fairly small. If the

Housing Authority can increase the proportion concerned, it can provide more singletons and two-person families with rehousing. The second solution has something to do with the years of residence in Hong Kong. In this regards the Government has put down many restrictions, such as seven years of residence in Hong Kong. In the case of two elderly applicants, one of them must have lived in Hong Kong for not less than seven years. If none of the two applicants are elderly, both of them must have lived in Hong Kong for not less than seven years. I think that this residence requirement should be reviewed. At present, around 150 people from the Mainland arrive and settle in Hong Kong every day. According to the Basic Law, children born in the Mainland of permanent residents of Hong Kong after 1 July 1997 are permanent residents. Therefore, the number of people arriving and settling in Hong Kong may increase in future. An Executive Council Member has expressed his hope that these young children can come to Hong Kong as soon as possible within two to three years. The number of such new immigrants may range from 80 000 to 100 000. The number of people who have lived in Hong Kong for less than seven years will continue to grow, and I think that the Housing Authority should rapidly review the eligibility for public housing so that families on the Waiting List, especially those living in partitioned rooms, can move into public housing earlier. Thirdly, the empty spaces on the ground floor of most public housing built after 1980 have been reserved for leisure activities of residents. As there is a lack of accommodation now, the Government should adopt measures according to the present situation and make alterations to turn these empty spaces into places like the singleton hostels provided by the Home Affairs Department. These hostels can be managed by voluntary bodies. In this way, the Government can provide more singleton flats in many places, including the urban area, within a short time. Fourthly, I cannot help bringing up a matter of the past. The utilization rate of some community halls managed by the Home Affairs Department is extremely low. I have asked the Home Affairs Department about this and I am told that the usage rate of these community halls is 20% to 30%. Community halls with low usage rate are usually self-contained buildings and this is quite a waste. I think that these community halls can be demolished and redeveloped into some 20-storey residential buildings, with the ground floor to the fifth floor reserved for social facilities, including youth centres, centres for the elderly and nurseries, while the storeys from the sixth floor upwards can be built into small flats or single-person flats.

I would like to give the Home Affairs Department a suggestion. The Home Affairs Department is carrying out a singleton hostel scheme in Sham Shui Po. I agree to this scheme but I find its progress too slow and I suggest that the work progress should be speeded up. In addition to building singleton hostels in Sham Shui Po, the Government should also build similar singleton hostels in districts abounding in bedspace apartments and partitioned rooms, such as Kwun Tong and Tai Kok Tsui.

I hope that the Government will consider and accept the above suggestions. Thank you, Mr President.

PRESIDENT (in Cantonese): I now invite Mr David CHU to speak on the amendments to his motion. You have five minutes to speak on the amendments, Mr CHU.

MR DAVID CHU (in Cantonese): Mr President, having listened to the speeches of the three Honourable colleagues who proposed amendments to my motion, I am very pleased to find that their views are more or less the same as mine and they have further explained my views. I find it rather strange that the two Members from the Democratic Party in particular have rendered me help and I wonder whether this has anything to do with the fact that I have joined the Hong Kong Progressive Alliance. (*Laughter*)

Firstly, Mr LAW Chi-kwong has written me a note, reminding me that my Shanghainese accent makes the terms "singletons" and "worried people" sound more or less the same in Cantonese. As we are discussing the issue on bedspace apartments today, the terms "singletons" and "worried people" are interchangeable and there will not be big mistakes. Secondly, another Member from the Democratic Party, Mr LEE Wing-tat, has praised me. I do not know whether I should cry or laugh over this as his praise seriously affects my pro-Chinese image. (*Laughter*)

I move this motion today mainly because, as everybody knows, the source of votes for me is limited. Two years ago, I got only one vote when my motion was voted on. Among all the motions voted on, I was definitely not the only person who got only one vote. I recall that Dr the Honourable LEONG

Che-hung has recently got one vote only. Members who got only one vote were ashamed and we have considered organizing a mutual consolation association of one-vote Members but ultimately failed because we could not elect a chairman from amongst ourselves, as each of us gave himself one vote. I hope that the Government will attach importance to this motion. As there is a problem with the source of my votes, I hope that Members can sympathize with me and vote for my motion. I especially hope that Mr LEE Wing-tat and Members from the Democratic Party, who are going to be relieved of their office soon, can leave me a good impression before they leave. Thank you.

SECRETARY FOR HOME AFFAIRS (in Cantonese): Mr President, first of all, let me thank the Honourable David CHU for moving this motion, and the Honourable Frederick FUNG, the Honourable LEE Wing-tat and the Honourable Miss CHAN Yuen-han for moving their amendments to the motion. I have listened very carefully to each and every Honourable Member who spoke just now. Honourable Members' remarks all reflect their concern over bedspace lodgers and the related problems, and they have also put forward many valuable opinions for the reference of the Government.

I agree with Honourable Members that the conditions in bedspace apartments are not satisfactory, and their higher incidence of fire outbreaks and structural problems have put the lodgers there at risks. The Government has all along been very concerned about this problem, which explains why the Bedspace Apartments Bill was put before this Council. This Bill was passed in 1994, and the Home Affairs Department is given the task of enforcing the ordinance thus enacted. Specifically, the Department is to implement the licensing system set out in the ordinance and monitor the problems of fire prevention and building safety in these apartments. Bedspace apartments are usually located in urban areas, especially old urban areas, and the buildings in which these apartments are found are mostly relatively old. In a typical bedspace apartment, bunk beds of two to three levels are found. There are no partitions, and only common kitchens and toilets are available; there is very limited circulation area, and corridors are rather narrow. Besides, since bedspace lodgers frequently like to wire off their beds as a means of protecting their personal belongings, their beds usually look very much like metal cages. This has thus led some people to describe bedspace apartments as "caged dwellings".

The policy of the Government is to monitor the fire and building safety of bedspace apartments through the implementation of the Bedspace Apartments

Ordinance. I want to stress that the Government does not intend to ban bedspace apartments or to prohibit the letting out of bedspaces. I will give a detailed account of the rationale behind this position a moment later. In the meantime, I want to point out that while seeking to implement the statutory licensing system, the Government will put in place some corresponding administrative measures to resettle affected bedspace lodgers. Following the enactment of the Bedspace Apartments Ordinance, operators of bedspace apartments will be given a grace period in which they can carry out improvement works and thus make their bedspace apartments comply with the fire and building safety standards required under the licensing system. The grace period will expire on 30 June 1998. In the interim, we will lay down a compulsory requirement under which bedspace apartment operators must take a number of specified safety measures well before the expiration of the grace period. Specifically, under this mandatory requirement, operators of bedspace apartments must install fire extinguishers and fire blankets, ensure that the third level of any bunk bed is not occupied, keep the passageways for escape clear and unobstructed at all times, forbid lodgers to put their things around and install conspicuous exit signs. At the same time, we will also step up our inspections, so as to make sure that all these measures are taken during the grace period. The Hong Kong Jockey Club has kindly made a donation of \$2.5 million for the purpose of purchasing fire prevention equipment such as fire extinguishers, fire blankets and fire alarms. Such equipment will be installed in bedspace apartments free of any charge, and the installation works are basically completed by now.

With effect from 1 July 1998, all bedspace apartments must comply with the specified safety standards and be duly licensed before they are allowed to operate. If not, they will have to close down. Any person who violates the ordinance may be prosecuted, and the penalty will be a fine of \$100,000 or a prison term of two years. What is more, an additional fine of \$20,000 per day may also be imposed for as long as any breaches of the ordinance are not rectified. As I have just said, the grace period will be over at the end of June 1998, and starting from 1 July 1998, all bedspace apartments will be required to comply with the specified safety standards and be duly licensed before they can continue their operation. We anticipate that some bedspace apartments will have to close down because of their inability to meet the specified safety standards, and others will have to reduce the number of their beds in order to comply with the licensing conditions.

However, we promise that no bedspace lodgers will thus become homeless. We will offer assistance in finding alternative dwellings to those lodgers who have to move out, and there will be sufficient measures to ensure that affected bedspace lodgers can be resettled. For those lodgers aged over 60 or those who have medical or health problems, the Social Welfare Department will assist them in securing accommodation in public housing estates, welfare hostels or homes for the elderly on compassionate grounds. Since the implementation of the ordinance in 1994, more than 900 people have been resettled through this means. The Social Welfare Department will continue its efforts and arrangements in this respect. As for those affected lodgers aged below 60, they can apply for admission to hostels for single persons operated by the Home Affairs Department. At present, we are operating 34 such hostels, with a total of 490 residential places. These hostels are located in Yau Ma Tei, Mong Kok, Tai Kok Tsui, Sham Shui Po, Ngau Tau Kok, the Western District, Shaukeiwan and Wan Chai. Since all these areas are where bedspace apartments are mostly located, affected lodgers will certainly find it convenient to move in the hostels there. Right now, we are making positive efforts to identify suitable venues, in the hope that before the expiration of the grace period, a sufficient number of suitable units can be purchased to provide 600 residential places for affected lodgers. Besides, with the assistance of the Land Development Corporation, we are now constructing a hostel for single persons in Shun Ning Road, Sham Shui Po. By the time when this hostel is completed for use in mid-1998, it will provide 300 residential places. In addition, we will also speed up our planning work for the construction of a hostel with 270 residential places in High Street of the Western District, so as to cater for the needs of affected bedspace lodgers and to provide an additional alternative to those wishing to live on Hong Kong Island. Our aim is to construct or purchase as many hostels for single persons as possible in districts where most existing bedspace apartments are found, so that bedspace lodgers can be rehoused in the same districts in which they have been living.

The Honourable David CHU has proposed that laws should be drawn up to forbid landlords to convert their properties into bedspace apartments for letting out. I would like to respond to his proposal by reiterating and clarifying the policy of the Government in this respect. Existing bedspace apartments provide a kind of lodging with some minimum facilities, and they are let out to those people who choose to live there because of economic or other personal reasons. At present, the monthly rent for a bedspace ranges from two hundred dollars to some one thousand dollars. Since the rent which an operator can charge for a bedspace is rather low, he will naturally try to maximize the use of his premises

by accommodating as many lodgers as possible. The obvious result is that bedspace apartments are rather crowded and plagued with fire and building safety problems. I want to make it very clear that bedspace apartments are private residential properties. That being the case, once a tenancy agreement is drawn up between a landlord and a tenant, and the rights and obligations of both parties are set down, the right of the tenant will be protected under the Landlord and Tenant (Consolidation) Ordinance in very much the same way as the tenants of all other types of residential buildings are. Hong Kong is a free society where people have every right to choose the types of lodging which suit their own financial ability and circumstances. We must reiterate that the Government does not intend to ban bedspace apartments, nor does it intend to enact laws to prevent landlords from letting out their properties as bedspace apartment. To put it very simply, the Government does not intend to outlaw the letting out or renting of bedspace apartments because this will deprive individual citizens of their choice and right in respect of renting bedspaces. Our approach is to ensure that bedspace lodgers can receive the legal protection to which they are entitled, and we will seek to achieve this aim by regulating the standards of fire prevention, building safety and hygiene in bedspace apartments.

Mr Frederick FUNG has proposed that the Government should resettle all bedspace lodgers and tenants of partitioned cubicles. Let me now respond briefly to his proposal. I believe that by "partitioned cubicle", Mr FUNG is actually referring to one of those small partitions inside a private residential apartment which has been partitioned into many small rooms for letting-out purposes. Like all other residents of Hong Kong, tenants of partitioned cubicles can apply for public housing units if they can fulfil the specified requirements. As for those partitioned cubicle tenants who have special difficulties, or those who have any physical or health problems, they can approach the Social Welfare Department for allocation of public housing on compassionate grounds. Alternatively, they can also apply for admission to welfare hostels. As I have already explained, there are enough channels for partitioned cubicle tenants to apply for the housing assistance offered by the Government. In view of this, it will be inappropriate to give priority to partitioned cubicle tenants. Such an action, as Honourable Members will certainly agree, will not be fair to other people who are on the waiting queue for public housing. In regard to building and fire safety, partitioned cubicles are also regulated by all relevant legislation applicable to private residential buildings. Besides, we will step up our publicity efforts to educate members of the public, especially residents of private

buildings, on building and fire safety. And, at present, talks, seminars and fire drills aimed at raising the people's awareness of fire prevention are frequently held by our District Offices in conjunction with the Fire Services Department. The latter has prepared a code on fire prevention at home, and APIs on fire prevention are also broadcast on television and the radio.

Mr LEE Wing-tat has proposed that the supply of single-person accommodation should be increased to fully meet the housing needs of single persons in the low income group. In this regard, the Secretary for Housing has provided some information, but I would still like to take this opportunity to say a few words on the position of the Government and its work in this respect. As regards the resettlement of single persons, the policy of the Government is to accord priority to those single elderly lodgers who are affected by urban renewal or clearance. With respect to other low-income single persons, their housing needs can be looked after by the register for single persons set up by the Housing Authority in January 1985. So far, more than 8 000 single persons on the register have been successful in applying for public housing units. And, in order to shorten the waiting time for single persons, the Housing Authority has decided to increase the supply of small-sized public housing units. Between 1998 and 1999, about 4 000 small-sized public housing units suitable for accommodating small families and single persons will be completed. The Housing Authority has also decided to expand the housing project for the elderly so as to provide accommodation to more elderly single persons. The Housing Branch and the Housing Authority will keep up its efforts in this respect. As I have explained, bedspace lodgers aged below 60 who have to move out because of the new licensing system can apply for admission to the hostels for single persons operated by the Home Affairs Department. Since my remarks on the resettlement arrangements for bedspace lodgers have already covered this point, I will not repeat it now.

