

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 26 November 1997

The Council met at half-past Two o'clock

MEMBERS PRESENT:

THE PRESIDENT

THE HONOURABLE MRS RITA FAN, J.P.

THE HONOURABLE WONG SIU-YEE

THE HONOURABLE JAMES TIEN PEI-CHUN, J.P.

THE HONOURABLE DAVID CHU YU-LIN

THE HONOURABLE HO SAI-CHU, J.P.

THE HONOURABLE EDWARD HO SING-TIN, J.P.

DR THE HONOURABLE RAYMOND HO CHUNG-TAI, J.P.

THE HONOURABLE NG LEUNG-SING

PROF THE HONOURABLE NG CHING-FAI

THE HONOURABLE ERIC LI KA-CHEUNG, J.P.

DR THE HONOURABLE DAVID LI KWOK-PO, J.P.

THE HONOURABLE LEE KAI-MING

THE HONOURABLE ALLEN LEE, J.P.

THE HONOURABLE MRS ELSIE TU, G.B.M.

THE HONOURABLE MRS SELINA CHOW, J.P.

THE HONOURABLE MRS PEGGY LAM, J.P.

THE HONOURABLE HENRY WU

THE HONOURABLE NGAI SHIU-KIT, J.P.

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

THE HONOURABLE RONALD ARCULLI, J.P.

THE HONOURABLE YUEN MO

THE HONOURABLE MA FUNG-KWOK

THE HONOURABLE CHEUNG HON-CHUNG

DR THE HONOURABLE MRS TSO WONG MAN-YIN

THE HONOURABLE LEUNG CHUN-YING, J.P.

DR THE HONOURABLE LEONG CHE-HUNG, J.P.

THE HONOURABLE MRS SOPHIE LEUNG LAU YAU-FUN, J.P.

THE HONOURABLE MOK YING-FAN

THE HONOURABLE HUI YIN-FAT, J.P.

THE HONOURABLE CHAN CHOI-HI

THE HONOURABLE CHAN YUEN-HAN

THE HONOURABLE CHAN WING-CHAN

THE HONOURABLE CHAN KAM-LAM

THE HONOURABLE TSANG YOK-SING

THE HONOURABLE CHENG KAI-NAM

THE HONOURABLE FREDERICK FUNG KIN-KEE

THE HONOURABLE ANDREW WONG WANG-FAT, J.P.

DR THE HONOURABLE PHILIP WONG YU-HONG

THE HONOURABLE KENNEDY WONG YING-HO

THE HONOURABLE HOWARD YOUNG, J.P.

DR THE HONOURABLE CHARLES YEUNG CHUN-KAM

THE HONOURABLE YEUNG YIU-CHUNG

THE HONOURABLE IP KWOK-HIM

THE HONOURABLE CHIM PUI-CHUNG

THE HONOURABLE BRUCE LIU SING-LEE

THE HONOURABLE LAU KONG-WAH

THE HONOURABLE LAU WONG-FAT, J.P.

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

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

THE HONOURABLE CHOY KAN-PUI, J.P.

THE HONOURABLE PAUL CHENG MING-FUN, J.P.

THE HONOURABLE CHENG YIU-TONG

DR THE HONOURABLE TANG SIU-TONG, J.P.

THE HONOURABLE TIMOTHY FOK TSUN-TING

THE HONOURABLE KAN FOOK-YEE

THE HONOURABLE NGAN KAM-CHUEN

THE HONOURABLE LO SUK-CHING

DR THE HONOURABLE LAW CHEUNG-KWOK

THE HONOURABLE TAM YIU-CHUNG, J.P.

THE HONOURABLE CHOY SO-YUK

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE ELSIE LEUNG OI-SIE, J.P.
SECRETARY FOR JUSTICE

MR NICHOLAS NG WING-FUI, J.P.
SECRETARY FOR TRANSPORT

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

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

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

MR KWONG KI-CHI, J.P.
SECRETARY FOR THE TREASURY

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

MR TAM WING-PONG, J.P.

SECRETARY FOR TRADE AND INDUSTRY

CLERKS IN ATTENDANCE:

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

MS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

PAPERS

The following papers were laid on the table pursuant to Rule 21(2) of the Rules of Procedure:

Subject

Subsidiary Legislation	<i>L.N. No.</i>
Legislative Council (Registration of Electors) (Appeals) Regulation	541/97
Human Organ Transplant Regulation.....	551/97
Family Status Discrimination Ordinance (91 of 1997) (Commencement) Notice 1997	552/97
Family Status Discrimination (Proceedings by Equal Opportunities Commission) Regulation (L.N. 497 of 1997) (Commencement) Notice 1997	553/97
District Court Equal Opportunities (Amendment) Rules 1997 (L.N. 464 of 1997) (Commencement) Notice 1997	554/97
Labour Tribunal (General) (Amendment) Rules 1997 (L.N. 465 of 1997) (Commencement) Notice 1997	555/97

Sessional Papers

- No. 40 - The Hong Kong Industrial Estates Corporation
Annual Report 1996-97
- No. 41 - Hong Kong Industrial Technology Centre Corporation
Annual Report 1996-97

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. Question time shall not exceed one and a half hours. Therefore, the time allocated to each question seeking an oral reply shall be on average about 15 minutes. I hope that Members will co-operate by asking concise supplementary questions, avoiding unnecessary preambles, and by asking only one supplementary question at a time. I will do my best to control the time and will enforce the rules strictly. First question. Prof NG Ching-fai.

Setting up of a High Level Committee to Develop High-Tech Industries

1. **PROF NG CHING-FAI** (in Cantonese): *The Chief Executive pointed out in his policy address that he would set up a high level committee of academics, industrialists, businessmen and government officials to advise him on the steps Hong Kong should take and the institutional arrangements needed to turn technological development into commercial products. In this regard, will the Government inform this Council:*

- (a) *when the Chief Executive will appoint members of the committee;*
- (b) *when the committee will hold its first meeting to outline its future work direction in detail;*
- (c) *of the arrangement that will be made regarding the transparency and accountability of the committee; and*
- (d) *whether the Administration will encourage the committee to communicate with the relevant committees of this Council?*

PRESIDENT (in Cantonese): Secretary for Trade and Industry.

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam President, I will answer Prof NG Ching-fai's questions one by one.

- (a) First, membership. The Chief Executive has requested Prof YANG Chen-ning to chair the new committee and Prof YANG has kindly agreed. We are now discussing with Prof YANG the membership, terms of reference and other matters relating to the setting up of the committee. We hope to be able to finalize the details in the very near future.
- (b) Second, the first meeting. We would like to have the committee in operation as soon as we finalize the details regarding the membership, terms of reference and related matters. However, we do not have a firm date for the first meeting yet.
- (c) Third, transparency and accountability. The committee will be fully accountable to the Chief Executive and, in line with the standard government practice, operate in the most open and transparent manner.
- (d) Fourth, liaison with the legislature. When established, the committee will decide how it will conduct its work and discharge its tasks. I am sure, even without the Administration's prompting, the committee will seek to maintain close communication with not only the Provisional Legislative Council or in future, the Legislative Council, but with all interested organizations inside and outside Hong Kong as well. As to how it will be done, we will have to leave it to the committee.

PRESIDENT (in Cantonese): Prof NG Ching-fai.

PROF NG CHING-FAI (in Cantonese): *Thank you, Madam President. I would just like to ask a very simple follow-up question. As far as I know, Professor YANG is going to undergo an operation, I wonder if that would affect the progress of this plan.*

PRESIDENT (in Cantonese): Secretary for Trade and Industry.

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam President, we all wish Prof YANG an early recovery. *(Laughter)*

PRESIDENT (in Cantonese): Mr NGAI Shiu-kit.

MR NGAI SHIU-KIT (in Cantonese): *Madam President, the industry and commercial sector is particularly concerned about the setting up of this committee. I would like to ask the Secretary whether the academics will represent a bigger proportion in the membership of the committee, or members of the industry and commercial sector will; or it is not yet decided.*

PRESIDENT (in Cantonese): Secretary for Trade and Industry.

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam President, I have already mentioned in my main reply that we are still discussing with Professor YANG Chen-ning the details involved. If Members are interested in the details, we will inform the relevant committees or panels as soon as they are finalized.

PRESIDENT (in Cantonese): Next question. Dr TSO WONG Man-yin.

Radiation Level of Imported Precious Stones

2. **DR TSO WONG MAN-YIN** (in Cantonese): *Madam President, it is reported that some irradiated cat's-eye gemstones are found in Thailand with a radiation level exceeding about 50 times the safety limit set by the United States and about 25 times the statutory safety limit of Hong Kong. Since Hong Kong also imports cat's-eye gemstones and if these irradiated gemstones find their way into Hong Kong, it will be a threat to public health. In this regard, will the Government inform this Council, other than requiring the importers of these irradiated gemstones or minerals to report their radiation level to the Customs and Excise Department, whether it has any measures to prevent semi-gemstones or other minerals with excessively high radiation level from being imported into Hong Kong?*

PRESIDENT (in Cantonese): Secretary for Trade and Industry.

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam President, Dr TSO WONG Man-yin is concerned that irradiated cat's-eye gemstones with excessive radiation level harmful to human beings might be imported into Hong Kong. In my answer, I shall try to outline generally how importation of radioactive substances is handled by government departments concerned, with special reference to cat's-eye gemstones.

The importation of radioactive substances into Hong Kong is controlled under the Import (Radiation) (Prohibition) Regulations of the Import and Export Ordinance, and the manufacturing, selling, possession or use of such substances are controlled under the Radiation Ordinance.

Under the Radiation Ordinance, any substance the radioactivity per gram of which exceeds 75 bequerels of parent radioactive chemical element is defined as radioactive substance, and must be subject to the control of the Ordinance. This definition is made in accordance with the standard laid down by the International Atomic Energy Agency for the purpose of controlling radioactive substances to ensure that the public's exposure to radiation can be kept at the

lowest level reasonably achievable. Hong Kong and the United States adopt the same definition of radioactive substance. Therefore we are not certain why any radioactive substance could be 50 times the United States standard and 25 times that of Hong Kong at the same time, as described in the report. This is being looked into by relevant government departments.

Anyone wishing to import radioactive substance into Hong Kong must first obtain a Radioactive Substance Licence from the Radiation Board chaired by the Director of Health. The Radioactive Substance Licence, the issuance of which is based on justifiable use and specific safety criteria, specifies the types and quantity of radioactive substance the holder may import. On the basis of the Radioactive Substance Licence, the Director-General of Trade will issue an import licence authorizing the importation of the substance. The Customs and Excise Department conducts consignment inspections on selected import licences to ensure compliance with the licensing conditions. Unlicensed importation of radioactive substances and violation of the licensing conditions is an offence liable on conviction to a fine of \$10,000 or imprisonment of one year.

Natural gemstones, including cat's-eye (chrysoberyl), are normally not radioactive. Irradiated gemstones which are processed under proper procedures are normally safe for use. We have learned from a Reuters report about a laboratory report in Thailand that some irradiated cat's-eye gemstones are of excessive radioactive level. We have not been able to obtain a copy of the laboratory report in question and are, therefore, not sure about the extent of the problem. We have not received any similar report from other relevant international agencies either. However, in view of public concern over the importation of hazardous irradiated gemstones, the Trade Department will remind the relevant associations of jewellery importers/manufacturers to ensure that the gemstones they wish to import do not exceed the level of 75 bequerels of parent radioactive chemical element per gram of substance, or they will have to apply for licences for their importation which, because of public health reasons, will not normally be granted. The Customs and Excise Department will remain vigilant on the importation of such gemstones, and will conduct random checks on imported gemstones to prevent illegal importation. There is no need for the ordinary consumers to worry, but in case of doubt, they should seek the expert advice of gemologists.

PRESIDENT (in Cantonese): Dr TSO WONG Man-yin.

DR TSO WONG MAN-YIN (in Cantonese): *Madam President, gemologists may not be very clear about the hazard of radiation. I would like to ask whether the Administration has given guidelines to the industry telling them how to handle goods that are suspected to be hazardous.*

PRESIDENT (in Cantonese): Secretary for Trade and Industry.

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam President, after learning of this report, the Administration has already alerted the importers of jewellery and they are also very willing to examine the jewellery that they have imported in the hope that they would not unknowingly import gemstones exceeding the approved hazard level. On the other hand, we have already asked the Director-General to issue notices to remind all jewellery importers that they should be alert to the importance of this problem so that all relevant Hong Kong ordinances will be complied with concerning the importation of jewellery.

PRESIDENT (in Cantonese): Mr Howard YOUNG.

MR HOWARD YOUNG (in Cantonese): *Madam President, the Government has mentioned in the last paragraph of the main reply that random checks on imported gemstones will be conducted. Will the Government inform this Council whether it has conducted similar checks on gemstones before and whether there has been any record of imports exceeding 75 bequerels per gram?*

PRESIDENT (in Cantonese): Secretary for Trade and Industry.

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam President, we have never received any report about gemstones harmful to human health and have therefore never conducted checks on gemstones on account of this reason before.

PRESIDENT (in Cantonese): Mr Howard YOUNG.

MR HOWARD YOUNG (in Cantonese): *Madam President, it was mentioned in the main question that the radiation level of the substance was 50 times of the United States standard and at the same time 25 times that of Hong Kong, the figures seem to show that the standard of Hong Kong is only half of that of the United States. As regards this standard, does the Government consider the present standard acceptable to the international community, or should it be revised?*

PRESIDENT (in Cantonese): Mr Howard YOUNG, the Secretary already said that the standard adopted by Hong Kong is the same as that by the United States and therefore he was not sure why there would be such a difference. Nevertheless, the Secretary may have something to add.

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam President, I have already said in the main reply that we do not understand why, while we have adopted the same standard as that of the United States, tests could produce different results for the same substance. I have already consulted the experts in our department on this and they wish to continue to look into the matter and see whether there is some mistake with the press report or there is misinterpretation of the text.

PRESIDENT (in Cantonese): Next question. Mr CHENG Yiu-tong.

Employment of Temporary and Short-Term Staff by the Government

3. **MR CHENG YIU-TONG** (in Cantonese): *Regarding the employment of temporary and short-term staff in the Civil Service, will the Government inform this Council of:*

- (a) *the respective numbers of these two categories of staff;*
- (b) *the department from which such staff can seek assistance in the event of employment disputes with the Government; and*
- (c) *the existing principles according to which a temporary post or short-term post is changed into a post of permanent and pensionable establishment?*

PRESIDENT (in Cantonese): Secretary for the Civil Service.

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Madam President,

- (a) As at 1 November 1997, the Government employed about 5 200 temporary staff and about 100 staff under contracts of less than one year duration.
- (b) The terms and conditions of service for temporary staff and short-term contract staff are laid down in their appointment letters or contracts. In the event of employment disputes, the staff should approach their Departmental Secretaries in the first instance. If the matter cannot be resolved within the department, staff may approach the Civil Service Bureau for assistance.
- (c) Temporary and other short-term staff are normally employed to meet short term staffing needs. Where staffing resources are required for full-time duties on a long-term basis, permanent posts on the departmental establishment should be created.

PRESIDENT (in Cantonese): Mr CHENG Yiu-tong.

MR CHENG YIU-TONG (in Cantonese): *Madam President, the Administration stated in part (b) of the main reply that in the event of employment disputes, the staff concerned could approach the Civil Service Bureau for assistance.*

However, according to a dispute case recently dealt with by the Hong Kong Federation of Trade Unions (HKFTU) concerning Interpreters for Vietnamese boat people, we discovered that these temporary staff are neither protected under the existing Employment Ordinance nor under the Civil Service Regulations. We approached two different departments for assistance, but none of the departments was willing to take up the case. Under such circumstances, we would like to ask the Administration, whether there is any legislation to protect the interests of these temporary staff.

PRESIDENT (in Cantonese): Secretary for the Civil Service.

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Madam President, it is specified in the terms and conditions of service for temporary staff that they are protected under the Employment Ordinance. Therefore, all disputes concerning temporary staff should be settled in accordance with the provisions of the Employment Ordinance.

PRESIDENT (in Cantonese): Mr LEE Kai-ming.

MR LEE KAI-MING (in Cantonese): *Madam President, in reply to part (a) of the main question, it was stated that the Government employed about 5 200 temporary staff. Of the 5 200 temporary staff, how many of them have been able to have their contracts renewed, and what is the longest duration for the renewed contracts?*

PRESIDENT (in Cantonese): Secretary for the Civil Service.

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Madam President, for the 5 200 temporary staff, the question of contract renewal does not exist because basically they are employed on a temporary basis. In addition to the temporary staff, at present there are about 100 staff employed under short-term contracts of less than one year duration. Most short-term contract staff are in the employment of the Hong Kong Police Force and Radio Television Hong

Kong, engaging in ad hoc duties or special projects, for example, providing expert advice or helping with programming and so on. In view of the special circumstances of Radio Television Hong Kong, some programme officers may be employed for a longer period of time on a programme by programme basis.

PRESIDENT (in Cantonese): Mr LEE Kai-ming, do you wish to ask a follow-up question?

MR LEE KAI-MING (in Cantonese): *Madam President, my question has not been answered. My question is, of those working under short-term contracts, what is the longest duration for their employment?*

PRESIDENT (in Cantonese): Secretary for the Civil Service.

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Madam President, I must clarify that although it may be necessary to employ temporary staff for a longer period of time, the question of contract renewal does not exist. In other words, they are only employed on a temporary basis for a longer period of time. I do not have data on the longest duration for the employment of temporary staff on hand. If the Honourable LEE Kai-ming requires such data, I will provide him with a written reply. (Annex I)

PRESIDENT (in Cantonese): Mr CHENG Yiu-tong.

MR CHENG YIU-TONG (in Cantonese): *Madam President, in reply to my question, the Secretary for the Civil Service said temporary staff are protected under the Employment Ordinance. But in fact, when we sought assistance from the Labour Department for the Vietnamese Interpreters, we were told that they were civil servants, and their case would not be handled by the Labour Department. Therefore, it seems that what the Secretary said was not correct. I would like to ask whether there is any legislation to protect these temporary staff and which Government department is responsible for handling their complaints.*

PRESIDENT (in Cantonese): Secretary for the Civil Service.

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): It was clearly laid down in the conditions and terms of service for temporary staff that they are protected under the Employment Ordinance. In view of what the Honourable CHENG Yiu-tong has said, I will follow-up this matter with the Labour Department to find out what really happened. (Annex II)

PRESIDENT (in Cantonese): Mr CHAN Wing-chan.

MR CHAN WING-CHAN (in Cantonese): *Madam President, the Honourable CHENG Yiu-tong pointed out that Vietnamese Interpreters had lodged complaints with the HKFTU. These Interpreters have generally worked for the Government for more than 10 years, but they are still employed on a day-to-day basis. I want to ask the Administration why these Interpreters are employed on a day-to-day basis. Is the Administration trying to avoid long service payments?*

PRESIDENT (in Cantonese): Secretary for the Civil Service.

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Madam President, the case of Vietnamese Interpreters is a rather exceptional case. Although we are aware that some Vietnamese Interpreters have worked for the Government for a long period of time, the Correctional Services Department can not tell definitely how long their services will be required or accurately assess the demand for such services. That is why Vietnamese Interpreters are employed on a temporary basis for a longer period of time, but this has all been clearly laid down in their terms and conditions of service.

PRESIDENT (in Cantonese): Mr IP Kwok-him.

MR IP KWOK-HIM (in Cantonese): *I wish to follow-up on the Honourable CHAN Wing-chan's question. The Secretary for the Civil Service pointed out in part (c) of his reply that when staffing resources were required for full-time duties on a long-term basis, permanent posts on the departmental establishment would be created. The Vietnamese Interpreters who we are talking about have worked in the refugee camps for 10-odd years. I want to know that why a period of 10 years is not considered long term staffing needs, and why these duties have to be undertaken by temporary or short-term contract staff. Does that go against what the Secretary said? Could the Secretary please clarify?*

PRESIDENT (in Cantonese): Secretary for the Civil Service.

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Madam President, I have explained earlier that the case of Vietnamese Interpreters is rather exceptional because the Government's stance has always been to solve the issue of Vietnamese boat people as soon as possible. Furthermore, they are a special group of interpreters, quite unlike other staff in our employment. For other staff, we can be surer when we employ them for a longer period of time because they can be transferred to other posts upon the completion of their short-term jobs. That is why we would employ them on permanent and pensionable terms whenever possible and we would sometimes ask the departments to do so. However, I believe that Members are also aware that the duties undertaken by Vietnamese Interpreters are very special. If the problem of Vietnamese boat people is resolved or when the number of Vietnamese boat people dropped drastically, the services of these Interpreters will not be required. If these Interpreters are employed on permanent and pensionable terms, we may eventually have to make high severance payments when their services are no longer required. I believe that Members would agree that this is an inappropriate arrangement both from the government administration and fiscal management points of view.

PRESIDENT (in Cantonese): Mr WONG Siu-yee.

MR WONG SIU-YEE (in Cantonese): *Are temporary and contract staff of the Government subject to the discipline or legislation governing the Civil Service?*

PRESIDENT (in Cantonese): Secretary for the Civil Service.

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Since temporary and contract staff are not civil servants, they are not subject to the provisions of the Civil Service Regulations. However, it will be clearly laid down in their terms and conditions of service that their conduct and discipline should be up to the standard normally expected of civil servants.

PRESIDENT (in Cantonese): Mr CHIM Pui-chung.

MR CHIM PUI-CHUNG (in Cantonese): *Since a lot of students will be employed in the coming voter registration exercise, I would like to ask the Secretary for the Civil Service that on what terms and conditions the students will be employed. And whether they will be protected under the relevant legislation.*

PRESIDENT (in Cantonese): Secretary for the Civil Service.

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Madam President, I regret that I cannot answer this question today. I think it should be up to the Secretary for Home Affairs to decide the terms and conditions of service for these students. He should be in a better position to answer this question. However, I would be more than happy to get in touch with the Secretary for Home Affairs, and give the Honourable CHIM Pui-chung a reply. (Annex III)

PRESIDENT (in Cantonese): Mrs Peggy LAM.

MRS PEGGY LAM (in Cantonese): *Madam President, would the Secretary for the Civil Service tell us what the annual expenditure of the Government for the 5 200 temporary staff is and on what basis their salary is determined?*

PRESIDENT (in Cantonese): Secretary for the Civil Service.

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Madam President, we do not have centrally kept statistics on the amount of money spent every year on wages of temporary staff. We fully authorize Department Heads to employ temporary staff for their respective departments with their own resources, and there is no need for central co-ordination in this respect. Moreover, as it is not necessary to create civil service posts, we do not have centrally kept statistics on such posts. The duration for the employment of temporary staff may also greatly vary from a few weeks to one year, but the salary of temporary staff must be similar to the entry point of civil servants undertaking similar duties.

PRESIDENT (in Cantonese): Mr Howard YOUNG.

MR HOWARD YOUNG: *Madam President, in his reply, the Government said that there were about 100 staff under contracts of less than one year and 5 200 temporary staff. Should that be taken to mean that the so-called temporary staff normally have a duration of employment in excess of one year? Does the Government mark out a certain period of time beyond which a temporarily employed staff should automatically be converted to a permanent post?*

PRESIDENT: Secretary for the Civil Service.

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Madam President, perhaps I should have made myself clearer. For cases where the temporary staff are employed under a short-term contract, and where contracts are in excess of one year, the Civil Service Bureau would request the department concerned to employ those staff on normal government contracts, that is on contracts for a duration of two-and-a-half to three years. If the duration of the contract is less than one year, staff employed under such contracts will be regarded as short-term staff. In cases where staff are employed on a temporary basis, we do not have specific requirements on the maximum or minimum duration of their service. The duration of service for temporary staff depends on the nature of their work.

PRESIDENT (in Cantonese): Mr IP Kwok-him.

MR IP KWOK-HIM (in Cantonese): *Madam President, the Secretary for the Civil Service has repeatedly mentioned that the post of Vietnamese Interpreter is special. I hope that the Secretary could provide us with some more information on such kind of special posts. Are there any other such posts on the civil service establishment at the moment? If yes, how many such posts are there?*

PRESIDENT (in Cantonese): Secretary for the Civil Service.

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Madam President, it is necessary for the Government, especially for some government departments, for example, the two municipal services departments, to employ temporary staff on a long-term basis because of the specific nature of the work of these departments. Take for instance, ushers who are only required to work at night when there are performances; or lifeguards who are only required to work in the summer when beaches and swimming pools are opened; or assistants in certain libraries or ticket offices and so on. While these are all recurrent duties of the two municipal services departments, it is not necessary for them to employ a large number of staff throughout the year. That is why these two departments have to employ temporary staff on a long-term basis.

PRESIDENT (in Cantonese): Next question, Mr CHOY Kan-pui.

Complaints and Crimes Related to Debt Collecting Agencies

4. **MR CHOY KAN-PUI** (in Cantonese): *In respect of companies engaging in debt collection, will the Government inform this Council:*

- (a) *of the total number of companies registered as debt collection companies in Hong Kong over the past three years;*
- (b) *of the total number of complaints received by the authorities in the past three years against debt collecting and debt recovering activities of the companies; the nature of such complaints and the total number of cases which led to prosecution and conviction; and*
- (c) *whether it will consider strengthening the regulation and control of such companies through legislation?*

PRESIDENT (in Cantonese): Secretary for Security.

SECRETARY FOR SECURITY (in Cantonese): Madam President,

- (a) The Administration do not keep separate statistics on the total number of companies currently engaged in debt collecting business in Hong Kong.
- (b) There were a total of 1 860 reported police cases relating to debt collection agencies during the three-year period from November 1994 to October 1997. Among them, the three most common debt collection tactics reported were (1) "painting or posting repayment demands at entrance to the debtor's home or its vicinity", (2) "repeated phone calls to the debtor's home or work place" and (3) "damaging the debtor's premises". The police prosecuted a total of

438 persons involved in these cases with 158 convicted.

- (c) There are adequate provisions under the criminal law to deal with the various illegal tactics employed by debt collection agencies. For instance, debt collectors who resort to intimidation can be prosecuted either under the Crimes Ordinance (Cap. 200) or the Summary Offences Ordinance (Cap. 228).

To tackle the problem of illegal tactics used by debt collection agencies hired by authorized institutions under the Banking Ordinance (Cap. 155), the Hong Kong Monetary Authority (HKMA) has also taken the following steps to address the issue since April 1996:

- (i) setting up a complaint hotline in April 1996;
- (ii) issuing two letters separately in April and May 1996 to the banking industry associations to stress that the employment of debt collection agencies which use improper tactics is unacceptable; and
- (iii) endorsing the Code of Banking Practice issued by the two banking industry associations in July 1997 which, *inter alia*, requires authorized institutions to establish effective procedures to monitor the performance of their debt collection agencies and prohibit authorized institutions from passing information about the referees or third parties, other than the guarantors, to their debt collection agencies.

We therefore do not feel that it is necessary to enact legislation to regulate the debt collection agencies in recovering debts.

PRESIDENT (in Cantonese): Mr CHOY Kan-pui.

MR CHOY KAN-PUI (in Cantonese): *Madam President, in part (b) of its reply, the Government pointed out that there were a total of 1 860 reported police*

cases relating to debt collection agencies, and the police prosecuted a total of 438 persons involved in these cases with 158 convicted. In regard to the debts which debt collection agencies are trying to recover each year, what is the total sum involved; and has the authorities examined the reasons for increase in the number of debt collection agencies and debt collecting activities?

PRESIDENT (in Cantonese): Secretary for Security.

SECRETARY FOR SECURITY (in Cantonese): Madam President, we do not have statistics on the sum of debts involved in the complaint cases against debt collection agencies. At present, the statistics we have do not indicate that the debt collection agencies are getting more active, nor do the statistics reflect an upward trend in the illegal activities of such agencies. Take for instance, during the three-year period from November 1994 to October 1997, that is the period covered in my main reply, there were an average of 155 complaints against debt collection agencies reported each year. For this year, the number of quarterly reported cases seem to indicate a downward trend. The number of cases reported in the first quarter was 123, the second quarter was 103 and the third quarter was 69. By quoting these figures, I do not mean to say that we are going to neglect this problem, but the trend as revealed in these figures does indicate that there is no evidence to show that the problem is getting worse.

PRESIDENT (in Cantonese): Dr Charles YEUNG.

DR CHARLES YEUNG (in Cantonese): *Madam President, has the Administration taken appropriate publicity steps to inform members of the public about debt collection tactics which are considered to be illegal, and cite examples of successful prosecution cases, so as to enhance the knowledge of the public in regard to these cases?*

PRESIDENT (in Cantonese): Secretary for Security.

SECRETARY FOR SECURITY (in Cantonese): Madam President, I believe

all citizens know that they should report to the police whenever they feel that their lives, properties or safety are under threat. A lot of work was done over the past years to facilitate crime reporting, for example, to streamline crimes reporting procedures and enhance publicity in encouraging the public to report crimes and help the police to fight crimes. As to what kind of debt collecting activities are illegal, it will be decided on the basis of what the debt collection agencies have done and what sort of tactics are employed in collecting debts. The most common illegal tactics employed are intimidation, unlawful telephone harassment, blackmailing, unlawful confinement of debtors, assault, criminal damage, loitering, and passing personal information of the debtor to third parties without the debtor's consent. All these illegal activities, whether carried out by debt collection agencies, agents or other persons and for whatever reasons, constitute criminal offences.

PRESIDENT (in Cantonese): Mr MOK Ying-fan.

MR MOK YING-FAN (in Cantonese): *Madam President, from the information I gathered in a public complaint case I received yesterday, I can tell the Secretary for Security about another tactic employed by debt collection agencies. Instead of sending intimidation letters to the debtor, these agencies are now sending intimidation letters to his neighbours. Later on, I would like to refer this case to the Secretary for Security. Secondly, the actual number of complaints against debt collection agencies should be far more than the figures provided by the Government in part (b) of the main reply, the reason being that the police usually refuses to deal with cases which only involved intimidation letters. The Government pointed out in part (a) of its main reply that it does not have statistics on the total number of companies currently engaged in debt collecting business. I would like to ask the Government, in view of the illegal tactics employed by debt collection agencies, whether the Government will consider introducing a licensing system for such agencies to facilitate government control so that the number of prosecutions will not again be so small?*

PRESIDENT (in Cantonese): Secretary for Security.