Miss CHAN Yuen-han has proposed that the supply of proper accommodation should be increased to resolve the housing problem of bedspace lodgers. I have already explained that bedspace lodgers affected by the licensing system can apply for admission to the hostels for single persons operated by the Home Affairs Department, including the one being constructed in Shun Ning Road, Sham Shui Po. Alternatively, they can also apply for public housing units for single persons or housing units for the elderly. If they have any special difficulties, they can apply to the Social Welfare Department for compassionate resettlement in some welfare hostels. I will not dwell any

further on these options, but let me just reiterate that no bedspace lodgers will be made homeless because of the full-scale implementation of the Bedspace Apartments Ordinance, and all affected bedspace lodgers will be given appropriate assistance. Before the Bedspace Apartments Ordinance was enacted in April 1994, there were approximately 160 bedspace apartments in Hong Kong, accommodating some 4 000 lodgers. As at June this year, the number of such apartments has dropped to 114, with some 2 500 lodgers. And, by June 1998 when the grace period is over, the hostels for single persons operated by the Home Affairs Department will be able to provide 900 residential places to the affected bedspace lodgers, and those lodgers aged 60 or above, as I mentioned a moment ago, will be able to get accommodation in public housing estates or welfare hostels on compassionate grounds with the assistance of the Social Welfare Department. All this shows that we are well prepared to provide assistance in finding alternative dwellings to those bedspace lodgers who have to move out because of the new licensing system. In July 1998 when the licensing system is implemented in full, some bedspace lodgers will be able to move into the hostels for single persons operated by the Home Affairs Department. And, through the referral of the Social Welfare Department, others will be given compassionate resettlement or places in welfare hostels. As for the rest, they will continue to live in bedspace apartments, which, presumably, will be duly licensed and able to meet the specified safety and hygiene standards by that time. With all these arrangements, the problem of bedspace apartments will be basically solved. We understand that the existence "caged dwellings" has affected the international reputation of Hong Kong to some extent, but we must realize that this is in fact a problem which is unique to the special circumstances of Hong Kong, and, for this reason, we must tackle it in our own way. Banning bedspace apartments through legislative means is neither the most desirable nor the most practical solution at this stage. Thank you, Mr President.

MR FREDERICK FUNG to move the following amendment to the motion of MR DAVID CHU:

"To add "and partitioned cubicles" after "bedspace apartments"; and to delete "prohibit owners from converting their properties into bedspace apartments for rent" and substitute with "regulate those sublet units, so as to ensure compliance with safety standards"."

MR FREDERICK FUNG (in Cantonese): Mr President, I move that Mr David

CHU's motion be amended as set out on the Order Paper.

Question on Mr Frederick FUNG's amendment proposed.

MISS CHAN YUEN-HAN's amendment to MR FREDERICK FUNG's amendment:

"To delete "and", and to add "increase the supply of proper accommodation to resolve their housing problem" after "regulate those sublet units, so as to ensure compliance with safety standards".

MISS CHAN YUEN-HAN (in Cantonese): Mr President, I move that Mr Frederick FUNG's amendment be amended as set out on the Order Paper.

Question on Miss CHAN Yuen-han's amendment to Mr Frederick FUNG's amendment proposed and put.

Voice vote taken.

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

Mr LEE Wing-tat claimed a division.

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

PRESIDENT (in Cantonese): I would like to remind Members that they are now called upon to vote on the question that the amendment made by Miss CHAN Yuen-han be made to Mr Frederick FUNG's amendment.

Will Members please register their presence by pressing the top button and then proceed to vote by pressing one of the three buttons below? Three short of the head count — two short.

PRESIDENT (in Cantonese): Before I declare the result, Members may wish to

check their votes. Are there any queries? The result will now be displayed.

Mr Allen LEE, Mrs Selina CHOW, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr Frederick FUNG, Dr Philip WONG, Mr Howard YOUNG, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr CHENG Yiu-tong, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr David CHU, Mr IP Kwok-him, Mr Ambrose LAU, Dr LAW Cheung-kwok, Mr LEE Kai-ming, Mr LO Suk-ching, Mr MOK Ying-fan and Mr NGAN Kam-chuen voted for the amendment.

Mr Martin LEE, Mr NGAI Shiu-kit, 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, Mr LEE Cheuk-Yan, Mr Andrew CHENG, Dr Anthony CHEUNG, Mr Albert HO, Mr LAU Chin-shek, Mr LAW Chi-kwong, Mr LEUNG Yiu-chung, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE, Mrs Elizabeth WONG and Mr YUM Sin-ling voted against the amendment.

THE PRESIDENT announced that there were 23 votes in favour of Miss CHAN Yuen-han's amendment to Mr Frederick FUNG's amendment and 26 against it. He therefore declared that the amendment was negatived.

DR LEONG CHE-HUNG (in Cantonese): Mr President, I move a motion under Standing Order 37(4) that in the event of further divisions being claimed in respect of the motion debate on the Settlement of Bedspace Apartment Tenants at this sitting, the provision of Standing Order 36(4) shall be suspended for the President to order the Council to proceed to each of such divisions immediately after the division bell has been rung for one minute.

Question on the motion proposed, put and agreed to.

PRESIDENT (in Cantonese): Now that Miss CHAN's amendment has been negatived, we will take a vote on Mr Frederick FUNG's amendment to Mr David CHU's motion.

Question on Mr Frederick FUNG's amendment put.

Voice vote taken.

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

Mr Frederick FUNG claimed a division.

PRESIDENT (in Cantonese): Council shall now proceed to a division. Would Members note that the division bell will be rung for one minute.

PRESIDENT (in Cantonese): I would like to remind Members that they are called upon to vote on the question that the amendment made by Mr Frederick FUNG be made to Mr David CHU's motion.

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

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

Mr Allen LEE, Mrs Selina CHOW, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Mr Frederick FUNG, Mr Howard YOUNG, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr CHENG Yiu-tong, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr David CHU, Mr IP Kwok-him, Mr Ambrose LAU, Dr LAW Cheung-kwok, Mr LEE Kai-ming, Mr LO Suk-ching, Mr MOK Ying-fan and Mr NGAN Kam-chuen voted for the amendment.

Mr Martin LEE, Mr NGAI Shiu-kit, 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, Mr LEE Cheuk-Yan, Mr Andrew CHENG, Dr Anthony CHEUNG, Mr Albert HO, Mr LAU Chin-shek, Mr LAW Chi-kwong, Mr LEUNG Yiu-chung, Mr SIN Chung-kai, Mr TSANG Kin-shing, Dr John TSE, Mrs Elizabeth WONG and Mr YUM Sin-ling voted against the amendment.

Dr Philip WONG abstained.

THE PRESIDENT announced that there were 22 votes in favour of Mr Frederick FUNG's amendment and 26 against it. He therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): This Council has finished handling the amendment moved by Mr FUNG. Mr LEE Wing-tat can now move his amendment so that Members can vote on the amendment.

MR LEE WING-TAT (in Cantonese): Mr President, although the support rendered by the Democratic Party will raise the popularity of Mr David CHU, who is pro-China, and even make him the most popular Member in the coming session

PRESIDENT (in Cantonese): Mr LEE Wing-tat, the time allocated for the joint debate is over. You can only move your amendment now.

MR LEE WING-TAT (in Cantonese): I understand it. But I wish to respond to what he said just now.

PRESIDENT (in Cantonese): You can only move your amendment.

MR LEE WING-TAT (in Cantonese): Mr President, I now move an amendment as set out on the Order Paper.

MR LEE WING-TAT to move the following amendment:

"to delete ", and to" and to add "and, at the same time, to increase the supply of single-person accommodation, so as to fully meet the housing needs of single persons in the low income group; in the long run, to" before "formulate legislation to prohibit owners from converting their properties into bedspace apartments for rent".

Question on Mr LEE Wing-tat's amendment proposed, put and agreed to.

PRESIDENT (in Cantonese): Mr David CHU, you are now entitled to reply and you have eight minutes 22 seconds out of your original 15 minutes.

MR DAVID CHU (in Cantonese): Mr President, all Members know that votes in support of my motions are already very few and I would like to take this chance to solicit more votes through a hot topic. However, many Members have taken a lift and it is impossible for me to win, yet it does not matter whether I win or lose. It is most important that the Government attaches importance to the views of the Council and solves the bedspace apartment problem as soon as possible, confining bedspace apartments to the 20th century. Thank you.

Question on the motion, as amended by Mr LEE Wing-tat, put and agreed to.

MEMBERS' BILLS

Resumption of Second Reading Debate on Bill

HONG KONG ST. JOHN AMBULANCE INCORPORATION BILL**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).

Committee stage of Bill

Council went into Committee.

HONG KONG ST. JOHN AMBULANCE INCORPORATION BILL

Clauses 1 to 5, 7, 8 and 10 to 22 were agreed to.

Clauses 6 and 9

DR LEONG CHE-HUNG: Mr Chairman, I move that clauses 6 and 9 be amended as set out in the paper circularized to Members.

Clause 6(3) is to establish conclusive evidence on the transfer of properties and liabilities by producing Government Printer's copies of this Ordinance. Clause 6(4) is to establish an assumption that the transfer of properties does not operate as a breach of the condition for the purpose of government grant of lease against assignment. Clause 9(3) is to establish that the books and documents can be used as conclusive evidence of the former institution, that is, the Council of St. John Ambulance Association and the Ambulance Brigade.

I so move.

Proposed amendments

Clause 6 (see Annex XI)

Clause 9 (see Annex XI)

Question on the amendments put and agreed to.

Question on clauses 6 and 9, as amended, put and agreed to.

Schedule

DR LEONG CHE-HUNG: Mr Chairman, I move that the Schedule be amended as set out in the paper circularized to Members. The Schedule is to provide a more accurate description of land and government grant. I so move, thank you.

Proposed amendment

Schedule (see Annex XI)

Question on the amendment put and agreed to.

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

Council then resumed.

Third Reading of Bill

DR LEONG CHE-HUNG reported that the

HONG KONG ST. JOHN AMBULANCE INCORPORATION 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.

Resumption of Second Reading Debate on Bill

PUBLIC BUS SERVICES (AMENDMENT) BILL 1996

Resumption of debate on Second Reading which was moved on 14 February 1996

MR WONG WAI-YIN (in Cantonese): Mr President, my speech will comprise two parts. The first part is a report made on behalf of the Bills Committee while the second part is about the stance of the Democratic Party.

Mr President, I am reporting on the deliberations on the Public Bus Services (Amendment) Bill 1996 by the Bills Committee. The Bill was proposed by the Honourable LAU Chin-shek, which aims to amend the Public Bus Services Ordinance to the effect that future fare revisions determined by the Governor in Council will be tabled in the Legislative Council as subsidiary legislation. As Chairman of the Bills Committee, I have held three meetings with Mr LAU Chin-shek and the Administration and considered the views of five deputations and one submission.

Mr LAU Chin-shek has proposed the Bill as he is concerned that the fare revisions of some modes of public transport are tabled in the Legislative Council as subsidiary legislation whereas bus fare revisions are not. As he thinks that the views of the Legislative Council may be ignored, he hopes that a suitable mechanism can be put in place to allow the Legislative Council to play a formal role in the course of bus fare revisions.

The bus companies are strongly opposed to the Bill and their stances are recognized by the Administration. I will outline the major concerns of the bus companies.

Bus Franchise

The bus companies are of the view that the Bill constitutes a fundamental change to bus franchise as a result of its proposed amendment to the fare revision mechanism. If the Administration tries to change the terms of the franchise unilaterally, bus companies may seek recompense. Although the legal advice given to the Administration indicates that the Bill itself has not breached the franchise and profit control agreements between the Government and the franchised bus companies, the Administration still reminds the Bills Committee that the reputation and creditability of the Government in executing its contracts between private organizations will be queried as a result of the Bill. Members of the Bills Committee have taken note of such worries.

Existing Mechanism for Monitoring and Approving Fare Adjustment

Representatives from the deputations stress that the operation of bus companies is strictly monitored by the Administration. This is a very complicated process and fare determination only forms a part of the monitoring mechanism. There is also a statutory requirement for bus companies to submit annually Five-year Forward Planning Programmes. The representatives from the deputations are worried that without being involved in the daily monitoring of bus operations, Legislative Council Members may not be able to arrive at a balanced conclusion in their evaluation of fare increase applications. They are also extremely concerned about the political factors involved in the determination process, and they are worried that Legislative Council Members may be forced to vote down price increase proposals for political reasons instead of making decisions based on the merits of each individual case.

On the other hand, the Administration confirms that it will carefully examine and approve each fare increase application and it will first consider the views of the Legislative Council Panel on Transport and the Transport Advisory Committee before submitting the fare increase proposal to the Governor in Council.

Financial Impact

The bus companies are most worried about the difficulty that may be created in their obtaining bank loans as financial institutions may doubt the ability of the bus companies in repaying the debts. Furthermore, the operators of bus services also worry that the Bill will delay implementation of fare increases and affect the profits of bus companies for service improvements.

The representatives of the deputations point out that the trend in other parts of the world is towards complete deregulation and lessons are drawn from Hong Kong when the bus operators in other places develop their business.

Members' Views

Members of the Bills Committee agree that the interests of various parties concerned should be taken into account, especially those of the passengers and bus company shareholders. To gain a better understanding of the overseas practices, the Bills Committee requested the Research and Library Services Division of the Legislative Council Secretariat to conduct a research into the fare monitoring mechanism of other big cities.

The result of the research shows that regardless of whether the bus companies are privately or publicly owned, fare adjustment proposals are made by the local governments or determined by the statutory bodies responsible for transport services set up by the local governments. When considering the fare adjustment proposals, the approval authorities take into account factors such as inflation rate, degree of acceptance by the public, financial situation of the operators and development schemes under planning. In some cities, the approving bodies will consult some long-established monitoring bodies but in all the cities covered by the research, the legislature has not taken part in the examination and approval of bus fare adjustment proposals.