SECRETARY FOR SECURITY (in Cantonese): Madam President, the

Honourable MOK Ying-fan's friends and members of the public who lodged complaints with his office are most welcomed to submit the relevant information to the police. I believe that the police will not reject the cases if the complaints are genuine. Though I pointed out in my main reply that out of a total of 1 860 reported cases, only 438 persons were prosecuted, I believe we cannot, with such data alone, determine whether the number of prosecutions is big or small. Of course, I am aware that some people might have been harassed by debt collection agencies but had not reported the cases to the police for various reasons. We always encourage victims of these crimes, other crimes or similar crimes committed by other people, to report to the police. As to whether we will introduce a licensing system to regulate debt collection agencies, I pointed in my reply to another Member's question that although illegal tactics were employed by debt collection companies, these activities were not on the increase. Secondly, I also explained that most illegal tactics were criminal offences. Since these offences are punished under the law, I do not think that a new licensing system will have any special deterrent effect on such tactics. Instead we may be able to achieve better results if we use the resources for introducing a new licensing system to step up law enforcement.

PRESIDENT (in Cantonese): Mr Bruce LIU.

MR BRUCE LIU (in Cantonese): *Madam President, in the last part of the Government's reply, it was mentioned that the HKMA issued letters to all banks and authorized institutions to stress that the employment of debt collection agencies which use improper tactics was unacceptable. I would like to know whether the HKMA would consider disclosing the names of those companies which have committed repeated offences, an approach similar to that of the Consumer Council. I think the fact that a total of 158 persons was convicted within a period of three years actually indicates that the problem is very serious. The act of publicly disclosing the names of debt collection companies which employed illegal tactics will deter banks which are concerned about their good names from hiring the services of such companies.*

PRESIDENT (in Cantonese): Secretary for Security.

SECRETARY FOR SECURITY (in Cantonese): Madam President, I wish to clarify one point, that is, not all the complaints mentioned in my main reply concern banks or authorized institutions. Actually banks or authorized institutions hiring the services of debt collection agencies which employed illegal tactics only constitute a small percentage. As to the Honourable Bruce LIU's question on how the HKMA would deal with the complaints, Madam President, may I ask the Secretary for Financial Services to answer this question.

PRESIDENT (in Cantonese): Secretary for Financial Services.

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, as the Secretary for Security has clearly pointed out that the figures given in his reply do not all concern institutions (particularly banks) regulated by the HKMA. HKMA has issued a code of practice for banking operations, clearly stating that authorized institutions should stop hiring the services of debt collection companies once they discovered that these companies are employing illegal tactics to collect debts. If we find out that the banks have not terminated the services of debt collection agencies which have often or repeatedly committed criminal offences, the HKMA will take a number of actions against the banks in accordance with the existing legislation. The heaviest penalty for such kind of activities is to have their licences revoked. Of course, the HKMA will first take appropriate actions against such institutions before resorting to revoking their licences.

PRESIDENT (in Cantonese): Mr NG Leung-sing.

MR NG LEUNG-SING (in Cantonese): *Madam President, I wish to ask two related questions in regard to part (b) of the main reply. Firstly, the Secretary for Security said that there is no evidence to indicate that the situation is getting worse. Regarding the 158 persons convicted, how are they distributed over the past three years? Do the persons and cases convicted show a trend that the situation is not getting worse? Secondly, of the 158 persons convicted, how many cases involved violence and how many people were assaulted?*

PRESIDENT (in Cantonese): Secretary for Security.

SECRETARY FOR SECURITY (in Cantonese): Madam President, the police do not have a detailed breakdown regarding when the offender were convicted. There is usually a time lag between the time the offender was arrested, put on trial, and the time the offender was convicted. Generally speaking, the trends in respect of crime reporting, offenders being arrested and convicted are different. As to the question of whether violence is involved, the answer is positive but it just comprised of a small percentage of the cases. According to our statistics, there were 31 persons charged with assaulting debtors, and 27 persons with confining debtors in their homes. Although we should be concerned about the number of cases where violence is involved, the present situation does not indicate that all or most cases belong to this category.

PRESIDENT (in Cantonese): Mr James TIEN.

MR JAMES TIEN (in Cantonese): *Madam President, though it is legal to hire debt collection companies to collect debts, the provisions as to what debt collecting tactics to be employed are written in a very ambiguous way. The Administration has just indicated that it is not necessary to regulate the debt collecting agencies, I would like to know whether it would issue guidelines on acceptable and unacceptable debts collecting tactics.*

PRESIDENT (in Cantonese): Secretary for Security.

SECRETARY FOR SECURITY (in Cantonese): Madam President, I explained earlier that all intimidating and offensive tactics employed in debt collection are in contravention of the criminal law. In other words, the simplest guideline would be, no person or company, whether engaged in debt collecting or proper business activities, should commit offences and violate the criminal law. As to whether their activities constitute a crime, it will depend on whether sufficient

evidence can be gathered. As Members are aware that even the outcome of a trial depends on the circumstances, therefore, it is difficult to list out what constitutes a crime for every individual case. As to the kind of activities regarded as illegal in general, Members should refer to section 60 to 63 of the Crimes Ordinance (Cap. 200) for details on crimes relating to criminal damage if they are interested.

PRESIDENT (in Cantonese): Mr James TIEN, do you have a follow-up question?

MR JAMES TIEN (in Cantonese): *Perhaps my question was not clear, I do not mean verbal guideline. I would like to know whether the Administration would publish any simple guideline for the easy understanding of the public.*

PRESIDENT (in Cantonese): Secretary for Security.

SECRETARY FOR SECURITY (in Cantonese): Madam President, I reiterate that no person or company is allowed to break any law of Hong Kong in the course of their everyday lives or businesses. The illegal tactics, such as intimidation or telephone harassment, employed by debt collection companies, are all covered by the Crimes Ordinance, Summary Offences Ordinance and Offences Against the Person Ordinance.

PRESIDENT: Mrs Elsie TU.

MRS ELSIE TU: Madam President, would the Secretary for Security remind the police that they are expected to take action on complaints, because when people come to me complaining of intimidation, they all say that the police will take no action unless someone is injured. Of course, it may then be too late, the victim may be dead.

SECRETARY FOR SECURITY: I am sure that the police would definitely take action upon receipt of any justifiable complaint. If the Honourable Mrs

Elsie TU has at hand any individual cases drawn to her attention where the police appeared not to have taken any follow-up action, I will be very happy to look at them.

MRS ELSIE TU: Could I have the answer to that question? Would he please remind the police of their responsibility?

SECRETARY FOR SECURITY: Madam President, I do not think the police need reminding that they should take action upon receipt of a justifiable complaint.

PRESIDENT (in Cantonese): Mr CHAN Choi-hi.

MR CHAN CHOI-HI (in Cantonese): *Madam President, the Secretary for Security did not give an unambiguous reply to the Honourable James TIEN's question. It is, in fact, possible for the Administration to lay down more explicit guidelines, for example, to specify that debt collection activities are prohibited in the 12-hour period from 8 pm to 8 am. Are guidelines of this nature feasible? Such guidelines have already been issued in the United States, will they be acceptable in Hong Kong?*

PRESIDENT (in Cantonese): Secretary for Security.

SECRETARY FOR SECURITY (in Cantonese): Madam President, we do not have plans to lay down such kind of restrictions at present, the reason being whether an activity constitutes a criminal offence depends on the nature of the activity, for example, we do not specify the time within which a person is not allowed to telephone a debtor for the purpose of collecting debts.

PRESIDENT (in Cantonese): Next question, Mr CHAN Choi-hi.

Plans to Implement Trading Fund in Government Departments

5. **MR CHAN CHOI-HI** (in Cantonese): *Will the Government inform this Council:*

- (a) *whether any government departments will switch to operating under trading funds in the next three years; if so, what these departments are and the expected time when they will start operating as such; and*
- (b) *of the criteria for determining that these government departments should operate under trading funds?*

PRESIDENT (in Cantonese): Secretary for the Treasury.

SECRETARY FOR THE TREASURY (in Cantonese): Madam President, the answers to the Honourable CHAN Choi-hi's questions are, *seriatim*:

- (a) We have no plan at present to set up new trading funds in the next three years.
- (b) Before a departmental service can be considered for operation under a trading fund, it must demonstrate that it will be able to meet the basic criteria enshrined in the Trading Funds Ordinance, as follows:
 - (i) to provide an efficient and effective operation that meets an appropriate standard of service; and
 - (ii) to have the capacity, within a reasonable time, to meet expenses incurred in the provision of the government service and finance liabilities to be specified in the resolution out of the income of the proposed trading fund.

Generally speaking, we will only consider departmental services which are essentially commercial in nature for operation under a trading fund.

PRESIDENT (in Cantonese): Mr CHAN Choi-hi.

MR CHAN CHOI-HI (in Cantonese): *Madam President, I would like to ask the Secretary for the Treasury why the Government will not consider to set up new trading funds in the next three years. Does this indicate that many departments are already very efficient at present?*

PRESIDENT (in Cantonese): Secretary for the Treasury.

SECRETARY FOR THE TREASURY (in Cantonese): Madam President, the efficiency of a department is not the only criterion for us to consider whether the department should set up a trading fund or not. Therefore, that we have no plan at present to set up new trading funds in the next three years has no direct relation with the current efficiency of departments.

PRESIDENT (in Cantonese): Mr James TIEN.

MR JAMES TIEN (in Cantonese): *Madam President, I am very glad to hear that the Government will not set up new trading funds in the next three years. The premise for the Government to set up trading funds is "cost recovery", "users pay" and "efficient operation". This affects the commercial sector more. Therefore, I would like to ask the Government, in case new trading funds have to be set up after three years, will there be an independent committee to monitor these so-called efficient operations and to have the cost recovered within a reasonable time?*

PRESIDENT (in Cantonese): Secretary for the Treasury.

SECRETARY FOR THE TREASURY (in Cantonese): Madam President, I think Honourable Members may have misunderstood part (a) of my reply. When I said that we had no plan at present to set up new trading funds in the next three years, I did not mean that we would not set up new trading funds in the next

three years. In response to the second question raised by Mr TIEN, we have no plan to set up an independent committee for monitoring when considering setting up trading funds or during their operation.

PRESIDENT (in Cantonese): Last question seeking an oral reply. Dr LAW Cheung-kwok.

Implementation of the Securities (Insider Dealing) Ordinance

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

- (a) *of the major differences between the Securities (Insider Dealing) Ordinance (the Ordinance) in Hong Kong and the corresponding legislation in the United States and the United Kingdom;*
 - (b)
 - (i) *of the number of cases successfully prosecuted under the Ordinance, nature of the offences involved and the penalties imposed;*
 - (ii) *of the major difficulties encountered in prosecuting under the Ordinance; and*
 - (iii) *of its assessment of the effectiveness of the Ordinance in regulating "insider dealing" of listed companies;*
- since the commencement of the Ordinance in 1991; and*
- (c) *whether it will honour its pledge to review the Ordinance in 1998?*

PRESIDENT (in Cantonese): Secretary for Financial Services.

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

- (a) The major difference between the Securities (Insider Dealing) Ordinance (SIDO) in Hong Kong and the corresponding legislation in the United States and the United Kingdom is that insider dealing is not a criminal offence in Hong Kong, while it is in the United States and the United Kingdom.

In the United States, since 1993, insider dealers may be prosecuted under the criminal law by the Department of Justice, and be subject to imprisonment and fines. United States insider dealers may also be charged under the civil law by the Securities and Exchange Commission, which may request the court to impose a civil penalty of up to three times the profit gained or loss avoided by the insider dealer.

In the United Kingdom, since 1985, insider dealers may be prosecuted under the criminal law. The civil remedies and penalties, such as injunctions, restitution orders or compensation orders have not, however, developed as fully as in the United States.

Under the SIDO, a person found culpable of insider dealing by the Insider Dealing Tribunal may be subject to orders:

1. to pay the Government an amount not exceeding the profit gained or loss avoided by him;
2. to pay a penalty of an amount not exceeding three times the profit gained or loss avoided; and
3. to be disqualified from being a director of a listed company for up to five years.

In addition, we have noted that while the European Union (EU) directive issued in 1989 on member states' legislation in relation to insider dealing is essentially modelled on the relevant legislation of the United Kingdom, it does not impose upon the member states to follow the United Kingdom example to adopt the criminal approach to tackle insider dealings. Rather the member states are permitted the flexibility to adopt the criminal route, the civil route or other administrative procedures as they deem appropriate on the basis of

their own situations.

It should be pointed out that since the enactment of the relevant legislation in United Kingdom, the conviction rate under the law has been rather low at only about 50%. Urges for reviewing the effectiveness of the legislation has been prevalent.

In the United States, the conviction rate is higher than the United Kingdom's largely because the United States authorities have used a combination of the criminal as well as the civil approach in an effective manner. In addition, the more efficient civil proceedings always result in a higher degree of co-operation from the defendants and the witnesses.

In Hong Kong, insider dealing has been established in 80% of the limited number of cases completed by the Insider Dealing Tribunal so far, and the result was satisfactory. Nonetheless, having regard to the limited number of cases dealt with by the Tribunal, it would be premature to draw a conclusion on the effectiveness of the Ordinance. The Government will continue to monitor the progress of the work of the Tribunal and draw reference from the experience of other jurisdictions, so as to fend off any insider dealing activities effectively.

- (b) (i) Since the SIDO came into effect on 1 September 1991, the Insider Dealing Tribunal has completed inquiries in five cases. Insider dealing was established in four of the cases, in which the insider dealers were ordered to be disqualified from being a company director from six months to four years, and to pay an aggregate amount of HK\$3.5 million for profit gained or loss avoided by them and an aggregate amount of fine of HK\$21 million. In the other case, insider dealing was not established as the Tribunal decided that the chairman of the company in possession of the relevant insider information took part in the dealing not "with a view to avoiding loss". Details of the rulings and penalties of these five cases are set out in the attachment.
- (ii) The major difficulty encountered in establishing a case of suspected insider dealing is to prove the intention and act of

insider dealing, which involve the possession and transfer of price-sensitive information and the details of relevant transactions. Besides, the time lag between the investigation and the suspected insider dealing also add to the difficulties in the collection of evidence. Moreover, as the financial market in Hong Kong is getting more and more sophisticated, the time required for the relevant investigation will also increase. The degree of co-operation from witnesses and persons involved are also important factors in the process of the investigation and the inquiry. In order to ensure that the SIDO are implemented efficiently and effectively, the Financial Services Bureau, together with the Judiciary, the Department of Justice and the Securities and Futures Commission have endeavoured to review from time to time whether the tribunal has adequate resources for the related investigation work and prosecution. For instance, we have recently sought the endorsement of the Provisional Legislative Council for the establishment of the supernumerary posts of a Deputy Principal Government Counsel and two Senior Government Counsels in the Department of Justice to cope with the increasingly heavy and complicated workload of prosecution.

- (iii) As mentioned in the answer to part b(i) above, of the five cases completed under the SIDO, insider dealing was established in 80% of the cases, or four of them. The result was considered satisfactory. However, as I pointed out earlier, having regard to the limited number of cases concluded, it would be premature to draw a conclusion now on the effectiveness of the Ordinance.
- (c) Since the coming into force of the SIDO, the Government has been reviewing the Ordinance from time to time to ensure that it lives up to its task. We are presently considering a proposal to broaden the definition of "judge" under the Ordinance to include also Deputy Judge of the Court of First Instance of the High Court so as to ensure that there would be sufficient qualified judges to meet the increasing workload of the Tribunal. Drafting of the bill for the necessary amendments to the Ordinance will be commenced shortly.