Members also note the difference between our political system and those of other big cities. In overseas cities, the ministers in charge of transport affairs are members of the parliament returned by election and are monitored by the public. If they fail to satisfy the needs of the public or their electors, they may have to resign or they may not be re-elected. In Hong Kong, the officials in charge of government operation are not returned by election; only Legislative Council Members are returned by election and responsible for enacting legislation and monitoring government policies.

Committee Stage Amendments

Mr President, Dr LAW Cheung-kwok proposed to amend the Bill to specify the rate of fare increase for individual bus routes. The proposal was later revised to cover groups of routes. When the rate of increase for a group is higher than the inflation rate, it has to be vetted by the Governor in Council. At

first, Dr LAW Cheung-kwok proposed that the rate of increase should be approved by the Legislative Council. As requested by the Bills Committee, the Administration has analysed the impact of the proposal on resources. According to the Administration, this proposal will substantially increase workload as the Administration must study the figures concerning the costs and income of each bus route, the past operational performance of the routes and the reasons for their difference one by one. As to manpower, under the existing procedures, the Administration has to designate four people to spend around two months working full-time to handle the relevant price increase applications. If it adopts Dr LAW's proposal, the resources required will increase by five times. The Administration also points out that as some routes have to subsidize other routes, it is not appropriate to consider the fare of a certain route alone.

Mr LAU Chin-shek will move a technical amendment to the Bill to ensure that bus fare increases have to be approved by the Legislative Council and that fare adjustment which has been in force before the commencement of the Bill will not be affected. As the Administration is opposed to the Bill, it has not proposed any amendment.

I must point out here that Members of the Bills Committee have divergent views on the said proposals and they fail to reach a consensus on the Committee stage amendments. However, on behalf of the Committee, I would like to thank Members and representatives of the Administration for their invaluable views expressed in the course of deliberations of the Bills Committee.

Mr President, on behalf of the Democratic Party, I will state its stance.

Mr President, up till now, buses are still the mode of public transport that has the biggest passenger volume. In 1996, the passenger man-time of buses accounts for 35.1% of the total passenger man-time of the public transport network, and bus services evidently make up an indispensable part of our everyday life.

To ensure that people can enjoy adequate bus services with good service quality, the governments in every part of the world monitor public and private bus companies though by various means. In Hong Kong, bus services are provided by private operators and the Government will not give bus companies any subsidy. However, the Government grants bus companies franchise and

give them preferential treatment and assistance such as designating bus lanes and giving fuel tax concessions to the effect that bus companies can effectively expand and develop their operations. In other words, such treatment and assistance indirectly safeguard the business and profits of bus companies.

Furthermore, under the Public Bus Services Ordinance enacted in 1975, the Government monitors franchised bus companies. Under the legislation, a request for bus fare increase can be implemented upon approval by the Governor in Council. In the past 20 years, the experience of bus fare increases clearly tells Hong Kong people that the Government has not fulfilled its duty of monitoring bus companies as the Government approves their application every time although the rate of fare increase is astonishingly higher than the inflation rate and people's livelihood is totally neglected. In fact, in these few years, many people, political parties, non-governmental bodies and public opinions have been severely criticizing the substantial fare increase by bus companies and they proposed that it was essential to enhance monitoring fare adjustment by bus companies.

The stance of the Democratic Party in this respect is extremely firm and specific. We are of the view that, to safeguard people's interests, an increase in bus fares must only be made after full consultation with the public and the Legislative Council, which is most representative of public opinions. Therefore, we suggest that the procedures for approving bus fare increases should be consistent with the existing mechanism for fare increase of franchised ferries. That is, after being approved by the Governor in Council, bus fare increases still have to be tabled in the Legislative Council as subsidiary legislation and passed by the Legislative Council before coming into effect.

Today, the Bill proposed by Mr LAU Chin-shek complies fully with the demands of the Democratic Party, and the Democratic Party will therefore give it its full support. It is a pity that the Government has all along indicated that it will not support the Bill as it finds the existing mechanism for approving bus fare increases very satisfactory. It is because the Legislative Council Panel on Transport and the Transport Advisory Committee will be consulted before the Governor in Council approves bus fare increases. However, I have been a member of the Legislative Council Panel on Transport for many years but I have always found that our views have not been respected or highly regarded. The Government is totally indifferent to our views in opposition of substantive increases in bus fares and the so-called consultation is just reporting to the

Legislative Council as a matter of course. Conversely, the Transport Advisory Committee has the real power in determining each bus fare increase but all its members are appointed by the Governor and no one represents public opinions. Moreover, the courses of discussion and scrutiny of fare increases are not open and it is not necessary for it to justify and explain to the public the reasons for fare increases. In a word, it is an organization with extremely low transparency and accountability and it lacks representation. I find it totally unreasonable and unacceptable for such an organization to make a decision on revisions of bus fares that affect a few million Hong Kong people.

In fact, it is evident from past experience that the decisions of the Transport Advisory Committee often deviate from public opinions and are not supported by people. It even gives people an impression that it is biased towards private organizations. The Government actually understands this very well, even though it claims that the existing mechanism is satisfactory. This is not convincing at all and it is only deceiving itself as well as others.

Empowering the Legislative Council to approve bus fare increases can indeed promote monitoring the quality of bus services. At present, even though the China Motor Bus provides such poor services with which the public are dissatisfied, the Transport Advisory Committee approves its application for fare increases as a matter of course and it is not able to force the China Motor Bus to improve its services. Though the China Motor Bus has not filed an application for renewal of its franchise and the Government has indicated that it will not consider extending the franchise of the China Motor Bus, the Government still says that it will only consider whether the China Motor Bus network will be put up for public tendering or extending the franchise of the China Motor Bus for two years after it has reviewed the services of the China Motor Bus. Everybody knows that the China Motor Bus provides poor services but the Government is still very kind to it and it neglects people's livelihood. The Democratic Party is of the view that, for the sake of public interests, the Government should make a prompt decision to put the bus network of the China Motor Bus to public tenders. If the Legislative Council has the power to approve bus fare increases, I believe this can promote improvements in the service quality of bus companies.

I am not optimistic about the successful passage of the Bill but what makes me angry is that many political parties expressed similar views when they ran for the 1995 election. For instance, the Democratic Alliance for the Betterment of Hong Kong (DAB) pledged in its platform that it would closely monitor the fares

of public transport. The Honourable CHENG Yiu-tong, Chairman of the Hong Kong Federation of Trade Unions, also asked for the Legislative Council to monitor public utility charges when he ran for the 1995 election. The Association for Democracy and People's Livelihood repeatedly expressed at Legislative Council meetings that it supported the monitoring of public transport fare increases by the Legislative Council. However, they all seem to be inclined towards not supporting the Bill now.

I am even more dissatisfied that the DAB dared not object to the suggestion made by other political parties that the monitoring of public utility charges has to be enhanced. However, once we put this into practice and put forward a specific plan for monitoring the fare increases of these public utility companies, the DAB will certainly object with many excuses and claim that they will carefully study other measures as substitutes. Today, I would like to ask the DAB what are the results of the study they have carried out in the past two years and what efforts they have made to force the Government to accept their suggestions to benefit the public. The DAB always criticizes other people, saying that they only know how to solicit votes and disregard the interests of the community as a whole. Yet the DAB itself only knows how to make empty promises but it actually has not made any contribution. What benefits will they bring to the community as a whole when they later vote against the Bill?

The Democratic Party is of the view that those political parties which only pay lip service without putting what they have said into practice are really soliciting votes.

Mr President, I so submit in support of Mr LAU Chin-shek's Bill.

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

MRS MIRIAM LAU (in Cantonese): Mr Deputy, the Bill we are debating today and the bills on the two railway corporations we debated in this Council three weeks ago are of identical nature in that both suggest empowering the Legislative Council to control fare increases by public transport. The voting result then gave a clear message that railway fares should be free from political interference.

It is true that the four franchised bus companies are privately-run while the two railway companies are public organizations fully-owned by the Government,

and their nature is greatly different. However, most of the arguments I put forward during the debate on the bills on the two railway corporations are also applicable to today's debate.

Although some Members criticized me for adopting foreign experience selectively, I think that we certainly ought to learn from good experience and avoid following the steps of bad ones. Perhaps good advice jars on the ears but foreign experience really tells us that allowing political interference with fare determination not only affects the existing performance of public transport services but also have far-reaching effects on their future development. Furthermore, the world-wide trend is towards deregulation instead of tightened regulation of public transport.

According to the Institute of Highways and Transportation, the experience of other places shows that if fares become an annual political issue while the level of fares is not pegged with the level of services, the result will be very undesirable.

The Research and Library Services Division of the Legislative Council Secretariat has conducted a research into the monitoring system of bus services and the courses of fare adjustments in other countries. The conclusion drawn is that out of the six cities including Singapore, London, Seoul, Paris, Toronto and New York being researched, none of them submit bus fare increase proposals of private or public corporations to their legislature for approval.

The overseas delegation of the Panel on Transport gained an in-depth understanding of the operation of railway systems in several big European cities and the monitoring of bus services in foreign countries. As observed, foreign governments try hard to change the past practice of substantially subsidizing bus services. However, London buses still accept a little government subsidy while Paris buses accept more than 50% government subsidy. The bus services in Singapore are operating in a comparatively successful manner without government subsidy. However, the Singapore Government provides depots and interchanges for use by the companies concerned in a concessionary manner. When we planned for the trip to Europe, the Honourable LAU Chin-shek had suggested that we should visit Seoul as well but finally we were not able to include Seoul in our itinerary. Even so, the Legislative Council Secretariat has collected some information on bus services in Seoul, which will be appended to the report of the delegation.

I believe that some Honourable colleagues will still insist that as the Hong Kong Government is not returned by election, the elected Legislative Council must directly monitor fares. They are unwilling to accept the fact that if public transport fares are affected by government considerations, there will be inadequate public transport income which will in turn adversely affect the standard of services. I have already illustrated this point with a few examples when we debated the bills on the two railway corporations.

It does not matter if Members do not accept this fact but an objective fact is that the Singapore, London and Seoul governments are returned by election and they monitor public transport services on behalf of the people. But what are the results? The rates of fare increases of inner-city buses in these cities are either higher than or the same as their respective inflation rates. In the past decade, bus fares in Singapore increased by around 1.5% in real terms, slightly higher than the inflation rates. In the past three years, the annual rate of increase in bus fares in London was higher than the inflation rates while there were substantial annual increases ranging from 16% to 23.5% in bus fares in Seoul, much higher than the inflation rates.

Although the Hong Kong Government is not returned by election, we have reasons to believe that the Government has performed quite well in monitoring public transport fares, much better than the governments of many countries in the world that are elected. In the past five years, the cumulative rate of increase in the fares of the four bus companies in Hong Kong was lower than the cumulative rate of increase in inflation. For instance, the cumulative inflation rate from 1992 to 1997 was 45.1% while the rate of increase in Kowloon Motor Bus fares during the same period was 39.2% and the rate of increase in China Motor Bus fares was 38.7%.

In fact, the fare increases of the four bus companies are monitored by the Government and they cannot just increase fares as they like. In the past decade, the rates of increases approved by the Government were lower than those applied for in 13 out of the 22 applications for fare increases filed by the four bus companies. Although Members do not accept fare increases, as the Legislative Council does not have the power to reject such increases, it is not reasonable to regard this as a sign that bus companies have not been properly monitored.

Some Members may think that it does no harm if we subject bus companies to further monitoring. As long as their fare increases are reasonable, they have nothing to fear.

In 1995, when the Kowloon Motor Bus applied for a fare increase, the Honourable WONG Wai-yin moved a motion debate in the Council. Mr WONG's motion originally asked the Government to contain the rate of increase at a level below inflation. When the Kowloon Motor Bus declared that the average rate of increase applied for was 8.3%, which was below inflation, Mr WONG amended his original motion in a hurry to ask for a freeze. However, the average rate of increase finally approved by the Government was 7%, less than that the Kowloon Motor Bus applied for and even less than inflation.

Members find it unreasonable for rates of increases to exceed inflation. Yet they also find the increase unreasonable if it falls below the inflation rate. Does it mean that only a zero increase is reasonable? Mr LAU Chin-shek's stance has always been firm. I do have high respect for him in this regard. He has resolutely opposed the fare increases by the two bus companies since the 1980s, and I have never heard him support any fare increase after he has joined the Legislative Council.

In the 1980s, the opposing views of Mr LAU expressed on the streets might be neglected. When he is a Member of the Council now, however, he still says that the views of the Legislative Council are neglected. He thinks so because under the existing mechanism for bus fare increases, there is no legal provision for consultation with the Legislative Council. Although it has not been explicitly provided in law that the Government must consult the Legislative Council in respect of fare increases, in fact, the Government together with the representatives of the relevant companies will certainly attend meetings of the Legislative Council Panel on Transport before each occasion of bus fare increase to explain the reasons, giving Members the necessary information and data and listening to Members' views. Therefore, it is not true that there is a lack of consultation. In my opinion, Mr LAU is not asking the bus companies to listen to the views of the Legislative Council. Instead, he is demanding that the Legislative Council should have an absolute say.

Superficially, Mr LAU's suggestion is very simple. He is just asking for the provision of a mechanism for the Legislative Council to have the power of vetting bus fare increases. Yet I find this suggestion inappropriate in terms of legal principles and it will bring about very serious consequences.