On the other hand, as the former Secretary for Financial Services at a meeting of the Finance Committee of the then Legislative Council in March 1995 had undertaken to review the Ordinance in three years' time, the Financial Services Bureau will accordingly conduct the review next year.

Annex

Concluded cases by the Insider Dealing Tribunal

1. Success Holdings Limited

- two persons found to be culpable insider dealers
- both disqualified as directors for two years
- total profits disgorged \$236,967
- total penalties imposed \$473,934 (two times profits)
- total costs \$439,360 ordered to be paid by insider dealers

2. Public International Investments Limited

- three persons found to be culpable insider dealers
- one disqualified as director for three years and two disqualified for four years
- total profits disgorged \$776,890
- total penalties imposed \$1,810,296
- total costs \$1.3 million ordered to be paid by insider dealers

3. Yanion International Holdings Limited

- two persons found to be culpable insider dealers
 - both disqualified as directors for one year
 - loss avoided about \$1,464,180, whole amount to be paid by the company's Chairman found culpable of insider dealing
 - total penalties of \$2 million imposed on this Chairman and the other insider dealer
 - total costs about \$3.5 million ordered to be paid by insider dealers
4. Hong Kong Parkview Group Limited
- one person found to be culpable insider dealer
 - disqualified as directors for six months
 - total profits disgorged \$1,065,550
 - total penalties imposed \$1,065,550
 - 80% of the tribunal expenses ordered to be paid by insider dealer
5. Chevalier (OA) International Limited
- one suspected insider dealer was found not culpable of insider dealing

PRESIDENT (in Cantonese): Dr LAW Cheung-kwok.

DR LAW CHEUNG-KWOK (in Cantonese): *Thank you, Madam President. According to the reply given by the Government, since the commencement of the Ordinance in 1991, only five cases have been concluded, not even one each year on average. Recently, in view of the insufficient resources for investigation and*

prosecution, the Government sought our endorsement for the establishment of three senior posts of Government Counsel in the Department of Justice. Will the Government admit that the Ordinance is, in fact, virtually ineffective since it came into effect in combatting insider dealing activities in the securities sector? Thank you, Madam President.

PRESIDENT (in Cantonese): Secretary for Financial Services.

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, I absolutely do not admit that the SIDO is ineffective. My reasons are as follows: first of all, as the cases of the insider dealing activities have become increasingly complicated, a particularly long period of time is required for investigation. However, most importantly, although the Ordinance came into effect in 1991, no case was found until the end of 1993. Moreover, amendments were made to this Ordinance in 1991, 1994 and 1995 respectively. Owing to the lack of past experience in the operational procedures of the Tribunal and the application of these methods to combat insider dealing activities, after accumulating some experience, the staff concerned and the judicial officers discovered that there were loopholes in the law passed in 1991. Therefore, amendments were made in 1991, 1994 and 1995 respectively. There are altogether nine cases since the implementation of the SIDO in 1991, and five of them have been completed. Actually, most of the cases were started in 1993. That is to say, the number of cases handled by the Tribunal in the past four years is more than that at the very beginning. I admitted in my reply that the number of cases was so limited because of some specific reasons. So, we cannot draw a conclusion. However, we note that the successful rate of these cases is quite high and the civil penalties concerned do not have much difference from other similar jurisdictions. Therefore, there is a deterrent effect. For the above reasons, I do not agree that the SIDO does not have the expected effectiveness. Thank you.

PRESIDENT (in Cantonese): Dr Philip WONG.

DR PHILIP WONG (in Cantonese): *Thank you, Madam President. I would like to ask the Secretary if an employee of a company has reasons to think that*

the words of and actions about to be taken by his colleagues or the staff of other companies will affect the market, and he has done something to anticipate such future actions by that person before he has any knowledge of the actions concerned, has he violated the SIDO? What I mean is that the recent words of some foreign investment brokers are really suspicious. In a matter of just two months, they first pointed out clearly that the Hang Seng Index would rise to 18 000 points, and then before the period was out, they made an about-face and said that they did not hold even one share of Hong Kong stock. If a person has taken some actions to anticipate these news, is it a contravention of the SIDO? If not, why not?

PRESIDENT (in Cantonese): Secretary for Financial Services.

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, as the Secretary for Financial Services, I, of course, cannot respond to the example just raised by Mr WONG in any legal capacity. However, as far as I know, the incident just described by Mr WONG is not within the jurisdiction of the SIDO. According to section 33 of the Securities and Futures Commission Ordinance, the Securities and Futures Commission (SFC) has the authority to investigate into these activities and in case there exists the so-called "market rigging" behaviour, the Commission will proceed to prosecute.

PRESIDENT (in Cantonese): Mr Eric LI.

MR ERIC LI (in Cantonese): *Madam President, in respect of the legal aspects and the background of the company shareholders, Hong Kong is different from the United Kingdom and the United States. I would like to ask the Secretary, if we just want to enact legislation on insider dealings, can this be achieved simply by amending the mechanism of securities dealings? Will the amendment of the companies laws be involved to forbid the practice of having some trust companies to serve as shareholders as is allowed under the existing law? Will the SIDO that involves a limited number of listed companies compromise a lot of non-listed companies and even affect their normal operation?*

PRESIDENT (in Cantonese): Secretary for Financial Services.

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, I do not quite understand the central point of Mr Eric LI's question. It is because at present, in tackling problems relating to insider dealings, the SIDO is an independent Ordinance, and we do not use other securities ordinances or the Companies Ordinance. I believe that their differences and definitions are very clear. Thank you.

PRESIDENT (in Cantonese): Mr CHIM Pui-chung.

MR CHIM PUI-CHUNG (in Cantonese): *Madam President, in the reply given by the Secretary, first of all, I would like to ask which department is responsible for making a decision for the prosecutions. Are they qualified to make such assessment? Meanwhile, Madam President, as there is a lot of time left, I would like to raise two questions. In the reply given by the Secretary, we can say glorious victories were won in respect of four of the cases. In fact, only \$3.5 million was involved but \$20-odd million was spent to recover it. As far as we know, education should be carried out through laws. Most importantly, members of the industry should understand their duties. Did the Government ignore the actual situation because of the authority of the SFC, and only when the subject company won the case did it produce such results?*

PRESIDENT (in Cantonese): Secretary for Financial Services, I hope you would try to reply the two supplementary questions.

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, perhaps I could try to reply them as one question. As regards the prosecution, let me first explain the investigation of the insider dealings. According to the SIDO, the monitoring and investigating activities are, of course, carried out by professional staff of the SFC. After the investigation, if they consider that there is adequate evidence, the SFC itself still has no authority to make a prosecution or to decide to set up an Insider Dealings Tribunal. According to the provisions, this is decided by the Financial Secretary. Before

making a decision, he must consult the Secretary for Justice or the Department of Justice in detail. The legal advice should, of course, be provided to the Financial Secretary after the professionals of the Department of Justice had assessed the investigation report of the SFC. The decision is then made by the Financial Secretary. Thank you.

PRESIDENT (in Cantonese): Mr CHIM, do you have any follow-up questions?

MR CHIM PUI-CHUNG (in Cantonese): *No, I do not. He has tried to reply my question just now but has only answered the first part and forgot the second one. Please raise the question to him (PRESIDENT: Perhaps, please tell me which part) My question is: Is it unfair and inappropriate to spend \$20-odd million to recover \$3.5 million?*

PRESIDENT (in Cantonese): Secretary for Financial Services.

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, the information provided to Members is that of the concluded cases. There are, of course, other cases. Some of them are under investigation now, some are still pending the legal advice of the Secretary for Justice, some have proceeded with the setting up of the Insider Dealing Tribunal. In other words, this is an on-going exercise. Any law with appropriate deterrent effect is bound to operate this way and cannot only be measured by costs or solely from the monetary angle. Thank you.

PRESIDENT (in Cantonese): Mr NG Leung-sing.

MR NG LEUNG-SING (in Cantonese): *Thank you, Madam President. As regards these cases, the judgement of the fourth one seemed to be relatively mild with an order of disqualification as director for six months only. I also note that the insider dealer in this case was just required to pay 80% of the inquiry*

expenses while those in other cases had to pay the total costs of the inquiries. I would like to ask the Government that among these cases adjudicated by the Tribunal, as regards some "established" cases in which the offenders are not required to pay the full costs, how the criteria are determined.

PRESIDENT (in Cantonese): Secretary for Financial Services.

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, the Insider Dealing Tribunal is chaired by an experienced judge, with the assistance of two persons from outside the legal profession very familiar with the industry. Each judgement is an independent one, that is each case will be judged appropriately. Therefore, there is no need for the Government to establish any criteria for the Tribunal and tell them how to make a judgement. If the judge of the Tribunal considers that it is the most appropriate judgement for a particular case, we will, of course, accept his judgement and consider that it has no problems. Thank you.

PRESIDENT (in Cantonese): Mr Eric LI.

MR ERIC LI (in Cantonese): *Madam President, just a moment ago, in order to meet your requirement to ask concise questions, my question was relatively compressed. I really do not find it surprising that the Secretary did not understand my question. Perhaps, I try to raise the point by way of an example and hope the Secretary can understand it. For example, at present, a lot of companies in Hong Kong can have trustees as shareholders for the convenience of the investors. However, this is not allowed in the United States. If we do not know who are the shareholders, there will be certain difficulties in prosecuting the insider dealings if such dealings are to be criminalized. It is because you are really not sure who are the shareholders of the company. If amendments are to be made, vast areas may be involved. Just a moment ago, I*

wanted to ask whether the Secretary understood that criminalizing insider dealings was not so simple as to just amend one ordinance only. Much may be involved and even the business environment may also be changed. I would like to ask if the Secretary he understands this?

PRESIDENT (in Cantonese): Secretary for Financial Services.

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, I thank Mr Eric LI very much for reminding me. I believe we can perhaps consider this question when the Financial Services Bureau reviews this Ordinance next year. Thank you.

PRESIDENT (in Cantonese): Mr CHIM Pui-chung.

MR CHIM PUI-CHUNG (in Cantonese): *Madam President, from the explanation just given by the Secretary, I noted that in the prosecution of insider dealing cases, he need not be involved. In fact, under the Securities Ordinance, the matter is handled by the Financial Secretary in consultation with the Secretary for Justice. I would like to ask, under the Securities Ordinance, what is the role of the Secretary for Financial Services in tackling insider dealings? If he has no role, how can he be qualified to answer this question?*

PRESIDENT (in Cantonese): Secretary for Financial Services.

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, as I understand it, the Secretary for Financial Services has no role under the Ordinance. Today, as the Financial Secretary is now on an overseas duty trip and cannot answer the question in person, it is absolutely natural for the Secretary for Financial Services to answer the question on his behalf. Moreover, policies regarding the regulation, operation and development of the whole

securities market are generally the responsibility of the Financial Services Bureau. Therefore, it is appropriate for the Secretary for Financial Services to reply today, next week, or the week after that. Thank you, Madam President.

WRITTEN ANSWERS TO QUESTIONS

Rehousing Residents Displaced by Redevelopment of Ho Man Tin and Valley Road Estates

7. **MR WONG SIU-YEE** (in Chinese): *Will the Government inform this Council of:*

- (a) *the scheduled completion dates of the public housing estates in the south of Ho Man Tin and Phase 1 of the Comprehensive Redevelopment Programme of Ho Man Tin Estate; and*
- (b) *whether, upon the completion of these two projects, sufficient public rental flats can be provided to accommodate those residents who are affected by the redevelopment of Ho Man Tin Estate and Valley Road Estate?*

SECRETARY FOR HOUSING (in Chinese): Madam President, two stages of public housing development in Ho Man Tin South will be completed in 1998 and 2000, and Phase 1 of the Comprehensive Redevelopment Programme of Ho Man Tin Estate will be completed in 2000.

Upon the completion of these housing projects, there should be sufficient rehousing resources within the district for residents affected by the redevelopment of Ho Man Tin Estate and Valley Road Estate.

Suspending the Levy of Sewage Charge

8. **MR NGAI SHIU-KIT** (in Chinese): *As Hong Kong exports will be facing keen competition as a result of the recent great devaluation of the currencies of*

Southeast Asian countries, will the Government consider suspending the levying of sewage charges on various industries in Hong Kong, so as to tide them over the difficult time?

SECRETARY FOR WORKS (in Chinese): Madam President, the sewage charging scheme was introduced with the agreement and support of the then Legislative Council to give effect to the "polluter pays" principle. The Government has accepted that sewage services were essential public services and has decided not to recover the cost of capital or depreciation; it only aims to recover the operation and maintenance costs in the collection and treatment of waste water.

This Council has recently passed a resolution to close the Sewage Services Trading Fund on 31 March 1998, by which time the Government will have to write off an estimated accumulated deficit of \$231 million. On moving the resolution, the Government has undertaken to subsidize about half of the operating cost of sewage services as from 2000-01.

Sewage charges have been set at a very low and affordable level. In fact they have been falling in real value as they have not been revised since the scheme was set up in April 1995. Since they only account for a small part of business operating costs, waiving them would not bring any significant benefit to the business sector. On the other hand, it would amount to the Government subsidizing businesses for the pollution generated by them, which is clearly undesirable.

The "polluter pays" principle is a well-established policy to ensure that the costs of cleaning up or preventing pollution are borne by those directly responsible. It provides financial incentives to encourage pollution reducing behaviour. This principle is a central plank of the Government's environmental policy and must be maintained.

Increasing Immigration Department Manpower at Lo Wu Checkpoint

9. **MR LEE KAI-MING** (in Chinese): *It is learnt that recently the number*

of people crossing the border via the Lo Wu Immigration Control Point has increased by nearly 20%, resulting in long waiting time for immigration clearance. In this connection, will the Government inform this Council:

- (a) whether it has any contingency plans to increase the manpower for handling immigration clearance at the Lo Wu Immigration Control Point in the near future; if not, why not; and*
- (b) of the long-term measures to be adopted to solve the problem of manpower shortage at that immigration control point and shorten the waiting time for immigration clearance?*

SECRETARY FOR SECURITY (in Chinese): Madam President, the statistics at Annex show the passenger volume and the performance of immigration clearance at the Lo Wu control point for the first 10 months of this year. There has clearly been a substantial increase in passenger traffic, especially during the last three months. Despite this, however, we have been able to meet the performance pledge of clearing 92% of passengers within 30 minutes.

Against that background, the answers to the two parts of the question are as follows:

- (a) Staff would continue to be flexibly deployed to cope with rush periods especially over the weekends. During festive periods such as Christmas and the Lunar New Year, staff from other divisions of the Immigration Department including the Immigration Task Force would be redeployed to the Lo Wu control point for reinforcement. The Department will provide a reinforcement of 70 officers to Lo Wu during the forthcoming Christmas and New Year period to meet the anticipated demand. Leave rosters would also be adjusted to increase the manning level for the control point.
- (b) Since 1995, 52 additional posts have been provided to the Lo Wu control point. In addition, the implementation of the Immigration Control Automation System in September 1995 has also improved the efficiency of immigration clearance. We are planning to conduct a consultancy study for the Lo Wu control point in 1998

with a view to further improving efficiency. The passenger traffic and staffing level would continue to be monitored for the purpose of facilitating better planning and acquisition of resources.