The first aspect is about franchise. Mr LAU thinks that franchise agreements have not specified the form of fare increase mechanism of bus companies. Hence the Administration cannot unilaterally confirm that bus fare increase applications need not be scrutinized by the Legislative Council. Therefore, he thinks that the fare increase mechanism can be changed through legislation. However, bus franchises are determined through negotiations between the Government and bus operators, and any changes must be agreed upon by both parties. When an operator establishes an agreement with the Government, the fare increase mechanism it accepts is specified in the legislation. This means it is subject to approval by the Executive Council. It has not been specified in the franchise agreement that the fare increase mechanism will be changed from time to time. Therefore, if the legislation is amended to effect a change in the mechanism, it is equivalent to a change in disguise to the terms of the franchise in the middle of the agreement period. This is unfair to the operator. Although the Secretary for Transport refused to admit in the letter sent to Members that the suggestions of the Bill are in breach of the provisions of the franchise agreements, he admits that those proposals go against the spirit of the agreements. Therefore, if the Bill is passed, the sincerity of the Government in executing agreements drawn up with private organizations will be queried. This will do much harm to the Government's reputation.

Secondly, the confidence of investors will be affected. If agreements drawn up between investors and the Government can be indirectly amended by legislation in future without the consent of the parties concerned, will investors still have the confidence in investing in public transport services? Investors will certainly have another worry. If the power to control fare increases lies in the hands of Legislative Council Members, will Members who represent the general public give fair consideration to the interests of investors? They can hardly be blamed because in several occasions in the past, many Members adopted the attitude that fare increases were unreasonable and making money was a sin.

The interests of investors and those of the public are basically in contradiction. Balance and co-ordination are needed. The four bus companies are commercial organizations and they have to be accountable to their shareholders. Therefore, profits are always their concern. On the other hand, it is natural for elected Members to fight for the interests of the public. As they strive to safeguard public interests, how can they give fair consideration to the interests of company shareholders at the same time?

Last week, I succeeded in securing a freeze in fuel tax with the support of many Honourable colleagues. Some Members may criticize me, saying that I am generous at the Government's expense. However, the Government's money, after all, comes from the public and the Government should return wealth to people when it is financially sound and affluent. If Members have an absolute say in respect of bus fare increases, Members can be generous at the expense of the shareholders of the four bus companies and disallow bus fare increases.

Some Members will say, "What is wrong for us to be generous at the expense of the shareholders of the four bus companies, so long as the public can be benefited?" If this is done, the public will ultimately get less than they lose. The reasons are simple. While the companies fail to get resources for operation, they still have to be accountable to their shareholders. They can only resort to cutting expenses and making fewer improvements to their services. As a result, the staff of the companies and the general public will suffer. When fare increases by these companies are controlled by the Legislative Council, this will dampen the wishes of the companies for future development. Even if Members approve their fare increase applications this year, no one can tell what Members will do next year. The Hong Kong and Yaumati Ferry and the Star Ferry are obvious examples. If investors are faced with gloomy situations, will they be willing to re-invest in the expansion and improvement of services? According to the Institute of Highways and Transportation, to safeguard public interests, operators and investors must adopt long-term perspectives, or else inadequate investment will lead to a decline in service quality.

Mr Deputy, my views on fare increases have been consistent and I insist that fare increases must be reasonable and considered on the basis of objective factors. It is wrong to regard the inflation rate as the sole criterion for fare increase levels. A rate of increase below inflation may not be reasonable, and similarly, a rate of increase higher than inflation may not be unacceptable. It depends solely on the actual circumstances. For instance, the Kowloon Motor Bus asked for an 8% fare increase in 1996, which was less than the inflation of 8.7% in the previous year. Was this rate of increase, which was lower than inflation, acceptable? Certainly not, and the Government only approved an increase of 3.6% as such a rate of increase would allow the shareholders reasonable profits and was affordable by and acceptable to the public at that time.

Bus service is a labour-intensive industry. The expenses on wages

account for most of its costs and the rate of increase in wages does not rise with inflation. In the past decade, the rate of increase in the total salary of the drivers of the Kowloon Motor Bus was higher than that of inflation. Fuel prices and exchange rate fluctuations do not change with inflation either, but they directly affect the costs of the companies concerned. Therefore, inflation can only be regarded as one of the factors for consideration. It cannot be taken as an indicator in regard to fare increases.

For the reasons stated, I find that Dr LAW Cheung-kwok's amendment is impractical and inappropriate. It regards inflation as the only indicator for fare increase and it totally overlooks the actual needs of bus companies. In addition, amending the Bill proposed by Mr LAU Chin-shek to limit the rate of increase to a percentage not greater than inflation is actually a change in form but not in substance. All the same, it will result in the unfavourable effects caused by suppressing fare increases.

Mr Deputy, the most effective method to ensure that fares are maintained at reasonable levels and bus companies can keep improving their services does not lie in the suppression of fares by the Legislative Council. Instead, it lies in encouraging healthy competition.

After the expiry of the franchise of the Kowloon Motor Bus in August, there will be no profit control schemes for buses. Neither will there be regional or route-specific franchises. While all bus fares must be sufficient and reasonable, bus operators have to plough back resources to service improvements to ensure that each route is well-operated. Otherwise, its right of operation may be threatened or even taken over by other new operators.

Mr Deputy, bus services in Hong Kong have gained good reputation all over the world. Public transport services in Hong Kong are envied by foreign countries. The interests of the public and those of shareholders are well balanced under the existing mechanism. All these are facts. I urge Honourable Members to accept these facts and refrain from shaking the well-established fare vetting system.

Mr Deputy, I so submit and I resolutely oppose the motion.

MR CHEUNG HON-CHUNG (in Cantonese): Mr Deputy, the original

intention of the Honourable LAU Chin-shek's Bill which amends the fare mechanism of the public bus companies is identical with that of the bills about the two railway corporations moved earlier by the Honourable SIN Chung-kai. With these bills, fare increases of the companies concerned will have to be approved by the Legislative Council.

The arguments put forward by the Democratic Alliance for the Betterment of Hong Kong (DAB) against the bills proposed by Mr SIN Chung-kai are also applicable to the Public Bus Services (Amendment) Bill today. In the debate on Mr SIN Chung-kai's bill last time, we did not have a chance to give our response. One of the most important points in our response is about the Democratic Party's allegation that the DAB will violate its platform if it does not support them because it has proposed to monitor the services of the two railways and public buses in its platform. However, I do not believe the goal of monitoring can only be achieved if the fares are decided by the Legislative Council. We think that the terms of reference of the Transport Advisory Committee can be expanded, or we can consider setting up a new traffic management authority to decide the fares and monitor the quality of services. Therefore, we do not think that we are doing anything inconsistent with our platform. In particular, the criticisms hurled earlier by the Honourable WONG Wai-yin of the Democratic Party at other political parties were very acrimonious, and we find them even more difficult to accept.

Each political party has its own way of doing things. If we do not agree to what other people say, we can raise our objection. We do not concur with the method suggested by the Democratic Party today, so we raise our objection. However, should one use such acrimonious remarks like a devil to criticize other political parties when they disagrees with his methods? In particular, we feel that, in the long run, the Bill today will undermine the fare mechanism on which the success of Hong Kong's bus companies has been relying, and the standard of bus service may thus be lowered and shrivelled. Therefore, we object to the Members' Bill proposed by the Democratic Party today because we feel that it will bring about great damages to the public in the long run.

I would like to reiterate the most important argument of our objection here. We think that vetting of fares is the responsibility of the executive departments and should not be decided by the legislature which is politically affected. We have already talked about its negative effects in the debate on the Members' Bill moved by Mr SIN Chung-kai, so I will not repeat.

As for the amendment of Dr the Honourable LAW Cheung-kwok, which stipulates that the rate of increase of bus fare cannot exceed that of the inflation, the DAB cannot accept either. The reason is that it is open to question whether such a criterion for charging fare should be stipulated for a privately owned company. If we can require the bus companies to observe this, by deduction, we can also set such a requirement on gas companies, electricity companies, telephone companies or even supermarkets for their prices. In fact, this measure goes against the operation principle of free economy in Hong Kong. To enable the fares to be adjusted in accordance with the free market economy, the introduction of more competitions would be a better way. Therefore, we have asked the Government to actively introduce competitions. We can see from the example of introducing the service of Citybus on Hong Kong Island that the bus service has improved significantly. The opening up of the telecommunication market also results in a big fall in international call charges in the past few years, whereas the services have become more multifarious. All these examples serve to demonstrate that the introduction of competition is definitely in line with public interests.

We have also noticed another issue. If the bus companies adjust their fares every year pursuant to inflation, it will be difficult for them to gather capital in order to expand their services. The standard of service will then be frozen or even debased. We think that more in-depth studies should be made of this issue.

Basing on the above two arguments, the DAB cannot support the amendment of the Hong Kong Association for Democracy and People's Livelihood.

Mr Deputy, the franchise of the Kowloon Motor Bus (KMB) Company will expire at the end of August. We urge the Government to actively study the possibility of introducing new competitors into the areas served by KMB, so that quality service can be provided to the public under benign competition.

Mr Deputy, the North District Board has recently passed a motion requesting the Government to actively consider the introduction of a New Territories bus company into the northern district to provide bus services. Its argument is that the bus services provided by KMB between the northern district and the urban areas is seriously insufficient and disgust the public. Many resident organizations in the new towns are now organizing their own estate bus services that operate during rush hours. There is room for the estate buses to

survive because the franchised bus is unable to provide an effective service. However, the estate buses abound with potential problems such as management and unrestricted fares. If they do not follow their designated routes, there will be insurance problems too. Therefore, the franchised bus company should perform its responsibility so that the public can enjoy better bus services.

Mr Deputy, although we are not very satisfied with the services of the KMB and the China Motor Bus, basing on the major principles mentioned earlier, we still insist on objecting to the Bill.

I so submit.

MRS ELIZABETH WONG: Mr Deputy, I see nothing wrong but everything right with politicians being involved in the debate and even the control of bus fares or other fares of bus and public utilities because bus fares, like other fares, touch upon the livelihood of millions of commuters in Hong Kong. As such, I would like to congratulate the Honourable LAU Chin-shek for his vision and his energy in pursuing his goal, in monitoring the action of the Government.

But on this occasion, whilst I congratulate him I do not agree with his proposed amendment. I would like to support the Government but for reasons which have never been advanced in this Council before. I would like to say that I know for a fact that applications are assessed very carefully by professional officers in the Government taking into account many factors, including, very importantly, public acceptability and affordability, operating costs, quality of service, forecast of revenue and costs compared with many forecasts in future years and actual performance in the past. And they assess the accuracy of forecasts and very, very importantly, on the social network, for they recognize the importance of cross-subsidization between profitable routes and unprofitable routes.

It is relevant to note that bus routes are approved by the Transport Department and they are granted to bus companies in packages consisting of profitable routes and unprofitable but socially important routes, otherwise buses do not go to distant places. I mean, all that should be taken into account.

It is also very relevant to note that to facilitate access by people with disabilities, Kowloon Motor Bus has recently acquired a low-floor

wheelchair-accessible double-decker bus and will put it into use soon. This is a fantastic improvement from the past and I think we should congratulate the companies for having responded to the needs of society.

I am also aware that Citybus will take delivery of these low-floor double-decker buses this year. It shows that with public concern and pressure, these public utility companies do respond to needs of the society. All these illustrate that where there is concern there is response, and under the Government's professional and diligent supervision, Hong Kong cannot do worse. In fact, Hong Kong will do better.

Mr Deputy, to cap fare increase at CPI(A) level does not make sense to me. It is fundamentally flawed. First of all, 60% of bus operating costs are wages for staff. To freeze it at the CPI(A) level virtually freezes wage increases above inflation. How does a company operate when their hands are tied? How can they improve the service, improve the situation when their operational need is subject to certain controls?

Furthermore, fuel is an important component of bus operating costs. I remember the early years in the seventies when there was fuel crisis. The price shot through the roof. And in 1990, there was the Gulf War. It is not very long ago, 1990. There was the Gulf War. Fuel prices increased by 36.2%, but the fare only increased by a marginal amount and the CPI(A) increased by 9.8%.

To tie the fare increase to CPI(A) for this particular service does not make sense and I do not support it because it is difficult to cater to external circumstances over which Hong Kong has very little control.

Mr Deputy, for as long as the Government is doing a good job in monitoring bus companies, in opening it up to competition, in trying to be more transparent than they are now, I shall support the Government. But it does not rule out the possibility of a sliding down and if in that case I think it is very right for legislators to re-surface the demand for public control through legislation.

Thank you.

MR SIN CHUNG-KAI (in Cantonese): Mr Deputy, I would like to respond to the remarks made by the Honourable CHEUNG Hon-chung of the Democratic

Alliance for the Betterment of Hong Kong (DAB) that they are in support of supervision but not supervision by this Council. If this is really the DAB's position, I very much hope that when the 1998 Legislative Council election is held, the DAB will not indicate in its banners that it will "supervise the fare increases of public utilities" any longer. Instead, it should say it "supports the Government's supervision of the fare increases of public utilities". Such a clear-cut position will make all people understand that the DAB is not in support of doing this supervisory work in this Council. In my opinion, one should do what one dares to say. Mrs Miriam LAU made herself very clear that she had never supported the supervision of fare increases by this Council. She also said so during elections. This is what I mean by one should do what one dares to say. Now the DAB has said so. When it said so, it sounded important but ended up impotent. Instead of imposing supervision by itself, it supports the Government in doing the job.

The question on the debate for today is what we have said during the election. We have told others during the election that we would supervise the fare increases of public utilities. Now we have joined this Council, and this is what we need to do. But the DAB is not doing it. I was told during the election that the DAB was going to supervise the fare increases of public utilities. It is only at this moment that I hear the following sentence completely. "We all support the supervision of fare increases — to be done by the Government." The Government has all along been doing it. If the DAB is satisfied with the performance of the Government, why is there such a need to change the system? There is absolutely no need to mention this. The DAB displayed banners just because it was not satisfied with the regime of the Government. This was mentioned during the election. But now the DAB says otherwise. I am not querying the party. I do not even want to waste my time to query whether it really intends to supervise the fare increases of public utilities or not. We are now requesting our colleagues from the DAB to explain to the public by distributing leaflets and displaying banners once again to let people know that the DAB is not in support of the supervision of fare increases by this Council. Instead, it is in support of the Government's doing it. In my opinion, some of the past practices of the party were aimed at misleading the electors. I hope that the DAB can do what it dares to say during the 1998 election.