Annex

The passenger volume and the performance of the Lo Wu control point in the past 10 months are as follows:

<i>Month in 1997</i>	<i>Passenger volume</i>	<i>Percentage of passengers cleared within 30 minutes</i>
January	4 247 190	96.4%
February	3 956 622	96.3%
March	4 603 935	96.3%
April	4 573 774	96.2%
May	4 423 255	96.4%
June	4 370 502	96.4%
July	4 744 607	96.2%
August	5 169 889	94.8%
September	4 713 535	95.5%
October	5 080 405	94.9%

Cost of Cargo Operation at the New Airport

10. **MR HENRY TANG:** *It is learnt that shippers and freight forwarders are anxious to know the cost of cargo operations at the Chek Lap Kok airport which will open in April 1998. In this connection, will the Government inform this Council whether:*

- (a) *it will refer to the guideline issued by the International Civil Aviation Organization which is that the redevelopment value of the old airport should be applied to assist the development of the new one, and use the income arising from developing the original site of the Kai Tak Airport to meet the development of the new airport; if so,*

what the plan is; if not, why not;

- (b) it will ensure that the purpose-build air cargo terminal at Kai Tak (HACTL Terminal 2) will be tendered out for the purpose of a cargo distribution point;*
- (c) it knows the price cap per tonne of cargo to be charged by the air cargo terminals under the Scheme of Control in the first year of operation of the new airport; and the basis for determining the price cap; and*
- (d) the Airport Authority will explain such basis to shippers and freight forwarders; if so, when the explanation will be given; if not, why not?*

SECRETARY FOR ECONOMIC SERVICES: Madam President,

- (a) The Airport Economics Manual published by the International Civil Aviation Organization refers to "income from the sale of airport land" as one of many domestic sources which may be used to finance the construction of a new airport. However, it is stated in the Manual that the "guidance is not presented in the form of specific recommendations but is intended for use as appropriate taking into account the wide range of different circumstances faced by airport management in the regions of the world". For the new airport at Chek Lap Kok, the income arising from Kai Tak redevelopment would not be used to finance its construction as Government has already contributed \$36.6 billion in equity to the Airport Authority for the development of the new airport. Moreover, hypothecation of revenue is prohibited under the Public Finance Ordinance.
- (b) The Administration is considering the best tenancy arrangement for the HACTL Terminal 2 building at Kai Tak. The current intention is to award the tenancy by open competitive tendering and possible use of the Terminal 2 building will include freight forwarding. The plan is to complete the tendering exercise early so that the successful bidder can occupy the premises once Government is given

possession of the premises.

- (c) The price cap provided for in the respective franchise agreement is a commercial matter between the Airport Authority and its franchisees. The price cap applicable to each franchisee in the first year of operation of the new airport has yet to be determined by the parties concerned in accordance with the terms of the respective franchise agreement. It will be determined taking into account the capital and recurrent costs of the air cargo facilities and the need to enable the franchisees to service their debt and to earn a reasonable return on their investment. The price regulation mechanism establishes a target nominal internal rate of return on equity of 17.5% on the shareholder's cashflow over the franchise period of 20 years within a band of plus or minus 1.75%. However, it does not provide any guaranteed return as actual performance of the franchisees will be influenced by market force.
- (d) The basis for determining the price cap is set out in (c) above. The Airport Authority would be happy to discuss the matter with representatives of shippers and freight forwarders if they have any questions.

Miscalculating Net Floor Area of Flats in Housing Estates of the Housing Society

11. **MR CHAN WING-CHAN** (in Chinese): *Regarding the discrepancies between the actual saleable area and the saleable area stated in the sales brochure in respect of some of the flats sold by the Housing Society (HS), will the Government inform this Council whether it is aware:*

- (a) *if the HS and the Housing Authority (HA) plan to double-check the actual saleable area of flats to be put up for sale against the saleable area stated in the sales brochure; if so, what the specific plans are;*
- (b) *of the respective criteria adopted by the HS and the HA in measuring the gross floor area and the saleable area of their flats; and whether the two housing bodies have considered formulating a standard set of methods for measuring the two; and*

- (c) *the measures to be taken by the HS and the HA to ensure that similar incidents will not recur?*

SECRETARY FOR HOUSING (in Chinese): Madam President, as a matter of practice, the Housing Authority (HA) and the Housing Society (HS) ask their project architects to check the measurements of flats before they are put up for sale. This practice will continue.

Gross floor area is defined under section 23(3) of the Building (Planning) Regulations. Both the HA and the HS measure the saleable area of flats in accordance with standard guidelines jointly promulgated by the Hong Kong Institute of Surveyors and the Consumer Council. These guidelines are widely adopted by the property trade.

As regards the Home Ownership Scheme under the HA, there are standard designs for the construction projects. The measurements of individual flats are checked by project architects before sale. For Private Sector Participation Scheme projects, the saleable area of all flats is checked by a monitoring surveyor appointed by the Director of Housing before the project is put up for sale.

The recent miscalculation of saleable area of some flats sold by the HS is an isolated incident caused by the special design of structural walls of the project. The HS will review its existing mechanism to ensure accuracy in future.

Reviewing the Policy on the Practice of Mainland Doctors in Hong Kong

12. **MR IP KWOK-HIM** (in Chinese): *After Hong Kong reunified with the motherland, professionally qualified doctors and medical school graduates from the Mainland are still required to pass the licentiate examination before they can practise medicine in Hong Kong, whereas local medical school graduates are not required to pass the examination prior to practising in Hong Kong. In this connection, will the Government inform this Council:*

- (a) *of the rationale for the different practising requirements in Hong Kong in respect of doctors and medical school graduates from the Mainland and local medical school graduates; and*
- (b) *whether it has conducted a review of the policy regarding Mainland doctors and medical school graduates practising in Hong Kong; if so, of the progress of the review; if not, why not?*

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

- (a) The registration, standards of practice, qualification assessment and professional conduct of western medical practitioners are currently regulated as provided by the Medical Registration Ordinance (Cap. 161). The Medical Council of Hong Kong (the Council) established under the Ordinance is responsible for implementing the provisions regulating western medical practitioners.

The Council's Licensing Examination aims to ensure that all medical practitioners in Hong Kong meet the required professional standard and possess adequate knowledge and skills. Through the Licensing Examination, the Council is able to assess the applicants for registration, regardless of whether they have been trained in the Mainland or abroad, as to their knowledge of the common diseases in Hong Kong as well as the lifestyle and health conditions of local residents. The requirement for internship after the Licensing Examination enables applicants to familiarize themselves with Hong Kong's health care system and the mode of communication between doctors and patients.

- (b) As mentioned above, our policy is to require mainland doctors and medical graduates to pass the Licensing Examination and complete internship before they can register and practise medicine in Hong Kong. These measures are to ensure that they have attained the required professional standard to practise in Hong Kong, for the protection of public health.

Shortage of Care Workers in Homes for the Elderly

13. **MR LAU KONG-WAH** (in Chinese): *Will the Government inform this Council:*

- (a) *Of the number of persons who completed the health workers training courses organized by the Social Welfare Department and, among these, the number who worked as health workers in residential care homes, during the year 1996-97;*
- (b) *Of the average monthly remuneration currently received by health workers, including fringe benefits and allowances such as housing allowance; and*
- (c) *Of the wastage rate of health workers and the reasons for such wastage; and the measures in place to attract more people to work as health workers?*

SECRETARY FOR HEALTH AND WELFARE (in Chinese): Madam President, my replies to the question are as follows:

- (a) During the year 1996-97, a total of 696 trainees graduated from 23 health worker training courses arranged by the Social Welfare Department. The Department conducts a survey on the employment situation of graduates six months after a training course is concluded. It has completed surveys on 21 courses. Two hundred and ninety-two of the 582 graduates who replied reported that they had been employed as Health Workers in residential care homes for the elderly;
- (b) The Government does not dictate the salary level of Health Workers employed in private residential care homes because they are commercial operations. The salary level in private homes is determined by the operators on the basis of individual business operation and staff qualifications. Based on information supplied by some private operators, the average monthly salary of Health Workers is \$8,000. Some employers may provide meals, but there is no housing allowance.

For Health Workers employed in subvented residential care homes, the monthly salary is above \$11,000. They enjoy provident fund benefit but not housing allowance.

- (c) The Social Welfare Department will carry out a comprehensive survey in December 1997, that is, six months after completion of the last health worker training course, to obtain information on the employment situation of graduates. Depending on the outcome of the survey, the Social Welfare Department will consider whether it is necessary to devise specific measures in order to attract more people to join the Health Worker profession.

Relocation of Wu King Morninghope School

14. **DR DAVID LI:** *It is reported that the Wu King Morninghope School in Tuen Mun is placed next to a refuse collection room and on the ground floor of the Wu King Estate, therefore is subject to unpleasant smell and falling objects from the flats above. In this connection, will the Government inform this Council whether it has any plan to relocate the school to a better and safer place, with standard fittings; if so, when the relocation will take place?*

SECRETARY FOR EDUCATION AND MANPOWER: Madam President, the Education Department has plans to re-provision the Tuen Mun Wu King Morninghope School. The new school will be a standard special school.

A possible site has been identified at the junction of Tsing Lun Road and Tsun Wen Road in Area 3C, Tuen Mun. Project feasibility study will soon be conducted. The site will be available in early 2000 and work will then commence immediately. Construction work for a school of this kind normally takes about 18 to 24 months. Assuming smooth progress, the new school should be ready in the 2001-02 school year.

In parallel with a view to expediting the project, the Education Department is exploring the possibility of reprovisioning the school to a more readily available site.

In the meantime, the Education Department is working closely with the school, parents and various departments concerned on measures to improve the existing school premises and the teaching environment, pending relocation.

Measures to Prevent Sexual Assaults in New Development Districts

15. **DR TANG SIU-TONG** (in Chinese): *It is reported that a considerable number of cases involving children being sexually assaulted occurred in new development districts, such as the Tuen Mun District. In this connection, will the Government inform this Council:*

- (a) *whether it has examined why such cases frequently took place in the new development districts;*
- (b) *of the number of subvented organizations which follow up such cases in various new development districts at present; and*
- (c) *whether it will provide additional resources for conducting educational programmes to prevent children from being sexually assaulted?*

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

- (a) According to the Child Protection Registry of the Social Welfare Department, the number of reported child sex abuse cases currently being handled, as at the end of September 1997, was 229. About half of the cases were reported in Tuen Mun, Tsuen Wan and Kwai Tsing, Yuen Long, Tai Po and North, and Sha Tin. According to the 1996 Population By-Census, almost half of Hong Kong's child population aged from birth to 17 years (around 690 000 children) reside in these five districts. Thus, there is no evidence to suggest that more of these cases occur in new development districts given the percentage of the child population residing in these areas.

- (b) Both the Social Welfare Department (SWD) and non-governmental organizations (NGOs) are involved in providing casework services on child abuse cases. The SWD may exercise its statutory powers under the Protection of Children and Juveniles Ordinance, to intervene in child abuse cases, including those involving sexual abuse. NGOs handle child abuse cases of a non-statutory nature where on-going professional intervention is necessary. Approximately 90% of the reported child abuse cases are handled by the SWD. At present, three subvented NGOs provide casework services in child abuse cases in the new development districts.
- (c) The Government has implemented a series of publicity programme in recent years to arouse public awareness. Territory-wide and district-based public education and publicity efforts are considered essential to help prevent child abuse. The ongoing territory-wide campaign, first launched in 1996-97, focuses on teaching young children self-protection, advising parents and carers how to protect children from sexual abuse, alerting them of the symptoms of sexual abuse and suggesting ways of handling the situation if an incident occurs. In addition to television and radio announcements, specially designed leaflets, cartoon booklets for young children and booklets for parents/carers have been published for distribution to relevant organizations and members of the public.

The SWD has set up District Committees on Child Abuse throughout Hong Kong. Funding support is provided to these multi-disciplinary Committees to organize public education and publicity programmes.

During the past year, 14 public education and publicity programmes, including seminars, exhibitions, talks, competitions and visits, have been organized by the District Committees on Child Abuse operating in Tuen Mun, Tsuen Wan and Kwai Tsing, Yuen Long, Tai Po and North, and Sha Tin. These have attracted over 4 000 participants. Depending on the needs of individual districts, the Government is prepared to step up publicity efforts and provide additional resources to conduct educational programmes through these District Committees.

Counselling or Treatment for Postpartum Depression

16. **MR HUI YIN-FAT** (in Chinese): *Regarding the recent case in which a woman suspected of suffering from postpartum depression was alleged to have thrown her four-month-old baby girl from a high-rise building to the street after an unsuccessful suicidal attempt, will the Government inform this Council:*

- (a) of the reasons or justifications for the medical staff on duty that day deciding not to require the woman to stay in the hospital for observation when she was sent to the accident and emergency department for treatment after her unsuccessful suicidal attempt;*
- (b) whether the woman concerned had received counselling or treatment for postpartum depression provided by public medical institutions before the incident; if not, why not; and*
- (c) whether it will establish a mechanism to enable women giving birth at non-public medical institutions and their families to have direct access to the antenatal and postnatal counselling services provided by public medical institutions without going through any referral procedure; if not, why not?*

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

(a) and (b)

The decision to admit a patient into hospital or otherwise for treatment is a clinical decision made by the attending doctor based on the patient's conditions at the time of diagnosis. The decision is influenced by a variety of factors, including the patient's medical history, the accompanying symptoms and signs, the severity of the disease condition and the patient's willingness for admission into hospital. Owing to the need to protect the privacy of individual patients attending public hospitals and clinics, it is not appropriate to disclose individual clinical details without prior consent from the

patients concerned.

- (c) All women and their families have direct access to the antenatal and postnatal services provided by Maternal and Child Health Centres of the Department of Health without going through any referral procedure. These services are provided irrespective of the place of delivery. The Hospital Authority provides a range of specialist medical services, which in the case of pre and postnatal women and family members, could include the obstetrics and psychiatric specialist services. Referrals to these specialist services would normally be through the attending doctors in public or private medical institutions.

Emission of Waste Gas from Incinerators of Public Hospitals

17. **MR IP KWOK-HIM** (in Chinese): *It is reported that the emission from the incinerators administered by the Hospital Authority (HA) in the course of processing clinical waste fail to meet the standards prescribed by the Environmental Protection Department, particularly in terms of heavy metals and hydrochloric acid levels which have been found to be 3 700 times and 100 times higher than the prescribed standards respectively. In this connection, will the Government inform this Council of:*

- (a) *the distribution of the clinical waste incinerators administered by the HA; whether the authority has assessed the environmental impact caused by the operation of these incinerators; if so, what the findings are; if not, why not; and*
- (b) *the measures it will adopt in the near future to reduce the extent of pollution caused by the emission from these incinerators?*

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

- (a) Ten clinical waste incinerators are currently in operation in the HA's hospitals in different parts of Hong Kong as shown at the Annex. These incinerators were designed before the latest international

emission and design standards were developed and are thus unable to comply with the current emission requirements.