Mr Deputy, I so submit.

MR CHAN KAM-LAM (in Cantonese): Mr Deputy, I think the Honourable SIN Chung-kai must be thinking that he knows everything. Anyone who objects to what he supports will be wrong. The Democratic Alliance for the Betterment of Hong Kong (DAB) has always been doing what it dares to say. What we mean by monitoring public utilities is to propose a comprehensive and feasible solution instead of performing the monitoring role by ourselves. Of course, if there is something we can do, we will definitely do it. But this does not mean that we will handle everything by ourselves. These are the slogans we put forward during the Legislative Council elections as well as the district board elections. I believe Members from the Democratic Party will also put forward similar slogans in running for each tier of election. Could it be that the purpose of chanting these slogans is to ask the district board to monitor public utilities? As such, I hope that, in raising these questions, Members will put forward their arguments in a rational manner instead of attacking one another indiscriminately.

The DAB objects to the Bill moved by Mr LAU Chin-shek as well as the amendment moved by Dr LAW Cheung-kwok. After the signing of franchise agreements or regulatory agreements between the Hong Kong Government and bus companies, the Government will be deemed to have unilaterally broken the commercial agreements if this Council passes law to alter the spirit of these agreements. This will obviously affect the confidence of investors as far as Hong Kong, a financial and service industry centre, is concerned.

Mr LAU Chin-shek always stresses that the Bill is only meant to establish a mechanism for this Council to examine and approve bus fare increases, and no substantial changes will be involved. In his opinion, all applications for fare increases for franchised ferries and trams are already subject to the approval of this Council. What he intends to do is to introduce such a mechanism into the Public Bus Services Ordinance only.

Mr Deputy, it is true that fare increases for ferries and trams are now presented to this Council by way of subsidiary legislation. However, these provisions are enacted with the consent of both parties after detailed discussion between the Government and the franchised organizations responsible for providing the services. This is unlike the present situation where changes are made after the signing of agreements. Of course, the Legislative Council is empowered to amend certain legislation. However, we still need to respect the agreements signed between the Government and the relevant organizations, and

we should not make changes indiscriminately.

Mr LAU Chin-shek considers that the franchised agreement signed between the bus companies and the Hong Kong Government does not specify a mechanism guaranteeing the approval of fare increases. As such, he does not think that the Bill is breaking the agreements. But as a matter of fact, as far as we understand the franchised agreements signed between the bus companies and the Government, adjustments of bus fares are determined by the Governor in Council only. There is no need for the adjustments to be presented to this Council for endorsement. Such being the case, passage of the Bill is against the spirit of the franchised agreements, as far as certain principles are concerned.

Of course, the DAB is not saying that franchises cannot be changed once they are signed. But we are of the view that changes should be made after both parties have given their consents subsequent to negotiation, just as the Government decided to award part of the China Motor Bus (CMB) routes to other operators two years ago.

The Kowloon Motor Bus (KMB) and CMB franchise agreements will expire this year and in the middle of next year respectively. Negotiation between the Government and the KMB regarding the new franchise agreement has also neared the final stage. When this Council debated a bill proposed by Mr SIN Chung-kai in connection with the supervision of two railway companies in late May this year, the Secretary for Transport acceded to the proposal made by the DAB that he would consider setting up a traffic management framework to deal with the problem that different public transport organizations are governed by different monitoring mechanisms at the moment. The DAB thinks that the right direction to take is to set up this management framework expeditiously so that all public transport organizations will be put under better supervision. We hope that the Hong Kong Government will, in signing new franchise agreements with the two bus companies, consult them on the details of the relevant proposals.

Mr Deputy, we are often dissatisfied with the services and fare adjustments of the two bus companies. In respect of services, we have received an exceptionally large number of complaints against the CMB. The number of complaints against the KMB is, nevertheless, fewer. We may say that this phenomenon is generally recognized. As far as applications for fare increases are concerned, we notice that the relevant companies always "ask for an

exaggerated fare". Let me cite a past fare increase application as an example. The KMB, though with abundant fiscal reserves, still applied for a large fare increase of nearly 14%. Although the increase was finally cut by the Transport Advisory Board and the Executive Council drastically, we still hold that the increase was unnecessary. As such, I fully understand the motive of Mr LAU Chin-shek in moving the Bill. However, we must make clear a point. Can the relevant services be improved if the power to approve fare increases is given to this Council? I am afraid this is only the wishful thinking of some Members. We can see from the conclusion drawn from the recent visit to Europe by the Legco Panel on Transport that supervising public utilities by the legislature is just like "coating a poison with sugar". Members from the Democratic Party are also aware of the result of the visit. While hoping that this can help the public monitor public utilities, they are doing more harm than good.

The DAB is of the view that only through introducing benign competition can we set the right direction for improving the quality of the services provided by bus companies. The most prominent example is that after the franchise of part of the CMB island bus routes was open to other operators, the relevant bus services have seen improvement. As such, we hope that the Hong Kong Government can, in signing a new franchise agreement with the KMB, consider introducing a similar competition mechanism to safeguard the interests of consumers.

We think that the amendment moved by Dr LAW Cheung-kwok has a substantial problem. Moreover, it is vague in principle. The reasons are that fare adjustments of bus companies will have direct bearing on inflation, whereas over 60% of the operating costs of bus companies are wages. As regards other expenditure in respect of maintenance, fuels and so on, it is impossible to make adjustments with inflation as an indicator. As such, I think that the amendment moved by Dr LAW Cheung-kwok may eventually affect the profits or the quality of the services of the bus companies. Mr Deputy, Dr LAW Cheung-kwok wishes to, on the one hand, break the agreements governing profit control and, on the other, wishes to allow bus companies or public utilities to make fare adjustments in accordance with inflation by means of a statutory system. In fact, we consider this infeasible. As such, we will object to the amendment moved by Dr LAW Cheung-kwok in this respect as well as the Bill moved by Mr LAU Chin-shek.

Thank you, Mr Deputy.

THE PRESIDENT resumed the Chair.

MR ALBERT CHAN (in Cantonese): Mr President, I am puzzled about the Honourable CHAN Kam-lam's arguments. Firstly, he recognized that the fare increases of bus companies in the past were, in his own words, asking too much, and he also criticized them. When an elected Member or a responsible council identifies such a problem regarding the operation of a public utility, it has to step forward and defend public interests and try to establish a mechanism acceptable to the public to ensure that these public utility organizations will not continue to ask for too much. The fact that these public utility organizations have kept asking for too much adequately shows that there are problems with the monitoring mechanisms which have been in place for many years, both in respect of the approval procedures and the fare increase mechanisms and therefore these companies can profiteer through these means.

Secondly, Mr CHAN Kam-lam mentioned that there were many slogans during the election and the Democratic Party also had certain slogans. Shouting slogans is not talking irresponsibly as a slogan gives a clear message to electors regarding what a candidate promises to do for the electors. Candidates running for elections should not deceive electors by shouting slogans that they will never materialize. When the Democratic Party was running for election, we said that we would monitor public utility organizations and we said very clearly that we would enhance the monitoring work through legislation. During the time our friends from the Democratic Alliance for the Betterment of Hong Kong (DAB) ran for election, they also shouted similar slogans and set out clearly on their leaflets that they would enhance monitoring by legislation or the Legislative Council mechanism. However, as pointed out by the Honourable WONG Wai-yin, when DAB Members have been returned, they evidently have not carried out their election pledges. If they have not carried out their election pledges, they have to give an explanation. It does not matter if they change their stance. If they think that they cannot carry out the slogans shouted and the pledges made to their electors, and they know that they are wrong, they should admit their mistakes. It is not right for them to shout slogans then and afterwards forget what they have said. If that is the case, I will call upon all Hong Kong people to see the real faces of the DAB clearly in future elections. I am very disappointed at the fact that slogans are for shouting only and the

pledges made will not be honoured. I hope that the DAB Members who have not spoken yet can give an explanation whether the election slogans of the DAB are merely for shouting and not to be materialized. This is highly ironical, and perhaps this is the mode of practice of conventional leftists who only know how to shout slogans.

Mr President, as regards monitoring through legislation, I hope that Members will not forget that the fare increase mechanisms of some public utility organizations such as the Hong Kong and Yaumati Ferry are already monitored by the Legislative Council. This mode has existed for many years and it is not anything new, and this is covered by the existing legislation. Monitoring through legislation is not a great scourge and it does not make any change to the existing relationship between the legislature and the executive. Instead, it is an existing mechanism under the existing legislation. I hope that Members can really get to know more about the existing mechanisms and the existing relationship between the legislature and the executive and avoid distorting this fact. It does not matter much whether Members agree to this or not but they must tell the truth and give reasons instead of distorting the fact. They should not distort the true picture to mislead the public and the media. Mr President, I hope that Members can cautiously consider the Bill and ponder over what they have said. Thank you, Mr President.

MR ALBERT HO (in Cantonese): Mr President, actually, I really want to stress one point again. One must not think that a Legislative Council with elected Members will necessarily act against the commercial sector and seek to destroy all forms of franchises and the free economy. Why have some people made such a conclusion? I really cannot see why. Is it really inevitable that when representing the interests of the people, elected Members will always act against the commercial sector? Is it really inevitable that elected Members will always interfere unreasonably with commercial operations?

Mr President, we can see that, in the past, when Members discussed fare increase applications in the Transport Panel or even in the motion debates of this Council, many of the arguments advanced by them were not restricted in nature to a simple reflection of the people's criticisms, wishes or demands. For every fare rise application in the past, we Members did try to argue and make decisions for or against the application from the perspectives of the people's affordability, the applicant's operational needs, its performance, its finances, its entire set-up

and even its future development. I believe that Members returned by geographical constituency elections will know very well that the people are actually very fair at heart, and they all have a very fair standard with respect to whether or not a fee increase application should be approved. In the case of management fees, for example, if the residents concerned notice that a lot of efforts have been made to improve the management of their housing estate, will they still remain downright negative towards all requests for management fee increases? No, they will not. We can look at the example of residents' meetings. Elected Members have lots of experience in attending these meetings, during which the rates of fee increases proposed by management companies are scrutinized. I myself have lots of experience in attending these meetings, and I believe that Members returned by geographical constituency elections are also very experienced in this respect. Have we sought to invoke the power of veto under the Building Management Ordinance every time when we handle an application for fee increase? No. We have just tried to find out the reasons for increase; we have done no more than finding out whether the rate is justified, and whether there is any possibility of cutting down expenses. Our solid experience in this respect shows that the people, and their representatives for that matter, must adopt a sensible attitude, and the fact is that they are fully capable of dealing with applications for fee increases with a sensible attitude. That is why we must not try to belittle the ability of the Legislative Council, saying that Members are not good enough for the job because this Council is bound to be highly politicized and thus unfair. If we acted that way, we would be dealing the biggest insult to ourselves.

What the Honourable Mrs Elizabeth WONG said a moment ago was certainly very correct, and I did listen very attentively to what she had to say last time. Her opposition to the proposed amendment is based on reasons which are very different from those which have been advanced in this Council so far, but I very much support and appreciate her point that if we in this Council are to perform well, we must first respect ourselves, and have the confidence that we do have the ability and good sense to do our job. This is a very important point. Many Members often comment that we should stop getting involved in handling applications for fee increases and give the task to a monitoring body of some kind. However, have they ever thought about the composition of such a monitoring body? Actually, such a question was already raised repeatedly during the last debate. If the fear of politicization is justified, should all Members with political affiliation be barred from such a monitoring body? And, if these Members are really allowed to join such a monitoring body, will

politicization inevitably result? If these Members are allowed to join, should their proportion be limited to 5% or 10%, for example? If one answers all these questions with a straight "yes", one will be no different from the Honourable Mrs Miriam LAU, who seems to think that only the Government is infallible, and that for this reason, such a monitoring body should be set up purely as a part of the executive branch with absolutely no members having any political affiliation. Do my colleagues belonging to the Democratic Alliance for the Betterment of Hong Kong (DAB) or the Hong Kong Association for Democracy and People's Livelihood (ADPL) really agree that no Member with political affiliation should be allowed to join such a monitoring body? Do they really think that no elected Member should join such a body? Do they really think that once these Members are allowed to join, there is bound to be politicization? Do they really think that with democratically elected elements in such a body, the decision-making of the executive branch will be swayed by political factors? All these are indeed questions which must be answered. However, for the reasons which I have given just now, I do have confidence in the Honourable Members of this Council. No doubt, because of their democratically elected status, they will naturally have to consider the people's views and their affordability, but this will in no way bar them from considering the financial conditions, performance and even future development of utility companies. Nor will this prevent them from making sensible decisions.

Mr President, all along, this Council has sought to monitor the fee increases of utility companies by exercising the power of veto vested in it under the relevant laws. We have not noticed any big problems with the operation of this monitoring mechanism, and, in a way, it can be said that this mechanism has been proven effective by time. Besides, we have also sought to achieve uniformity and equity in terms of the monitoring measures applicable to the fee increases requested by all privately-run utility companies. In this regard, some may well challenge us by asking, "Why not try to achieve uniformity and equity by stripping the Legislative Council also of its power to scrutinize fare increase applications from the ferry companies, taxi operators and the tram company?" In response, I must ask, "Has anyone ever said that the abolition of such a power is a desirable way to achieve uniformity and equity?" If not, I can rightly convince myself that this is actually a time-tested mechanism. Under this mechanism, this Council has been able to exercise its power of scrutiny, exert a greater control over utility companies and thus urge them to make greater improvements. So, if we think that this mechanism has worked effectively to enable this Council to supervise the utility companies concerned, why should we

refuse to treat bus operators equally by placing them under the same monitoring mechanism?