- (b) Pathological incinerator is a specified process subject to licensing control under the Air Pollution Control Ordinance. Nonetheless, like other specified processes which existed before the relevant licensing provisions came into force, the pathological incinerators at Caritas Medical Centre, Princess Margaret Hospital, Tuen Mun Hospital and Yan Chai Hospital are exempt from such control. The Air Pollution Control Ordinance was amended in 1993 to enable the exemptions to be removed in phases. Our aim is that the pathological incinerators should be de-exempted as soon as practicable. The remaining six pathological incinerators which were not considered as specified processes because of their small scale of operation would be brought under similar controls under a general enforcement provision of the Air Pollution Control Ordinance. We therefore formulated a proposal in 1995 to construct a Central Incineration Facility which would also handle clinical waste. However, in view of the comments we received from the then Legislative Council and the medical profession, we had to put the proposal on hold and consider other alternatives. One of these is to upgrade the Chemical Waste Treatment Centre at Tsing Yi to enable it to handle clinical waste in an environmentally acceptable manner. A trial burn has already confirmed that this would be workable. In the interim, the Environmental Protection Department will work out with the HA on arrangements to separate clinical wastes which would cause harmful emissions from incineration so as to minimize environmental nuisance to their neighbourhoods.

Annex

List of Pathological Incinerators in the HA's Hospitals

1. Caritas Medical Centre in Sham Shui Po
2. Cheshire Home in Sha Tin
3. Pok Oi Hospital in Yuen Long

4. Princess Margaret Hospital in Kwai Chung
5. Sha Tin Hospital in Sha Tin
6. Siu Lam Hospital in Tuen Mun
7. Tang Shiu Kin Hospital in Wan Chai
8. Tsan Yuk Hospital in Sai Ying Pun
9. Tuen Mun Hospital in Tuen Mun
10. Yan Chai Hospital in Tsuen Wan

Land Titles Bill

18. **MRS MIRIAM LAU:** *Will the Government inform this Council whether it intends to introduce the Land Titles Bill into this Council; if not, whether it has any plan to set up a system of land titles registration system in Hong Kong and the details and progress of such plan?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Madam President, a Land Titles Bill to convert the present deeds registration system to a land title registration system was introduced to the Legislative Council in November 1994. Although there was general support in principle for the land title registration system, the Bills Committee did not agree to certain provisions in the Bill. These differences had not been resolved when that legislative session ended and examination of the Bill was curtailed in July 1995.

We have been consulting the Law Society on a revised draft of the Bill. We plan to bid for a slot to re-introduce the Bill to the Legislative Council in the 1998-99 legislative session.

Overseas Media Coverage of Hong Kong

19. **MR HENRY WU:** *Regarding coverage of Hong Kong by overseas media, will the Government inform this Council:*

- (a) of the total number of media reports on Hong Kong in overseas cities where the Government has set up Hong Kong Economic and Trade Offices (HKETOs) over the past three years and, of these reports, the number which was negative or untrue; and the number of response statements issued by the HKETOs concerned to clarify the misunderstandings or state the facts regarding such reports; and*
- (b) whether there are cases where the media in the host cities refused to publish or report on the statements issued by the HKETOs; if so, of the total number of these cases, the cities involved and the reasons for such refusals?*

SECRETARY FOR TRADE AND INDUSTRY: Madam President, due to resource constraint, Hong Kong Economic and Trade Offices do not keep statistics of the total number of media reports on Hong Kong in their cities.

Likewise, we do not have figures on the number of negative or factually incorrect overseas media reports on Hong Kong. Even within one report, we could often find both factually correct and factually incorrect statements and both positive and negative comments; therefore, it is neither possible nor meaningful to make a categorical distinction on whether a report is positive, negative or factually incorrect.

Our policy is to respond to reports which we consider to be inaccurate or misleadingly unbalanced. This is a matter of judgement, depending on the seriousness or importance of the matter.

Over the past three years, we have issued 65 statements or letters in response to reports which we considered inaccurate or misleading. Of these, 33 were published. While we follow up our responses, we are unable to ensure that they will be adopted. We accept that in a free press, it is up to the editor concerned to make the final decision on what to publish.

Duties and Responsibilities of the RTHK

20. **MR WONG SIU-YEE** (in Chinese): *The Radio Television Hong Kong (RTHK), as a public broadcaster, spends more than \$500 million of public fund per annum. Paragraph 2.1 of the "Framework Agreement" between the Broadcasting, Culture and Sport Bureau and RTHK stipulates that "RTHK is editorially independent. The Director as the Chief Editor is responsible for ensuring that a system of editorial control exists which will ensure fair, balanced and objective news, public affairs and general programming that will inform, educate and entertain the public." The Broadcasting, Culture and Sport Bureau states in a booklet that one of its aims in broadcasting matters is "to maintain RTHK as an effective public broadcaster, providing information, entertainment and educational programmes not normally provided by commercial broadcasters". RTHK pledges in its performance pledge that "its overriding purpose is to provide radio and television services that are distinctive and of high quality, and that are or might be at risk in the commercially funded sector of the market. It is editorially independent." In this connection, will the Government inform this Council:*

- (a) *if it has undertaken a study on whether the political programmes produced by RTHK, such as "Talk About", "Headliners", "An Hour More", "Open Line, Open View" and so on, have breached the various agreement and pledges; if so, what the findings are; if not, why not;*
- (b) *of the reasons for RTHK stating only its editorial independence in its performance pledge, but not the responsibility of the Director of Broadcasting as the Chief Editor in ensuring that a system of editorial control exists so that RTHK provides fair, balanced and objective programmes;*
- (c) *whether, following the establishment of the Hong Kong Special Administrative Region (SAR), the authority has conducted a comprehensive review to define RTHK's mission and responsibilities as a public broadcaster, so that its broadcasts fall in line with the overall interests of the SAR; and*
- (d) *whether it has authorized or allowed certain members of RTHK staff (including contract staff) to promote their personal political stance through the public broadcaster; if so, what the reasons are?*

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

- (a) Among the programmes mentioned in the question, "Talk About" and "Open Line, Open View" are mainly phone-in programmes for local audience to air their views and to reflect the points of view of the people of Hong Kong on various social issues. "Headliners" follows the news closely, analyses and talks about various latest developments in our community. These are current affairs programmes. For "An Hour More", the guests invited for interviews come from the political and commercial circles as well as from the show business, so its contents are not purely political in nature.

The "Framework Agreement" entered into between the Secretary for Broadcasting, Culture and Sport and RTHK stipulates that RTHK is editorially independent. Separate arrangements are in place to monitor RTHK's programmes. Legally, since RTHK is a government department, unlike a licensed commercial broadcaster, it is not subject to the regulation of the Broadcasting Authority. However, since RTHK is also a broadcaster, the programmes it produces should also be subject to content control. To avoid a situation whereby two different sets of standards are applied, the then Secretary for Recreation and Culture decided in 1995 to sign a Memorandum of Understanding with the Broadcasting Authority and RTHK, entrusting the Broadcasting Authority with the task of monitoring RTHK's programmes. Since then, like all the other commercial broadcasters, RTHK has been subject to the content control imposed by the Broadcasting Authority and is bound by the Codes of Practice issued by the Authority. The Codes of Practice stipulate that the news and public affairs programmes should be handled in an impartial manner, particularly when dealing with controversial issues, and due opportunity should be given to the public to voice their opinions. Since 1995, the radio and television programmes produced by RTHK have not been found to have breached the Codes of Practice issued by the Broadcasting Authority.

- (b) The daily operation of RTHK has fully exemplified how the Director of Broadcasting, in her capacity as the Chief Editor of RTHK carries out her editorial functions. The "Performance Pledge" sets out the various services provided by RTHK as well as its performance standards. It also indicates clearly that RTHK will comply with the standards and Codes of Practice issued by the Broadcasting Authority, which include the requirements for programmes to be accurate, fair and well-balanced.
- (c) Since the establishment of the Hong Kong Special Administrative Region, we have continued to maintain and uphold freedom of speech and freedom of the press. As a public broadcaster vested with editorial independence, its mode of operation has, over the years, been accepted by the public and the community at large. At present, the Administration has no intention to conduct a comprehensive review of the role of RTHK.
- (d) Based on the principle of freedom of speech and their duty requirements, programme presenters are allowed to express personal views in the programmes they host, but they must comply with the standards set out in the Codes of Practice. When controversial issues and public policies are discussed in the programmes, programme presenters should attempt to be impartial and care is required to ensure that as wide a range of opinions as possible are represented.

RADIO TELEVISION HONG KONG

FRAMEWORK AGREEMENT

WITH

SECRETARY FOR BROADCASTING, CULTURE AND SPORT

1. SCOPE

- 1.1 The agreement specifies the relationship between and the respective responsibilities of the Director of Broadcasting (Director) and the Secretary for Broadcasting, Culture and Sport (Secretary).

1.2 The word "programme" in this document refers to "a programme of activity", as distinguished from radio and television "programming" and "production" activities which the Department (RTHK) undertakes on a day-to-day basis.

1.3 The provisions will take effect from 15 July 1997. The agreement will be reviewed by the Secretary in consultation with the Director every two years.

2. STATUS AND RESPONSIBILITIES

2.1 The Department is editorially independent. The Director as the Chief Editor is responsible for ensuring that a system of editorial control exists which will ensure fair, balanced and objective news, public affairs and general programming that will inform, educate and entertain the public.

2.2 The working relationship between the Secretary and the Director is stipulated under the framework specified below.

2.3 The Secretary will provide the Director with policy guidance and support as follows:

- (i) defining the programmes and agreeing the underlying activities;
- (ii) reviewing policy aspects of each programme: the policy aim, description, operational objectives, matters requiring special attention over the next 12 month period, performance targets and financial data;
- (iii) securing resources for the programmes;
- (iv) setting performance targets, in consultation with the Director, which will identify the efficiency and effectiveness of resources deployed to programmes and assess whether value for money is being achieved;

- (v) reviewing quarterly with the Director the achievement of these targets and any resulting actions required;
- (vi) reviewing annually, at a set time, the achievement of targets, using this as a basis for developing objectives and targets for the next 12 months;
- (vii) establishing priorities for the allocation of new resources at an annual review of each programme area, the aspects set out at (ii) above;
- (viii) speaking for the Government on policy matters about the Department.

2.4 The Director will be responsible to the Secretary for:

- (i) managing the activities in each programme on a day to day basis;
- (ii) establishing for each programme all of the aspects set out in 2.3 (ii) above;
- (iii) helping the Secretary to review all of the aspects set out in 2.3 (ii) above and to re-define them as necessary;
- (iv) ensuring the appropriate delegation to the responsible officer within the Department for each programme and ensuring that an adequate organization and staffing structure is provided within the resources allocated;
- (v) delegating the performance targets as agreed with the Secretary to the relevant programme or activity level and supervising their achievement;
- (vi) reviewing quarterly with the Secretary progress in achieving these targets and for implementing any resulting actions required;

- (vii) reviewing annually, at a set time, the achievement of targets, using this as a basis for developing objectives and targets for the next 12 months; and
- (viii) speaking on matters relating to the operation and management of the Department.

3. PROGRAMMES

3.1 The key programmes of activity undertaken by the Department are:

- (i) provision of a multi-channel radio service; and
- (ii) provision of public-service television productions.

4. AIMS

4.1 The Department's overall aim is to provide to the people of Hong Kong high-quality radio and television services which inform, educate and entertain. The Department will strive to reflect the views of all sections of the community of Hong Kong.

4.2 Within this, the objectives with regard to each of the programmes are:

- (i) on its radio services to -
 - (a) provide on its channels a reasonable balance of quality output in the fields of information, education and entertainment;
 - (b) develop and implement a strategy which gives a clear definition to channel identity and is of appeal to the various sectors of the community;
 - (c) give emphasis to the provision of balanced and

objective news and public affairs programming;

- (d) provide a channel of communication for different sectors of the community and the Government to put forward their views on matters of public interest;
 - (e) provide news bulletins/summaries in both Chinese and English on a round-the-clock basis;
 - (f) maintain and develop programming designed to encourage audience participation and community involvement;
 - (g) maintain and develop programming designed to foster in the community an interest in fine music, culture and the arts; and
 - (h) provide programming which serves minority audience needs.
- (ii) for its television services to -
- (a) provide high-quality television productions principally for market segments not adequately served by commercial television broadcasters;
 - (b) continue the prime-time transmission arrangements with the commercial stations;
 - (c) give emphasis to the provision of balanced and objective public affairs programming;
 - (d) provide a channel of communication for different sectors of the community and the Government to put forward their views on matters of public interest;
 - (e) give emphasis to productions in Chinese;
 - (f) maintain and develop programming to encourage

audience participation and community involvement;
and

(g) provide programming designed for minority groups, including productions fostering interest in culture, music and the arts.

(iii) To improve in-house systems and structures that will maximize value and impact from available resources.

5. FINANCIAL PLANNING AND CONTROL

5.1 Financial planning and control requirements will be determined in the context of the annual resource allocation process and the annual estimates exercise by the Secretary.

5.2 Any deviation from the agreed estimates which is a result of actions outside the control of the Director (for example unanticipated direction by the Legislative Council or Executive Council) will be taken into account when evaluating the Department's performance.

5.3 The accounts produced by the Department in the annual estimates and resource allocation process will include information on performance against agreed financial and non-financial targets.

BILLS

First Reading of Bills

PRESIDENT (in Cantonese): Bills: First Reading.

CROSS-HARBOUR TUNNEL (CROSS-HARBOUR TUNNEL REGULATIONS) (AMENDMENT) ORDINANCE 1997 (AMENDMENT) BILL 1997

**TATE'S CAIRN TUNNEL (TATE'S CAIRN TUNNEL REGULATIONS)
(AMENDMENT) ORDINANCE 1997 (AMENDMENT) BILL 1997**

**PROVIDENT FUND SCHEMES LEGISLATION (AMENDMENT) BILL
1997**

CLERK (in Cantonese): Cross-Harbour Tunnel (Cross-Harbour Tunnel Regulations) (Amendment) Ordinance 1997 (Amendment) Bill 1997

Tate's Cairn Tunnel (Tate's Cairn Tunnel Regulations)
(Amendment) Ordinance 1997 (Amendment) Bill
1997

Provident Fund Schemes Legislation (Amendment)
Bill 1997

*Bills read the First time and ordered to be set down for Second Reading
pursuant to Rule 53(3) of the Rules of Procedure.*

Second Reading of Bills

PRESIDENT (in Cantonese): Bills: Second Reading. Secretary for Transport.

**CROSS-HARBOUR TUNNEL (CROSS-HARBOUR TUNNEL
REGULATIONS) (AMENDMENT) ORDINANCE 1997 (AMENDMENT)
BILL 1997**

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, I move the Second Reading of the Cross-Harbour Tunnel (Cross-Harbour Tunnel Regulations) (Amendment) Ordinance 1997 (Amendment) Bill 1997.

The purpose of the amendment Bill is to postpone the commencement date

of the Cross-Harbour Tunnel (Cross-Harbour Tunnel Regulations) (Amendment) Ordinance 1997 for 14 months, that is from 1 January 1998 to 1 March 1999.

Last April Mr IP Kwok-him put forward three Member's bills in the former Legislative Council to enable the air quality objectives contained in the Cross-Harbour Tunnel Regulations, the Tate's Cairn Tunnel Regulations and the Eastern Harbour Crossing Road Tunnel Regulations to reach the more stringent standards mentioned in the Guidelines for air quality monitoring in road tunnels issued by the Environmental Protection Department. The said Member's bills were passed on 26 June this year. The relevant amendments will take effect from 1 January 1998.

During the debate of the three Member's Bills we pointed out the ventilation systems in the tunnels were designed and constructed in different periods and the air quality standards adopted in different tunnels were not the same. Tunnel operators might need more time to find out whether the ventilation systems could reach the new standards; if the systems could not reach the standards, they would have to find out how they could carry out the necessary improvements. We told the former Legislative Council that the Government might need to amend the three ordinances to postpone their commencement dates.

We liaised with the tunnel operators regarding the progress of the improvement works. The Hong Kong Tunnel Management Limited, which managed the Cross-Harbour Tunnel, indicated they needed 14 more months to conduct a detailed research, for the purchase of the necessary equipment and for improvement works. The new ventilation system may reach the new standards as from the end of February 1999.

The Hong Kong Tunnel Management Limited has appointed a consultant company to conduct the study and to purchase the equipment, and the expected cost is \$2.5 million. We will study the relevant cost estimates to make sure they are fair and appropriate.

With these remarks, Madam President, I recommend the Bill to this Council.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That

the Cross-Harbour Tunnel (Cross-Harbour Tunnel Regulations) (Amendment) Ordinance 1997 (Amendment) Bill 1997 be read the Second time.

In accordance with Rule 54(4) of the Rules of Procedure, the debate is now adjourned and the Bill referred to the House Committee.

PRESIDENT (in Cantonese): Secretary for Transport.

**TATE'S CAIRN TUNNEL (TATE'S CAIRN TUNNEL REGULATIONS)
(AMENDMENT) ORDINANCE 1997 (AMENDMENT) BILL 1997**

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, I move the Second Reading of the Tate's Cairn Tunnel (Tate's Cairn Tunnel Regulations) (Amendment) Ordinance 1997 (Amendment) Bill 1997.

The purpose of the Bill is to defer the commencement date of the Tate's Cairn Tunnel (Tate's Cairn Tunnel Regulations) (Amendment) Ordinance 1997 by 16 months and that is, from 1 January 1998 to 1 May 1999.

The background of this Amendment Bill was explained to Members when I spoke on the Amendment Bill regarding the Cross-Harbour Tunnel and I would not repeat it.

Like the Cross-Harbour Tunnel, the Tate's Cairn Tunnel Company Limited has indicated that it cannot complete the work on improving the ventilation system of the Tunnel by 1 January 1998. It is therefore necessary to defer the commencement date of the Ordinance by 16 months.

The Tate's Cairn Tunnel Company Limited has already obtained \$40 million from its Board of Directors to improve the ventilation system of the Tunnel. The Company has already submitted work design and estimates to the government department concerned for approval. The whole project is expected to complete by the end of April 1999.

With these remarks, Madam President, I recommend the Bill to this Council.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Tate's Cairn Tunnel (Tate's Cairn Tunnel Regulations) (Amendment) Ordinance 1997 (Amendment) Bill 1997 be read the Second time.

In accordance with Rule 54(4) of the Rules of Procedure, the debate is now adjourned and the Bill referred to the House Committee.

PRESIDENT (in Cantonese): Secretary for Financial Services.

PROVIDENT FUND SCHEMES LEGISLATION (AMENDMENT) BILL 1997

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, I move the Second Reading of the Provident Fund Schemes Legislation (Amendment) Bill.

Retirement protection is an issue which has been discussed for decades, and which both Government and the community have taken seriously. Two years ago, Hong Kong took a major step in enacting the Mandatory Provident Fund Schemes Ordinance. It set the direction for the implementation of a privately managed, mandatory, employment-related retirement system in Hong Kong, whereby contributions are made by members of the workforce and their employers and, upon retirement, the members will receive benefits that are derived from the contributions made during their working life and the investment returns arising from such contributions.

Whilst the Mandatory Provident Fund Schemes Ordinance contains enabling provisions, it has to be supplemented by subsidiary legislation comprising detailed regulations and rules for the implementation of the system. For the past two years, the Administration has worked very hard to draw up these necessary details. Recognizing the fact that MPF will have significant and far reaching impact on the community, we have taken the task most seriously :

- We have established a formal advisory structure to assist us in developing the system, which we want to be simple, user-friendly, secure and cost-effective. That includes both a 13-member Advisory Board and a 22-member Panel of Specialists.
- We have also consulted labour unions, employer groups, professional bodies, the retirement scheme industries and other concerned organizations.
- We have, furthermore, brought our proposals to the MPF Subcommittee of the Legislative Council during the last legislative session, and discussed them in some detail at more than 20 meetings of the Subcommittee.

The Bill before Members today is the result of two years' wide consultation. I am most grateful to all our advisers, both individuals and organizations, who have given us valuable input. They have assisted us in the thorough consideration of numerous policy and technical issues. They have helped us develop appropriate measures to cater for the respective needs of the different groups of MPF participants. As a result, we are confident that we have struck a good balance between conflicting considerations and requirements in the MPF System.

In the course of the development of the detailed regulations and rules, and in the light of the substantial consultations undertaken, it has become apparent that changes and additions to the MPF Schemes Ordinance would be required for the effective operation and enforcement of the MPF System. These amendments run to a total of 126 pages in the gazette copy of the Bill. However, let me emphasize that we should not be distracted by the sheer volume of papers. The amendments to the principal Ordinance on MPF are well structured and properly organized into 87 items, most of which are to clarify and supplement the provisions in the Ordinance. We also take the opportunity to introduce minor and consequential changes to make the legislation more user-friendly and easy to understand.

Major areas of amendment for the purpose of effective scheme operation and enforcement include:

- (a) first, imposing additional checks and balances on the MPF Schemes

Authority which will be required to report to the Financial Secretary annually on major events, financial statements, budgetary matters, and so on;

- (b) second, establishing an Advisory Board to advise the Authority on any policy matter in connection with the implementation of the Ordinance;
- (c) third, strengthening enforcement measures to better protect the interests of MPF scheme members. For example:
 - (i) requiring employers default in making the mandatory contributions to pay penalty interest to compensate scheme members for their loss in interest return, and also to pay financial penalty to the Authority; and
 - (ii) introducing "whistle blowing" provisions to require service providers engaged in the management of registered MPF schemes, including auditors, to report to the MPF Schemes Authority all matters which significantly threaten the financial position of the scheme;
- (d) lastly, providing special measures to cater for the special needs of certain groups of scheme members. For example:
 - (i) setting up industry schemes for those industries which have a high intra-industry labour mobility; and
 - (ii) imposing the "no-rejection" requirement to prohibit trustees from rejecting any person who applies to join their schemes, so that no one will be forced into a position of breaching the Ordinance not out of their own wishes.

I would like to take this opportunity to elaborate on the "no-rejection" requirement. The MPF Subcommittee of the previous Legislative Council agreed to incorporate such a requirement into the principal Ordinance after numerous heated discussions on the Residual Provident Fund Scheme (RPFS).

The purpose of the RPFS is to provide a last resort for any person who is unable to join an MPF scheme. We, in fact, believe that the competitive MPF market will be able to cater for all MPF needs, including the small employers who account for a very large proportion of the MPF clientele. Nevertheless, to ensure the integrity of the MPF System, the principal Ordinance provides for the setting up of the RPFS, so that no employer or self-employed person who cannot join a regular MPF scheme would be forced into a position of breaching the Ordinance not out of his wish.

In other words, the RPFS has been intended for those who have difficulties in joining regular MPF schemes. The RPFS, like other MPF schemes, will be operated by trustees in the market. All along, the Administration has had no intention of setting up a Government-run RPFS in parallel with the privately managed MPF System and allow free entry by any person who chooses to join the scheme. Otherwise, it would only stifle competition in the MPF market, whereas competition is a crucial force to bring up service levels and drive down fees in a privately managed system. Most important of all, this entirely goes against the basic policy of "private sector management".

In discussing the operation of the RPFS, some Members on the MPF Subcommittee of the previous Legislative Council were worried that only a small number of people would be eligible for entry into the RPFS. This would reduce the cost-effectiveness of the scheme and incur higher administrative costs which would eventually be borne by scheme members. After detailed discussions, the Subcommittee agreed that the "no-rejection" requirement would provide better protection for those who cannot join regular MPF schemes. Therefore, we propose that the Ordinance be amended to include such requirement and detailed operational rules be set out in the subsidiary legislation. The detailed rules can avoid trustees from rejecting applicants by using delaying tactics, making unwarranted demands and offering unreasonably high fees. With the "no-rejection" requirement, the RPFS would no longer be needed. We thus suggest that the relevant provisions be deleted in the amendment Bill.

In addition to the Bill, we have also produced two sets of regulations and submitted them to Members for information. The regulations are drafted on the basis of the provisions in the amendment Bill. They are required for the effective implementation of the Ordinance. For example, they are concerned with:

- exemption of existing voluntary retirement schemes;
- MPF scheme membership and registration;
- the approval of MPF trustees;
- investment standards;
- the making of mandatory contributions, portability and payment of MPF benefits; and
- other operational matters.

The procedure for processing the amendment Bill through this Council is a standard one. As regards the regulations, the Administration has promised and specified in the principal Ordinance passed in 1995 that the subsidiary legislation would be submitted to the Legislative Council for its positive vetting and approval. Accordingly, the MPF regulations will be subject to the positive vetting and approval of this Council after they have been made by the Chief Executive in Council. In order to expedite the process:

- we have submitted the draft regulations to this Council;
- Members can scrutinize the draft regulations together with the amendment Bill;
- when this work is completed, we will revise the draft regulations in the light of Members' deliberations;
- after passage of the amendment Bill, the final drafts of the subsidiary legislation will be submitted to the Chief Executive in Council for making and, subsequently, put to this Council for a motion debate and formal enactment.

We will work closely with Members to examine the proposals contained in the Amendment Bill and the regulations. Our aim is to complete the Third Reading of the Amendment Bill and the motion debate on the subsidiary legislation expeditiously and within the current legislative session.

Our next target is to start implementing the MPF System in 1999. For this purpose, the Administration has committed during the enactment of the MPF Schemes Ordinance in 1995 that, subject to the approval of the legislature, a capital grant of \$5 billion would be provided for the setting up of the MPF Schemes Authority and another \$300 million for the establishment of the MPF Compensation Fund. To enable us to expedite the preparatory work for implementation of the MPF System, such as development and installation of a computerized information management system for the MPF Schemes Authority, which requires substantial lead time to complete, we plan to seek this Council's approval for granting the capital injection when the legislative process for enacting the Bill and the related subsidiary legislation is largely complete in 1998.

Madam President, the MPF System is a good, practical, cost-effective and sustainable means of providing retirement protection to the majority of our population. We recognize that some quarters of the community, such as housewives, retirees and those who are due to retire, would not be covered by the MPF System. Nevertheless, they can obtain other means of financial assistance if they are in need. Therefore, even though the MPF System cannot protect everyone in the community, we should not shelve the scheme or delay its implementation indefinitely, depriving our workforce of its retirement protection.

On the contrary, we should expedite the implementation of the MPF System to provide our workforce with a financially secure retirement which it well deserves. Members of our workforce have been seeking retirement protection for decades. The Government has a responsibility to take immediate action without further delays or further rounds of inconclusive discussions. Let us work together and implement the formal protection system which has been promised in our statute since 1995.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you, and that is: That the Provident Fund Schemes Legislation (Amendment) Bill 1997 be read the Second time.

In accordance with Rule 54(4) of the Rules of Procedure, the debate is now adjourned and the Bill referred to the House Committee.

MOTION

PRESIDENT (in Cantonese): Motion. Motion under the Stamp Duty Ordinance. Secretary for the Treasury.

STAMP DUTY ORDINANCE

SECRETARY FOR THE TREASURY (in Cantonese): Madam President, I move the resolution as set out under my name on the Agenda.

The object of the resolution is to extend the measure for charging stamp duty on agreements for sale and purchase of residential property for two years until the end of 1999.

First, I would like to briefly explain the background of the stamp duty measure. Before 1992, only the assignment of property was charged stamp duty. However, in order to dampen speculation on residential property, the Government adopted a series of measures, including charging stamp duty on agreements for sale and purchase of residential property from February, 1992. The measure provides that all transactions before the actual assignment of residential property are chargeable with stamp duty. This measure also enables the Inland Revenue Department to obtain relevant information so that it can identify these cases of property speculation and assess the profits tax payable. By charging stamp duty and profits tax on these speculation cases, the cost of property speculation in the form of confirmor sales is increased. Therefore, it has a dampening effect on speculative activities, while real home buyers in essence will not be affected. Besides, the measure enables the Government to gather the latest information on the operation of the property market and changes in property prices. This information is crucial to the Government for monitoring market conditions and formulating appropriate measures when necessary to deal with changes in the property market.

According to the original provision of the stamp duty measure, the measure would expire at the end of 1993 unless it was extended by a resolution in accordance with section 29I(2) of the Stamp Duty Ordinance. In November,

1993 and December, 1995, the then Legislature Council twice passed a resolution to extend the measure for two years each time, in order to check speculation on residential property. By a resolution in December, 1995, the measure was extended to 31 December, 1997. The Government now proposes to extend the measure for another two years.

Madam President, I wish to thank the Subcommittee with the Honourable Eric LI as Chairman and the Honourable CHAN Kam-lam as Deputy Chairman which efficiently completed the deliberations on that resolution, so that we can discuss the resolution in this Council as soon as possible.

The stamp duty measure has been implemented for nearly six years. Between February 1992 and September this year, stamp duty was charged on a total of 664 559 agreements for sale and purchase of property in accordance with that measure. Among them, only 29 982, that is, 4.5%, involved confirmor sales. There was only one confirmor sale in respect of over 92% of the property involved in these confirmor sales before being sold to the real end-users, while there were two or more confirmor sales in respect of less than 8% of the property. Thus, we believe that this measure has effectively curbed multiple re-sale of property before it is sold to the real end-users.

Some Members think that the real motive of the Government's request to extend the measure for charging stamp duty on agreements for sale and purchase of residential property is to increase revenue. I have to make it clear that this view is totally wrong. I have already explained in detail the purpose of implementing that measure, which is only directed against property speculation in the form of confirmor sales, while real home buyers are not affected. The Government understands perfectly well that Members wish to reduce the burden of real home buyers from the middle and lower income groups. Therefore, in the budgets of the past few years, we have reduced the stamp duty on the transactions of lower to medium value flats several times. For instance, in the Budget for the year 1997-98, we reduced the stamp duty on transactions of flats with a value of \$4 million or less, resulting in loss of over \$600 million in revenue per annum.

The stamp duty measure has become an established procedure in the

transactions of residential property and has been accepted by the public. If that measure expires at the end of this year, we will not be able to charge stamp duty on transactions of residential property before assignment, and this will reduce the cost of speculative activities in the form of confirmor sales. Our work in charging profits tax on speculative activities will be seriously undermined. This will very likely lead to a new wave of speculative activities, which will harm the stable operation of the property market and affect real home buyers. It would also send a wrong message to the public that the Government is no longer determined to curb speculative activities in the residential property market. Besides, the ability of the Government to gather the latest information on the operation of the property market will be greatly affected.

Therefore, I urge Members to support the resolution I move today to extend the stamp duty measure for two years until 31 December, 1999.