Lastly, let me respond to the point emphasized by Mrs Miriam LAU and the Honourable CHAN Kam-lam just now. According to them, the passage of the Bill moved by the Honourable LAU Chin-shek will set a very dangerous precedent of tampering with franchised operating rights. Some Members have even commented that the credibility of the Government may thus be lost. I want to put forward one question in response, "Should the Legislative Council be deprived of its legislative authority as a result of any agreement signed between the Government and a private company, or a franchise granted by the former to the latter?" Besides, when the Government signs an agreement with or grant a franchise to a company, will it guarantee to the company concerned that the Legislative Council will never seek to impose any legislative control over it? I hope that the Secretary for Transport can give us some information on this later on. However, I believe that the Government will never make such a guarantee, nor should it ever be allowed to do so. I also maintain that all the commercial dealings made by the Government should never be allowed to form any excuse of stripping this Council of its legislative authority. That is why I hope that when Members look at the issue, they will concentrate solely on whether or not the monitoring mechanism is conducive to healthy and effective monitoring, and whether or not the people can continue to enjoy better transport services at more reasonable prices.

Honourable Members belonging to my Party, that is, the Democratic Party, and those belonging to the DAB have had some arguments involving the latter's election platform. I do not want to dwell further on that, and I want to stress one point only. We in the Democratic Party really do not want to attack anybody maliciously, and this has never been our intention. That said, I must still say that as elected Members, we should all remember our election platforms very, very clearly and put them into practice once we are in office. This is indeed extremely important. We must all bear in mind that our disagreements, our different political positions, are really nothing special, for they are in fact the very reasons why we have to compete against one another. Why do we have to compete against one another? Because we hold different views. We certainly do not want to see any election candidate trying to give misleading messages or false hopes to the people by shouting empty slogans. In other words, we do not want to see any candidate in an election trying to mislead the people into believing that he will follow a certain path, the path of protecting their livelihood,

but in the end, the candidate follows an entirely different path, and thus disappoint the people. This will also affect adversely the rules of fair play in a democratic society. I hope that our colleagues belonging to the DAB will consider this point, whether or not they think that our criticisms are justified.

Mr President, with these remarks, I support the Bill moved by the Honourable LAU Chin-shek.

DR LAW CHEUNG-KWOK (in Cantonese): Mr President, public transport is an issue which closely affects the people's livelihood. The Hong Kong Association for Democracy and People's Livelihood (ADPL) has always accorded very great importance to it, and the enhancement of the monitoring of bus companies has also remained one of its policy objectives. However, the question is, "Which form of monitoring is most appropriate?"

The Bill moved by the Honourable LAU Chin-shek provides that the bus fare adjustments approved by the Governor-in-Council in future shall have to be submitted to the Legislative Council for scrutiny in the form of subsidiary legislation. The ADPL is against such a proposal, basically for the following two reasons.

First, given the method stipulated in the Basic Law for the election of the Legislative Council, the Legislative Council after 1997 will probably incline towards the interests of the industrial and commercial sector. So, even if the Bill moved by Mr LAU Chin-shek is passed, it may not necessarily guarantee that the interests of the general public can be effectively protected. Worse still, the Bill may well achieve the opposite result. The immediate effect of Mr LAU's Bill is that the authority of approving the next round of bus fare increase applications will be handed over to the post-1997 Provisional Legislative Council, a body which even Mr LAU himself has refused to recognize. This is indeed a big historical irony.

Second, we maintain that empowering the Legislative Council to approve fare increase applications will run counter to the principle of separation of powers. Such an authority should belong to the executive branch of the Government, and the legislature should only play a role of legislative monitoring. It is precisely because of this reason that I have decided to amend Mr LAU's Bill, so that the rate of fare increases approved by the Government for any one group

of public bus routes shall be subject to a ceiling not exceeding the inflation rate of the year in question.

I really have to apologize that I have failed to communicate with Honourable Members on this amendment in good time. This last amendment which I have moved is different from the proposals scrutinized by the Bills Committee in two major ways. First, I propose to cap fare increases at the rate of inflation, and this is different from the previous proposal of referring an application to the Legislative Council for scrutiny when the rate applied for is higher than that of inflation. The rationale behind my proposal is that such an arrangement can better represent public interests than giving the power of approval to the Legislative Council. Second, I initially proposed that the rate of fare increase for each bus route should be capped at the inflation rate. However, following thorough studies, I have come to share the view that if the rate of fare increase for each and every bus route is to be kept below the inflation rate, the business operation of bus companies will be stripped entirely of any flexibility. That is why my present amendment seeks to tackle each group of bus routes as a unit. The Government and the bus companies can continue to negotiate on fare increases on this very basis.

The amendment moved by the ADPL and me seeks to keep the rates of bus fare increases below the inflation rates then prevailing. I agree that this is not the best way to improve and monitor bus services in the long run. However, I do believe that this is really a workable stop-gap measure before the mechanisms of competition and monitoring are improved. In the long run, we believe that the criteria governing the satisfactory operations and monitoring of bus companies should contain the following four elements:

First, whenever appropriate and feasible, the Government should allow different bus companies to operate their businesses in different areas. It should also draw up a competition strategy for similar bus routes. However, it must be remembered that the creation of such an environment of competition will require meticulous planning efforts, and competition should not be introduced simply for the sake of competition.

Second, bus services are an important part of our public transport system. Hence we must ask, "Is there an appropriate degree of reasonable and fair competition between bus services on the one hand and those of minibuses, trains,

the MTR and trams on the other?" Competition among all these modes of public transport as a whole must be considered. If we keep on thinking that since there is only one bus company operating in the New Territories, and it should continue to enjoy absolute monopoly even at the expense of the choices for the public, our analysis will be erroneous.

Third, a bus company is actually a public utility company facing very low risks. And, as such, the 16% permitted returns it is allowed to enjoy is really too high. So, if the Government really decides to abolish the existing system of permitted returns, another returns rate indicator, whether to be announced publicly or to be used solely for internal reference, must be drawn up for the purpose of vetting fare rise applications. This is a very important issue which must be tackled.

Fourth, on 28 May 1997 when the Legislative Council debated the fare increase applications from the two railway corporations, I already put forward a positive proposal, and the Secretary for Transport undertook to consider it. This proposal involves the establishment of a widely representative public transport management committee with the responsibility of vetting fare increase applications and making decisions on fare adjustments. As proposed, such a committee should also set down and monitor the service standards applicable to public transport operators, give them advice and handle related complaints.

Lastly, let me refer to an opinion survey conducted by the ADPL on 13 June and 14 June on bus fare increases. The findings reveal that over 70% of the respondents agree to cap bus fare increases at the level of inflation during the year in question, and 80% of them view that an independent and widely representative committee should be established to monitor and approve fare increase applications from public bus operators.

Mr President, with these remarks, I call upon Honourable Members to support the amendment moved by the ADPL. Thank you.

MR MARTIN LEE (in Cantonese): Mr President, having listened to Dr the Honourable LAW Cheung-kwok's remarks, I really have to say, very sarcastically, that I am "convinced". He began by reasoning that the work of monitoring bus fare increases should not be undertaken by the Legislative Council because the principle of separation of powers must be observed. This sounds reasonable. However, as he went on to criticize the Bill moved by the Honourable LAU

Chin-shek, he revealed the real reason for his disagreement, saying "The industrial and commercial sector will be in the majority in the future Legislative Council and it will work against our interests if such a power is handed over to them." I think our dear brothers of the Hong Kong Association for Democracy and People's Livelihood should consider one point. Do they actually have any faith in the legislature, be it the Legislative Council now or the Legislative Council in the future? If so, they should run in the election. If not, they should not do so. However, they have not handled the matter in this way. According to Dr LAW cheung-kwok, if they could be in the majority, they would support the idea of giving the power to the current Legislative Council, or the future Legislative Council; otherwise, they would prefer giving this power to the Government instead. His words show a complete lack of confidence on his part. Does he think that he will certainly lose in the 1998 election? I just wonder.

Why should we give this power to the current Legislative Council, or the future Legislative Council? It is all right even if the Provisional Legislative Council is to hold this power for the time being, because we will most certainly return to this Chamber as long as the election is a fair one. That we are not in the majority now does not matter so much, provided that we can continue our struggle until we become the majority. What matters is that there must always be a clear-cut delineation of powers; if some powers should be exercised by the Legislative Council, they should be given to it; if not, they should not. We must never say that if we are in the majority in the Legislative Council, we will want a particular power, but that if we are not, we will prefer giving it to somebody else. That is why I must say that I am "convinced", but behold, this is qualified sarcastically by a negation sign, meaning that I am not convinced at all. *(Laughter)*

MR FREDERICK FUNG (in Cantonese): Mr President, a lawyer the Honourable Martin LEE indeed is! He has repeatedly fused two different concepts and twisted others' argument around before voicing his disagreement. Actually, Mr Martin's argument can be applied to the Democratic Party as well, because they claim that in demanding a monitoring role for the Legislative Council, they are in fact acting for the interests of the grass roots. Mr LEE is actually saying that we should hand over the power in question to a Legislative Council which is to be formed under the 10-year agenda stipulated in the Basic Law. However, at least within the year to come, you will still be criticizing the Provisional Legislative Council for being illegal, for being a puppet legislative

assembly, but now you agree to hand over the power to it

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

MR FREDERICK FUNG (in Cantonese): There will be problems too. I really have to say, sarcastically, that I am also "convinced", and I must also qualify this with a negation sign.

I want to say a few words on how the Hong Kong Association for Democracy and People's Livelihood (ADPL) looks at the monitoring mechanism concerned. What we want is a monitoring mechanism, and we agree that there should be separation of powers. Years back, when the Basic Law was drafted, it was the ADPL which advanced the point on separation of powers. We did not know whether or not separation of powers would really be feasible in practice, but we still made such a request. This time around, we have proposed an amendment because while we see the need to put in place a monitoring mechanism, we simply do not think that the Legislative Council should get involved in the actual work of scrutinizing and approving the rate of fare increase for each bus route or each group of bus routes. The scrutiny of bus fare increases involves the work of law "administration". That is why when it comes to the monitoring of bus fares, or even the fares of the two railway corporations, minibuses, taxis and ferries, the ADPL has all along maintained that the Legislative Council should not engage itself in scrutinizing and approving fare increases or in setting fare levels. The work in this respect should be done by the Administration. As to how it is going to perform this task, we of course agree that the Administration should not be given a complete free hand. That is why we have put forward our proposal. Another reason is that the Secretary for Transport undertook to launch a consultation exercise when the last fare increases of the two railways were discussed, and he promised to release the findings within one year. We believe that the findings of this consultation exercise will be favourable, because a survey conducted by us shows that 80% of the respondents agree that a transport management committee at the central level should be set up to co-ordinate and discuss the policies, fare increases and other matters relating to public transport in Hong Kong. If this transport management committee is going to comprise representatives of the people, consumers, relevant professionals and members of the transport sector as we have proposed, we would say that it will certainly provide the most desirable solution to the

problem.

What does legislative work involve? Legislative work involves the work of setting down the mechanisms required. Therefore, regarding the way in which the Legislative Council is to monitor public utilities, the ADPL recommends that the designation of a "red light zone" beyond which no fee increases should be accepted. Specifically, this "red light zone", which should be marked by the inflation rate, should serve as a ceiling for fee increases. In other words, with the inflation rate as the ceiling, we will be able to impose restrictions on the Administration, and the Government or any public utilities will thus be prevented from going beyond this ceiling. I maintain that this is the most effective way in which the legislature can exercise its legislative authority to monitor public utilities. And, after a mechanism has been laid down, the Government should be left to decide how it is going to implement the mechanism and convince its own public transport operators or private transport operators. In other words, the Government should then decide how it is going to deal with the two railways corporations in its capacity of their "big boss", and how it is going to discuss with privately run public utilities, including the three bus companies. The Government must ensure that after all the relevant discussions, public utilities will not ask for any rates of fee increases which are higher than inflation. This task should not be undertaken by the Legislative Council, but should instead be performed by the Government or the central transport management committee mentioned just now. This is the work of law execution.

This is precisely what is meant by separation of powers. I am sure that Mr Martin and Honourable Members belonging to the Democratic Party will all understand this. I suppose I need not dwell any further on that because even secondary school students should have studied this concept. However, since Martin has said that he cannot follow, I have tried to repeat it once again.

PRESIDENT (in Cantonese): Mr Martin LEE, do you have a point of order?

MR MARTIN LEE (in Cantonese): Mr President, I am not Mr Martin, but I can be referred to as Mr LEE.

PRESIDENT (in Cantonese): Mr Frederick FUNG, please say "the Honourable Martin LEE" or simply "Mr Martin LEE" when you deliver your remarks in

future.

MR FREDERICK FUNG (in Cantonese): That is why the ADPL has proposed that a transport policy, or a fee increase policy, should be formulated. This means the setting up of a "danger zone", to be delineated by the inflation rate.

The second point which we want to raise again is that the ADPL has always been committed to the cause of struggling for the interests of the grass roots and the lower-middle classes. This has always been our perspective when we look at public affair issues. I can see no sense in the argument of the Democratic Party, unless this Party, in particular the Honourable Martin LEE, is really of the view that the agenda of democratization for the Legislative Council in the next 10 years as laid down in the Basic Law is very satisfactory. The ADPL has found this agenda most unsatisfactory throughout!

We have always advocated that the Basic Law should be amended, and the only major difference between us and the Democratic Party is that while we want to actively promote the cause of amending the Basic Law only after 1 July, the Democratic Party wants to do so before this very date. Since we are not discussing the Basic Law, I will not dwell on such a difference now. However, before the Basic Law is amended, very obviously, the stipulated election method will be implemented. 30 Members will be returned from functional constituencies, 10 Members from the Election Committee and 20 directly elected Members from geographical constituencies. Such a composition can actually be found in the Legislative Council returned by the elections in 1991 and 1995, if the nine new functional constituencies are not taken into account. We can all see the domination of the industrial and commercial sectors and people with this background. The reason for our disagreement is not based on any "majority" or "minority" considerations. I certainly do not have any such intention. Rather, I am purely looking at the class interests behind such an election system.

First, given the 10-year agenda laid down in the Basic Law, unless Mr Martin LEE can assure me that he can manage to amend the Basic Law tomorrow, in which case I will certainly promote and advocate the amendment, I cannot see how we can possibly play the desired monitoring role in future. That being the case, should we, as a political party representing the interests of the grass roots and the lower-middle classes, be willing to hand over the task of law execution to a legislature dominated by the industrial and commercial sectors? This does not involve any "majority" or "minority" considerations; rather, this involves the

question of willingness or otherwise. This also involves the concept of separation of powers, which necessitates a completely new way of looking at the issue. That being the case, the ADPL and I are both unwilling to do so. In the case of the Democratic Party, they should be "very" unwilling because fee increases will then be scrutinized and approved in accordance with the policy formulated by the Provisional Legislative Council. And, since the Democratic Party thinks that the Provisional Legislative Council is an illegal and puppet legislature, it should really be "very" unwilling.

In view of all these considerations, the only alternative for us is the designation of a "red light zone" or "warning zone" by the legislature. In the legislature, we are the minority, and outside the legislature, we may have to play the role of pressure groups. Some may well ask me, "To whom can pressure groups possibly direct their efforts of lobbying and persuasion, and on whom can they possibly apply pressure?" My answer is, "The Government." This a reality which we must face. Suppose we are not satisfied with a certain fee increase in future, we will have to make efforts of lobbying and persuasion. In that case, who will be an easier target? A legislature with 60 Members from different political parties which is dominated on the whole by commercial and industrial interests? Mr Gordon SIU? The Secretary for Transport, especially in the physical presence of several hundred members of the public? I would certainly say that it will be a much easier task to negotiate with the Secretary for Transport. We may find it easier to convince and deal with the Secretary for Transport, because he does not have any conflict of interest. And, so far, this has been the only factor leading us to believe that the decisions made by the Hong Kong Government can be relatively free from any considerations of individual interests. This is precisely the merit of handing over the power of law execution to the Government after the Legislative Council has laid down the relevant policy. The process of law execution will involve negotiations with the companies of bus, minibus, taxi and ferry services; and, it will also involve negotiations with members of the public, Legislative Council Members and representatives of the people. In such a process, pressure groups will act as intermediaries who are trusted by all parties concerned. However, if the power of approving fee increases is handed over to the current Legislative Council, the Provisional Legislative Council or the future Legislative Council, then, very obviously, such negotiations will have to be conducted within the legislature itself or in this Chamber. That being the case, bus companies, taxi companies, ferry companies and the two railway corporations will all send their representatives to negotiate with the legislators. What is more, Honourable

Members may well find the entrance of the Legislative Council Building surrounded by several hundred people who show up to support the many organizations which approach the Council for negotiations. Can this mechanism of fee increase negotiations really look after the interests of different people? I think that it will be very difficult to conduct such a process of negotiations inside the legislative Chamber. Therefore, our discussions should aim at identifying and adopting the best possible mechanism. All of us agree that the Legislative Council should be vested with the authority to monitor public utilities. However, the ADPL opines that such authority should be limited to the formulation of a piece of legislation which lays down the policy required. The legislature simply should not take it upon itself to execute the laws concerned.

Second, we can foresee that in the decade to come, the Provisional Legislative Council or the future Legislative Council will be dominated by the industrial and commercial sectors. Therefore, we have come to the conclusion that the proposal of the Democratic Party will work against the interests of the grass roots.

Third, as far as negotiations are concerned, once they are conducted inside this Chamber, there will be no possibility of any compromise, and this will remain true, whether we are referring to negotiations with the management of public utility companies or with members of the public. If we really want these negotiations to bear any fruits, we must entrust the task to an agent without any vested interest, and that is the Hong Kong Government.

Finally, we believe that the setting up of a central transport management committee made up of representatives of the public, consumers, relevant professionals and members of the transport sector will enable us to have one more monitoring body and one more mechanism of checks and balances. This is a more integrated approach than leaving the task of law execution to the Government only.

With these remarks, I support the amendment moved by Dr the Honourable LAW Cheung-kwok.

MR SZETO WAH (in Cantonese): Mr President, I will not say whether I am "convinced", nor will I make any reference to a negation sign to show my dissatisfaction. Why? Because the whole argument is extremely muddled, to

the extent that it makes virtually no sense for one to describe it either as convincing or unconvincing. If I were really asked to describe this argument, I would use the adjective "woolly-headed", which is found in ZHENG Ban Qiao's frequently quoted expression "Being woolly-headed may not necessarily be so bad after all". Why is it that being "woolly-headed" may not necessarily be so bad after all? Well, to a genuinely woolly-headed, it is not difficult to be woolly-headed. However, to a person who is not actually woolly-headed but pretends to be so, we call it being woolly-headed, which is really difficult to attain.

Dr the Honourable LAW Cheung-kwok has expressed his reservation about handing over the power of approving fee increase applications to the Provisional Legislative Council. Is he in fact looking at the Provisional Legislative Council in very much the same way as Qin Shi Huang looked at his empire — a dynasty that would last forever? We know that the Provisional Legislative Council will be very short-lived, and it will not enjoy the power vested in it under this Bill forever. However, having expressed his reservation about handing over the power to the Provisional Legislative Council, Dr LAW went on to justify his own case by saying that the future Legislative Council will be no different from the Provisional Legislative Council. Is this not being woolly-headed? Besides, Dr LAW has also argued that the means to return Members to the future Legislative Council under the Basic Law is not democratic. However, I must ask him, "What about the Chief Executive? Is the method for selection in this case at all democratic?" We must note that the Chief Executive will be the head of the Government. Upon comparison, the future Legislative Council will be slightly better. Although the means to return its Members is not democratic, at least one-third of its Members are returned by direct elections. Although the system of multi-seat-single-vote or the system of proportional representation may be adopted, I mean, although there is bound to be a regressive step whatever the case may be, there will still be some directly elected Members in the future Legislative Council. Dr LAW trusts the Government. However, does he really believe that the Chief Executive will behave more democratically than the future Legislative Council, though it is also very undemocratic in itself? The Honourable Frederick FUNG has said that he trusts government officials, and that he has a liking for them. So

MR FREDERICK FUNG (in Cantonese): Mr President, I want to make a clarification later on. I have never said that I have any liking for government

officials.

MR SZETO WAH (in Cantonese): In that case, please make your clarification now.

PRESIDENT (in Cantonese): Mr Frederick FUNG, even if you think that your remarks have been misinterpreted, you are not allowed to make any clarification until after Mr SZETO wah has finished delivering his remarks. Are you saying that some of your remarks have been misinterpreted?

MR FREDERICK FUNG (in Cantonese): Yes.

PRESIDENT (in Cantonese): Mr SZETO wah, please go on.

MR SZETO WAH (in Cantonese): According to him, it is an easier job to negotiate with government officials and they will yield to pressure easily. However, it must be remembered that all government officials will be working under the charge of the Chief Executive, and if they really adhere to neutrality, the question of whether or not it is an easier job to negotiate with them simply should not exist. I am not going to discuss the specific details of the Bill, and I just want to comment that this is being woolly-headed in saying so.

PRESIDENT (in Cantonese): Mr Frederick FUNG, you have said that some of your remarks have been misinterpreted. Please point out these remarks and state what you originally intended to say. However, you are not permitted to introduce any new arguments and ideas.

MR FREDERICK FUNG (in Cantonese): Mr President, I have never said that I have any liking for government officials because such a liking should be a very subtle feeling. I have only said that government officials are not subject to the influence of any conflicts of interests and are thus neutral.

PRESIDENT (in Cantonese): Has Mr Frederick FUNG misinterpreted your remarks?

MR SZETO WAH (in Cantonese): Yes.

PRESIDENT (in Cantonese): What are these remarks?

MR SZETO WAH (in Cantonese): He did say that it was an easier job to negotiate with government officials, and I have never mentioned whether or not government officials are subject to the influence of any conflicts of interests.

PRESIDENT (in Cantonese): Mr SZETO wah, according to Mr Frederick FUNG, you alleged that he had a liking for government officials. And, he denied having mentioned anything about such a liking. However, this is only his side of the story, and his remaining remarks did seem to have gone beyond the original scope. Unless you are going to repeat his original wording, you However, since you have introduced new contents to your remarks, please sit down first.

MR SZETO WAH (in Cantonese): I want to emphasize once again that by "government officials", I mean those officials working under the Chief Executive.

SECRETARY FOR TRANSPORT (in Cantonese): Mr President, the Government cannot accept the motive behind the Bill moved by the Honourable LAU Chin-shek, nor can it agree to the contents of the Bill. The Government has thoroughly considered the justifications given by Mr LAU Chin-shek for moving the Bill. However, for the following reasons, it has concluded that it cannot accept these justifications.

First, Mr LAU claimed that in 1974, the Government introduced some changes to deprive this Council of its power to vet and approve bus fare increase applications. This is simply not true. Actually, since the very beginning, such a power has always been in the hands of the Executive Council.

Second, as mentioned by the Honourable Mrs Miriam LAU, the research findings of the Legislative Council itself indicate that, of all the six cities covered by the relevant research project, not even a single one adopts the practice of entrusting its legislature with the task of vetting and approving fare rise applications.

Third, are the existing standards of bus services in Hong Kong really too low? To answer this question, we need to look at the facts. The facts are that although there is still room for improvement in Hong Kong's bus services, they have been improving. Over the past five years, the four bus companies altogether have added 2 000 buses to their fleets, opened up 180 new routes and supplemented over 550 bus trips to their scheduled frequency. It is thus very obvious that the bus companies have all been working hard to improve their own services.

Regarding the issue of fare increases mentioned by the Honourable WONG Wai-yin, actually, over the past five years, although the accumulated inflation was as high as 45%, I am not saying that inflation is a benchmark, not even one single bus company had increased its fares at that rate during the period. The highest accumulated rate of fare increases was just 39%. This shows that our existing bus fare monitoring mechanism has been working very well.

Fourth, as rightly asked by the Honourable CHEUNG Hon-chung, is the monitoring of bus fare increases the only way to urge bus companies to improve their services? The answer is "in the negative". We have actually implemented some other measures which are even more effective, and their implementation should be allowed to continue. One example is to grant the operating rights to new bus route networks by way of open tenders. Another example is to promote equal and fair competition by introducing terms to this effect when bus franchises are renewed or granted for the first time. These measures are more effective than a simple monitoring of bus fare increases.

In view of the fact that the monitoring of ferry fare increases is undertaken by the Legislative Council, some Honourable Members have questioned why bus companies should be treated differently. Actually, ever since the very beginning, the Legislative Council has been entrusted with the task of vetting and approving ferry fare increases. However, for bus fare increases, the situation is

different. The Executive Council has all along been responsible for vetting and approving bus fare increases. Since agreements have been drawn up between the Government and the franchised bus companies, will it be fair to them if a new mechanism is suddenly put in place through legislative means during the contract periods? This question indeed warrants our serious consideration.

Mr President, since the standards of bus services in Hong Kong are by no means low; since our bus services have been improving constantly under the joint supervision of the Legislative Council, the community and the Government; since the rates of bus fare increases have never exceeded the inflation rate; since, as the Honourable Mrs Elizabeth WONG has rightly pointed out, bus fares and services are monitored by a team of professional officers in the Government; and, since the Government has already set up a highly transparent and autonomous body to monitor bus services, the Government really doubts whether there is still a need, at this stage, to impose any legislative control that will tamper with such a time-tested mechanism. For the reasons which I have just given, Mr President, the Government does not support the Bill.

MR MARTIN LEE (in Cantonese): Mr President, in the beginning of his remarks, the Secretary for Transport referred to the motive of the Honourable LAU Chin-shek. May I ask whether such a reference is in breach of Standing Orders?

PRESIDENT (in Cantonese): In accordance with Standing Orders, it is not allowed to "impute improper motives". In other words, it is not allowed to allege that a Member has improper motives.

MR MARTIN LEE (in Cantonese): Is it then implied that Mr LAU Chin-shek's motive is improper? If not, why has a reference to his motive made?

PRESIDENT (in Cantonese): "A Member shall not impute improper motives to another Member". In his remarks, the Secretary for Transport simply said that he could not accept the motive in question. However, he did not say what motive he was referring to, nor did he say whether such a motive was proper.

MR MARTIN LEE (in Cantonese): If a motive is proper, there should be no reason for refusal of acceptance. If a motive is improper, refusal of acceptance will be the result.

PRESIDENT (in Cantonese): Actually, as soon as the Secretary for Transport mentioned the word "motive", I already started to go through the relevant section in Standing Orders. I have ruled that the Secretary has not violated Standing Orders.

MR LAU CHIN-SHEK (in Cantonese): Mr President, first of all, I am very grateful to those of my colleagues who took part in the Bills Committee and who speak today. What is more, I would like to thank many of my colleagues who expressed their ideas with respect to the views I hold towards the Bill. I believe I am not going to repeat these. But whatever viewpoints and positions all of us hold, I would like to express my thanks to Members here. At the same time, it can be said that this reflects we are concerned with the supervision of public utilities.

I would like to point out that although the railway network has developed rapidly over the past two decades or so, franchised bus remains the major mode of transport in Hong Kong. In 1996, the average daily passenger man-times of the four franchised bus companies exceeded 3.75 million, accounting for more than one-third of the total passenger capacity of all public transport. The number was larger than the aggregate passenger man-times of the Mass Transit Railway, the Kowloon-Canton Railway and the Light Rail Transit. For the grass-roots in particular, the relatively inexpensive bus services are naturally their major mode of transport. Before putting forward my viewpoint, I would like to make some comments in response to the views expressed by some Members today. There are a few aspects that I would like to stress.

Some of my colleagues have mentioned, and I feel the same, that I have been opposing bus fare increases over the past 20-odd years. The most important point we should consider is that bus services are under profit control schemes. Of course, the profit control scheme of the China Motor Bus (CMB)

has been abolished recently. Likewise, the Kowloon Motor Bus (KMB) will also do away with its profit control scheme under the franchise agreement soon. I believe we are all aware that profit control schemes suffer a major defect. No matter whether a bus company is run or managed properly or whether the economy is good or not, its high profits are guaranteed by the public. Because of such profit control, I object to bus fare increases. At the same time, I would like to ask the authorities concerned to abolish this scheme, that is to say, to abolish the scheme under which the public is required to guarantee bus companies a high yield.

Today, the CMB is no longer subject to profit control. The KMB will also do away with it later. Based on the level of the services provided, the costs and the impact on the public, we will decide whether a fare increase is reasonable or not. Just as some Members have said, we will consider whether it is reasonable in determining whether we should approve bus fare increases. But I would like to ask a question one more time. If a fare increase is not reasonable, what are you going to do? What can I do? What can Members of the Legislative Council do? Are the problems going to be solved by just saying that they have been passed to the Transport Advisory Board or the Government? Some Members said that the rates of bus fare increases were lower than the cumulative inflation. But we should not forget that the bus companies are making money. Some bus companies even manage to make a big profit. Some people may say that I "consider fare increases unreasonable and making investments sinful". What is really happening then? The bus companies will definitely not loss money. The fact is they still ask for fare increases even though they are making a profit, and they do not even care whether the living standard of the public would be lowered as a result of this. Someone argued that the franchise agreements were still in existence and so we would be violating the agreements if we made changes. Nevertheless, I am still glad that he does not say that these agreements override this Council.

In fact, before putting forward this question today, I have raised a question in the Panel on Transport, "What will the Government do if the amendment Bill I move today is passed?" At that time, the Government's representative said that this was a hypothetical question, but this may not be the case today. Will the

Government tell me whether the relevant provisions will be amended without making any impact if the Bill is passed, while taking into account that the CMB and KMB franchises are not yet settled? I hope the Government can give me an explanation in this respect.

I would like to point out once again that we should separately consider the way to monitor private-run buses and public-run railway companies. I have listened very attentively to a debate held three weeks ago regarding a Bill put forward by Mr SIN Chung-kai in connection with the two railway operators. I was preparing to speak at that time but later I changed my mind. In my opinion, most of the arguments opposing the supervision of the three railway operators by way of subsidiary legislation are not applicable to the supervision of bus fares. For example, the two railway corporations quite often have to make huge investments and loans. But taking into account the scale of the bus companies, the scope for development, the needs for external borrowing and so on, they do not have to face the same problems of the two railway corporations.

As what I have always stressed, the arguments for monitoring private-run public utilities and monitoring public-run organizations are not the same. But basically, there are no great differences between franchised bus companies and other franchised private-run public transport companies. The Government should in fact adopt similar modes of supervision to show that all private-run public transport organizations are subject to policies of the same degree of strictness. Under existing legislation, all fare adjustments in relation to franchised ferry companies, tram companies and even taxis are subject to the approval of the Governor in Council, and will then be presented to this Council, which is empowered to amend the decision made by the Executive Council, by way of subsidiary legislation for scrutiny. It can be said that the Bill only aims at standardizing the mechanisms for adjusting fares for all private-run public transport at the policy level. In fact, even if the Bill before us is passed, it will not lead to substantial changes as the power to determine bus fare increases still lies with the Executive Council. The Legislative Council will be exercising its monitoring power only, just as it needs to handle hundreds pieces of subsidiary legislation involving governmental policies and the supervision of private-run organizations each year. If someone considers it to be an infringement of the executive power if the Legislative Council is given the power to amend the decision made by the Government, he is trying to politicizing the issue. In the past, we made repeated attempts to amend the Government's subsidiary legislation by resolution. Should such attempts be regarded as unnecessary and

unreasonable?

There are also some people who hold the view that the purpose of presenting bus fare increases to this Council for scrutiny is to force the bus companies to table to this Council various kinds of confidential financial information, and this is in violation of commercial principles. I would like to ask a question. As the present fare increases of ferry companies are subject to the supervision of this Council, does this mean that the two ferry companies have no commercial secret at all? I believe our past experiences have clearly shown that even if the fare increases of ferry companies need to be scrutinized by this Council, no negative impacts whatsoever have been made on the commercial confidentiality of the companies. More importantly, the Secretary for Transport clearly pointed out three weeks ago that the Government would not alter its mechanism for fare increases in respect of ferries. I believe my colleagues in this Council would not destroy what they have accomplished. Under such circumstances, I think the Government should standardize the fare increase mechanism for both buses and ferries at the policy level so as to prevent the ferry companies from thinking that the Government is discriminating against one and favouring the other.

Last week, Mr CHAN Cho-chak, the Managing Director of the KMB, admitted publicly that the political reason for the KMB's failure to submit bus fare applications early this year in the same way as what it did in the past few years was that the KMB was scared by the Bill. Mr CHAN even compared the presentation of the Bill by me to someone trying to chop him with a knife. In my opinion, no matter why the KMB broke away from its past practices of asking for fare increases at the beginning of the year, what the KMB did at least reflects two points. Firstly, the bus company does not necessarily need to raise fares every year. We do not see that it will encounter any operational difficulties even if there is no fare rise. Secondly, what Mr CHAN has said shows that this Council can indeed produce some effects on the supervision of bus fare increases.

I would also like to take this opportunity to respond to the amendment moved by Dr LAW Cheung-kwok. In my opinion, neither the Government, the Executive Council nor the Legislative Council should use inflation as the single factor in considering whether the fare increases of franchised buses are reasonable or not. There are two principles which are quite important. To start with, I believe no one will support the bus companies raising fares every

year in line with inflation when the companies are making huge profits. Furthermore, bus fares are the main public expenditure items for the public in general. If the bus companies raise fares every year in line with inflation, it will only further lift inflation which has already remained at a high level over recent years. Subsequently, the inflation rate will continue to stand high, thereby leading to a vicious cycle. At present, when the Government considers bus fare increases, it will consider inflation as well as such other factors as the quality of services, the degree of the public's satisfaction with the services, profit-making of the companies, the future development and financial forecast of the companies, the affordability of the public and so on. As such, asking the bus companies to cap their fare increases below inflation will send a wrong message to the public, who will think that an increase below inflation is going to be reasonable. For instance, in 1996, the KMB asked for an average increase of 8.5%, which was lower than the inflation rate of 8.7% for that year. Nevertheless, the rate of increase finally approved by the Government was 7%. It was even more ridiculous that, after the increases applied for were slashed, the KMB recorded in the same year a rate of return for the fixed asset profit which was higher than the 16% approved profit. Last year, the average increase for the KMB was drastically reduced to 3% by the Government. But at the end, the company still recorded a high rate of profit. Basically, we should not accept the thinking that an increase lower than inflation should not be subject to query. In fact, there is a certain degree of temptation in the amendment moved by Dr LAW Cheung-kiok to me because it has stated clearly that fare increases higher than inflation will not be allowed. Yet I have the following scenario in mind. We allow a bus company which is making a big profit to raise its fares while the inflation rate ranges from 10% to 20%. On the other hand, we turn down a proposal put forward by a bus company for a fare increase of 3% as the inflation rate is 2%, in spite of the fact that the company is not improperly operated or managed. Is it appropriate? Under such circumstances, I still hold that I should choose to object to his amendment.

Mr President, the Bill moved by me aims only at mapping out a reasonable rule for the game. As regards whether each increase is reasonable and whether this Council should make amendments, it is imperative for us to discuss the matters in specific terms case by case. With these remarks, I urge Members to support my Bill. Thank you.

Question on the Second Reading of the Bill put.

Voice vote taken.

Mr LAU Chin-shek claimed a division.

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

PRESIDENT (in Cantonese): I would like to remind Members that they are now called upon to vote on the question that the Public Bus Services (Amendment) Bill 1996 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?

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

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

Mr Allen LEE, Mrs Selina CHOW, Dr David LI, Mr NGAI Shiu-kit, Mr LAU Wong-fat, Mr Edward HO, Mr Ronald ARCULLI, Mrs Miriam LAU, Dr LEONG Che-hung, Mr Eric LI, Mr Henry TANG, Dr Philip WONG, Mr Howard YOUNG, Miss Christine LOH, Mr James TIEN, Mr CHAN Kam-lam, Mr CHAN Wing-chan, Miss CHAN Yuen-han, Mr Paul CHENG, Mr CHENG Yiu-tong, Mr CHEUNG Hon-chung, Mr CHOY Kan-pui, Mr David CHU, Mr IP Kwok-him, Mr Ambrose LAU, Mr LEE Kai-ming, Mr LO Suk-ching, Miss Margaret NG, Mr NGAN Kam-chuen and Mrs Elizabeth WONG voted against the motion.

THE PRESIDENT announced that there were 27 votes in favour of the motion and 30 against it. He therefore declared that the motion was negatived.

PRESIDENT (in Cantonese): As the Second Reading of the Public Bus Services (Amendment) Bill 1996 was negatived, Council will not conduct further proceedings in respect of the Bill.

ADJOURNMENT AND NEXT SITTING

PRESIDENT (in Cantonese): In accordance with Standing Orders, I now adjourn the Council until 11.30 am tomorrow, that is 19 June 1997.

Adjourned accordingly at twenty-seven minutes past One o'clock.

Annex XI

HONG KONG ST. JOHN AMBULANCE INCORPORATION BILL

COMMITTEE STAGE

Amendments to be moved by Dr the Honourable
Edward LEONG Che-hung, O.B.E., J.P.

ClauseAmendment Proposed

6

By adding -

"(3) (a) The production of a Government Printer's copy of this Ordinance shall, for all purposes, be conclusive evidence of the vesting and transfer of any property and liabilities of the Institution in the Corporation in accordance with the provisions of this Ordinance.

(b) Without prejudice to the generality of paragraph (a) -

(i) any deed or other document made or executed on or after the commencement of this Ordinance, whereby the Corporation or the Institution, whether alone or jointly with any other person, conveys or transfers, or purports to convey or transfer, to any person (whether for consideration or not), or applies to be registered as the holder or proprietor of, any property held by the Institution immediately before the commencement of this Ordinance, whether alone or jointly with any other person, shall be sufficient evidence that the interest of the Institution in that property is deemed to be vested in the Corporation under this Ordinance;

ClauseAmendment Proposed

- (ii) where there is any other transaction or purported transaction by the Institution or the Corporation on or after the commencement of this Ordinance in connection with, or in relation to, any property or liabilities which are the property or liabilities of the Institution immediately before that commencement, it shall be deemed in favour of any other party to the transaction, or any person claiming through or under him, that the Corporation has full power and authority for that transaction as if the property or liabilities were deemed to be vested in it under this Ordinance;
- (iii) a certificate given by or on behalf of the Corporation at any time that any property or liability specified in the certificate (which property or liability immediately before the commencement of this Ordinance is the property or liability of the Institution) is or, as the case may be, is not, deemed to be vested in the Corporation under this Ordinance, shall be conclusive evidence for all purposes of the fact so certified;
- (iv) in this paragraph "convey" includes mortgage, charge, lease, assent, vest by way of vesting declaration or vesting instrument, disclaim, release or otherwise assure.

- (c) The Corporation shall register or cause to be registered in the Land Registry a Government Printer's copy of this Ordinance in respect of the vesting of the properties of the Institution in the Corporation.

(4) The vesting in the Corporation of an interest in land by virtue of this Ordinance shall not -

- (a) constitute the acquisition, assignment, transfer or parting with possession of that interest for the purposes of section 53(4)(a) or (7)(a), 119E(2) or 119H(1)(a) of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7); or
- (b) operate so as to merge any leasehold interest in the reversion expectant on it; or
- (c) constitute an assignment, transfer, devolution, parting with possession, dealing with or other disposition of that interest for the purposes of any provision contained in any instrument concerning or affecting that interest; or
- (d) operate as a breach of covenant or condition against alienation; or
- (e) give rise to any forfeiture, damages or other right of action; or
- (f) invalidate or discharge any contract or security."

9 By adding -

- "(3) (a) All books and other documents which would, before the commencement of this Ordinance, have been evidence in respect of any matter for or against the Institution shall be admissible in evidence in respect of the same matter for or against the Corporation.
- (b) In this section "documents" (文件) has the same meaning as in section 55 of the Evidence Ordinance (Cap. 8).".

Schedule By deleting items 4,5, 6 and 7 and substituting -

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| "4. | Fanling Sheung Shui
Town Lot No. 111 | New Grant No. 12450 |
| 5. | Princess Margaret
Road Ambulance Depot | Crown Land Permit No.
KW K0642 |
| 6. | St. John Hospital,
Cheung Chau Lot No.
789 and the
Extension Thereto | New Grant No. 1793
New Grant No. 1982 |
| 7. | St. John War
Memorial at Wong
Nei Chong Gap Road | Licence dated 3
December 1992;
Licence Agreement
No. DLO/HW NH-0073". |