The Honourable Ronald ARCULLI will propose an amendment to the resolution to extend the stamp duty measure for only six months until 30 June next year. I will give a detailed response to Mr ARCULLI's amendment later. However, I have to point out to Members unambiguously that if Mr ARCULLI's amendment is passed, there will be practical problems in its implementation. The Provisional Legislative Council will end its session in early April next year since the Legislative Council Elections will be held in May. After its election, the first Legislative Council can only commence its work in July next year at the very earliest. Thus, if Mr ARCULLI's amendment is passed, the legislature will not have sufficient time to discuss in detail the extension of the stamp duty measure before its expiration on 30 June next year. The market will also have unnecessary speculative ideas on the extension of the measure and what will happen after 30 June. This would create uncertainties for and adversely affect the stable operation of the property market. Therefore, I urge Members to support the Government's proposal to extend the stamp duty measure for two years and oppose Mr ARCULLI's amendment.

Madam President, I beg to move.

The Secretary for the Treasury moved the following motion:

"That section 29I(1) of the Stamp Duty Ordinance be amended by repealing "31 December 1997" and substituting "31 December 1999"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That section 29I(1) of the Stamp Duty Ordinance be amended by repealing "31 December 1997" and substituting "31 December 1999".

Mr Ronald ARCULLI has given notice to move an amendment to this motion. His amendment has been printed on the Agenda. I propose to have the motion and the amendment debated together in a joint debate.

PRESIDENT (in Cantonese): Council shall now proceed to a joint debate. I now call on Mr Ronald ARCULLI to speak and to move his amendment. After I have proposed the question on the amendment, Members may express their views on the motion and the amendment. Mr Ronald ARCULLI.

MR RONALD ARCULLI: Thank you, Madam President. I rise to move my amendment to the resolution moved by the Secretary for Treasury, regarding the Stamp Duty (Amendment) Ordinance 1992. Prior to the amendment first introduced by the Administration through the Ordinance, agreements for sale and purchase of property were stamped with a nominal amount whilst the assignment was stamped on an *ad valorem* basis.

The 1992 amendment Ordinance was introduced originally as a temporary measure against excessive speculation and would have expired on 31 December 1993 unless extended. Since then as Members know, it has been extended until the end of this year. The Amendment Ordinance made it mandatory so that each agreement for sale and purchase is charged with *ad valorem* duty whilst the assignment is charged nominal but a fixed amount of \$100.

In seeking to extend the law for another two years the Administration in the Brief to the Provisional Legislative Council has made it plain that it will seek to make this measure a permanent (and not a temporary) measure by introducing a bill to that effect when the first legislature is in place.

I am told by Mr K C KWONG that is no longer the Government's intention. If that is so, then perhaps he would make it clear in his reply to my speech that it is a firm government policy to come back to this legislature periodically for extension or for any change of law if need be.

Madam President, essentially the Administration puts forward three arguments in support of the extension:

- (a) During the Subcommittee meeting, they said to us, although the Administration cannot gauge the effectiveness of these stamp duty provisions to dampen speculation, they maintain that it is an essential element in moderating speculation (and I refer Members to the Brief that was given to this Council on 12 October 1997);
- (b) the second reason is to assist the Inland Revenue Department (IRD) to gather information for profits tax assessments (and it is in the same paper); and
- (c) the third point is that home-buyers as end-users will not be adversely affected.

I took part in the deliberations of the Subcommittee under the chairmanship of the Honourable Eric LI and the Honourable CHAN Kam-lam. The Subcommittee examined in depth the assertions by the Administration. And I would not repeat figures that the Secretary for the Treasury has given Members other than to say that only 4.5% of transactions in excess of 600 000 over a five and a half-year period were there confirmor sales or I would call them re-sale of the same property. In respect of 92% of them, there was one re-sale, and in respect of some 2 000-odd, there were two or more re-sales.

The IRD also told us that the tax collected from property trading activities annually as a result of these measures is something in the order of \$480 million and that the current law assists the Department in getting the necessary information.

And the third point is that, if the measure is changed in some fashion, then it could be a revenue loss of \$1.3 billion per annum.

I believe that most, if not all, of us in this Chamber, Madam President, will agree that assisting the IRD in assessing and collecting profits tax is worthy of support. But this does not mean that we have to stick to the existing stamp duty provisions. I believe we can retain this element of the current law with different stamp duty charges. I will deal with this a little later.

As for anti-speculative measures, I believe the existing stamp duty provisions has really not achieved its original objectives and the numbers indeed speak for themselves. Other measures like prohibiting re-sale of new developments have been far more effective. Secondly, contrary to assertions by the Administration the current stamp duty provisions does add to the cost of genuine end-user home-buyers. There cannot be any doubt that in the rising market that we have seen since the change of law in 1992, the additional stamp duty has been passed on to the end-user home-buyers, but it has not, in my view, effectively reduced speculation activities.

As for the revenue implications, the Administration is not relying on this, so I will not dwell on this for Members.

My proposal, Madam President, has three objectives:

First is to reduce the cost and burden of end-user home-buyers;

Second to continue to assist the IRD in collecting profits tax where such is properly due; and

Third, to dampen excessive speculation if it surfaces again at the same time as attaining the objectives I have just now refer to.

But how do we achieve all these three purposes?

In my view, the first thing we must do is to extend the current law until the end of June next year. This will give me time to discuss this matter with the Administration, and failing the agreement, to introduce by way of a Member's Bill in January 1998 to amend the current law, so that we will be able to provide:

- (1) a fixed stamp duty of say \$1,000 or thereabouts is payable on all agreements for sale and purchase instead of *ad valorem* duty;
- (2) to make the *ad valorem* duty be payable only on assignment of the property; but
- (3) in the event that after the third sale, there is a second or subsequent sale of the same property then each agreement (including the first agreement) will be liable to their *ad valorem* duty which is the current regime; and

- (4) I will say that the amendment Bill, if passed, will only take effect on 1 July 1998 because I cannot do anything earlier than that without running foul of our Rules of Procedures.

Like the present law, the bill, if passed, will have a shelf-life and extendable shelf-life of two years, so that Members of this Council can review the situation as things develop.

By agreeing to my amendment, it does not mean that Members here have committed themselves one way or another to my bill. If I am given the opportunity to bring it forward in January next year, by agreeing to my amendment, you really give yourselves, and indeed, perhaps some home purchasers, the opportunity of lowering their costs in future and not in the next six months, but then you do have the opportunity of examining the provisions of my bill in detail. It gives you the option to see whether it is worthy of your support. If it is not passed by this Council next year, then I am quite sure we can extend the present law before it expires on 30 June, so that it will then expire on the original date, let us say, 31 December 1999.

My proposal, Madam President, really deals with each and every single element and argument of the Government. The fixed stamp duty will allow the IRD to keep the paper trail they say it is necessary to assist them in assessing profits tax. The deferment of paying *ad valorem* stamp duty reduces the initial burden of home-buyers particular those home-buyers buying new developments because we know that between the signing of an agreement and the signing of the assignment, there is generally 12 months or more time between the two events. But on the other hand, if we are dealing with existing property and if there was, in the unlikely event, a re-sale, then the first and any subsequent agreements would be liable to the *ad valorem* stamp duty.

One other aspect, of course, is that if there is an agreement in the sale and purchase on existing property, if there is a cancellation before an assignment because of reasons best known to the buyer and seller, then the buyer would not have paid the *ad valorem* stamp duty. The cancellation, I will hasten to add, is not allowed with a view to enabling the original owner to re-sell the property to a second purchaser at a higher price, thereby circumventing the provisions of the stamp duty and *ad valorem* stamp they would otherwise be required to pay.

So it is not a terribly complicated matter, it is a matter that will require some technical solutions, if I could put it in that way. So I hope Members would support my proposal in due course, and at least support my amendment today to at least give themselves and myself the option of looking at whether my proposal works without in any way diluting the existing provisions of the law or indeed affecting the Government's position.

Thank you, Madam President.

Mr Ronald ARCULLI moved the following motion:

"That the motion to be moved by the Secretary for the Treasury under section 29I(2) of the Stamp Duty Ordinance (Cap. 117) at the Provisional Legislative Council meeting on 26 November 1997 be amended by deleting "31 December 1999" and substituting "30 June 1998"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment moved by Mr Ronald ARCULLI be made to the motion of the Secretary for the Treasury. Mr Eric LI.

MR ERIC LI (in Cantonese): Madam President, as the chairman of the subcommittee formed under the House Committee to study the resolution moved by the Secretary for the Treasury, I would like to take this opportunity to thank the Honourable CHAN Kam-lam who very effectively concluded the discussion on this resolution while I was away. I shall first highlight the deliberations of the subcommittee before I share with Members my own views.

As the Stamp Duty Ordinance was introduced in 1992 as one of a series of measures to dampen speculative activities on residential property, the subcommittee focused its attention on two aspects, namely, the effectiveness of the measure in curbing speculative activities and the need to extend the relevant provisions for another two years.

The subcommittee asked for an analysis of the effectiveness of the measure in checking speculation, but the Administration was unable to provide the analysis on the ground that other factors came into play at the same time. It stressed however that the provisions served as a disincentive to speculation, and

that they also enabled the Inland Revenue Department to obtain information about intermediate transactions and make profits tax assessments where warranted.

Some members shared the Administration's views, and were worried that the community might get the wrong signal that the Government was lifting control on speculative activities if the provisions were allowed to lapse. Others however did not agree and maintained that speculation was an economic activity which should be allowed in a free market. They believed that restrictive measures should be imposed only when there were indications that the situation got out of control. These members were above all concerned that the costs of speculation would be passed on to genuine home-buyers.

While all members of the subcommittee agreed that the long-term solution to property speculation was adequate supply of housing to meet the demand of the market, they had reservations in making the measure permanent as was the Administration's intention; and views were divided as to whether an extension period of two years was warranted. Some members supported extending the provisions for two years as the effect of the Administration's pledge on housing production could only be seen in two years at the earliest. Other members held opposite views since factors leading to the decision of introducing the provisions had all changed, and the current property market was not much of an attraction to property speculators. Suggestions were made to shorten the period of extension to six months or one year, during which time the Administration was to conduct a review on the long-term need of the measure. As everyone also knows that the Honourable Ronald ARCULLI has officially recommended to shorten it to six months. These suggestions, as members are aware, have not been accepted by the Administration.

In conclusion, Madam President, members of the subcommittee had divergent views on the proposal and could not come to any consensus on the resolution. This is my report on the deliberations of the subcommittee.

I shall now turn to my own personal views. First of all, as a professional of tax matters, I have never liked the use of administrative measures such as punitive taxes to achieve the goal of guiding society. I feel that by using such measures the Government is creating a dangerous precedent, encouraging people of different political persuasions to demand the Government to use them as a means to their own social or political ends. If the Government takes the lead in

setting fire, it will be very difficult to ask the people not to light their lamps.

The tax policy that has been adopted in Hong Kong for all these years is simple and easy to implement. The Government's revenue need only be sufficient to cover the expenditures, and it is not to be used as a political means. Should they be implemented for a short time under extreme circumstances, like the present case, I believe that this Council may still be able to reluctantly accept them. However, it is absolutely undesirable for long-term implementation and that is a very clear consensus reached by the subcommittee. I agree with Mr Ronald ARCULLI that the Government should give us a definite answer rather than telling us that this would be a permanent practice as this proposal was first put forward. Should it be so, I think, this Legislative Council will have to consider it very carefully.

Secondly, I have also been trained in the field of economics and I firmly believe in the free operation of the market. In my opinion, very limited effect can be achieved by using taxation as an administrative means. This is not only my view, several former Financial Secretaries brought it up time and again in their budget speeches that the Government taxes could have no bearing on market operations whatsoever. The present case is an exception which itself is quite puzzling indeed.

As a matter of fact, this measure has been in effect for six years, but has it helped curb property speculation? Everyone knows that speculation is still rampant. Speculation in the form of confirmor sales may have subsided a bit, but as regards the whole market, speculation in ways other than confirmor sales still goes on. People can speculate on number chips, on completed property, on housing units and even on the shares of companies. The Government has only taken this measure and what is the exact effectiveness of the so-called effect in cracking down on confirmor sales on the overall property market? Many colleagues have doubts about this and I do not blame them.

I think that in all these years, the end-users have all along paid the prices demanded by the market. I also agree with some Members that the objective result is that the Treasury is the ultimate beneficiary. Whether this is its intention or not, the Treasury does share the bonus, that is, it shares the profits of property speculators.

As for whether the costs have been passed on to the end-users,

fundamentally, we have to look at two things. The Government's answer is very tactful, saying that when the housing supply and demand are balanced, the costs will not be passed on to the end-users. I totally agree to this point because when the supply meets the demand, if someone raises the price, the buyers will of course not buy the more expensive flats but buy the cheaper ones. Nevertheless, everyone knows that the supply and demand have never been balanced in the last six years and will not be so in the next two. When supply falls short of demand, the buyers can only accept whatever that is asked and the speculators can add whatever profits they want to the costs and set the prices at any level. In recent years, the increases of the property prices have been completely illogical and unreasonable economically since no matter how high the price is, the buyers still make the purchase. In this case, how can people be convinced that addition to the costs will not be passed on to the buyers?

Some of our colleagues, not me, pointed out repeatedly that since this measure was introduced some time ago, it has been successful as a profit-making tool of the Government, but as a measure to contain property speculation, it is doomed to fail and will never escape this fate. As for me, I would ask, after the costs are increased, how the Government can guarantee and how all our Members or anyone for that matter can guarantee that the costs will not be passed on to the buyers. If someone says that he can guarantee that, I think that he is down right ignoring the fact.

Many colleagues may not be able to fully grasp these relatively technical issues or even do not quite understand the focal point of the subject. When they were lobbied, they did not want to go against the Government, which I do fully understand. As a professional, I worked with Mr KWONG Ki-chi, the Secretary for the Treasury, many times before. I am not a "major opponent" whatsoever; I have never had anything against the system; I also agree with Mr Ronald ARCULLI and I totally support the keeping of the stamp duty system; I never have any intention to change this system. The only thing that I hope to change is that when the property market is sluggish, the punitive duty should be lowered somewhat. I am not asking for a change in the system. I do support retaining the system and I believe that this system can help retain some audit data and audit trail for us to trace profits and collect profits tax. I completely agree to this point. Mr Ronald ARCULLI and I happen to have the same idea in the discussion that the tax of the duty should be lowered a little and only to be increased when necessary. It is only a more open view to keep this concept while allowing others to study thoroughly the implication of this duty on the

market.

I can appreciate that Mr Ronald ARCULLI asks for six months to have this done because if this resolution is not finalized by the end of December, that is, if no decision is made in this meeting or next, we will run out of time. It is literally impossible and technically not feasible to ask Members to come up with other recommendations in such a short time, even though Mr Ronald ARCULLI is very intelligent and highly efficient. Therefore, it is perfectly understandable for Mr ARCULLI to ask for some time to deal with this. We are not trying to stall this; rather, we wish to give the Government the benefit of the doubt and allow it to continue implementing this ordinance for six more months. Members can study Mr ARCULLI's new suggestion in these six months and at the same time see whether the property market will be stabilized. Will the sluggishness that we have now be around for some more time? And if the property market remains inactive, we will look at the situation faced by the property buyers. First of all, will banks extend mortgage loans? At the moment, few banks are willing to extend mortgage loans. Even if there are banks willing to do so, property buyers have to pay a down payment of 40% of the property price in cash. With lawyer's fee and 2.75% stamp duty payable, they will have to pay half of the property price before they even get the flat. This indeed has great implication on their cash flow. While the property speculation has died down somewhat, do we need to help the real home buyers out? If we still have doubts about the property market, should we step back and take a good look at the situation?

I do not want to talk about so many theories. I just want to talk about the spirit of the council. We are an open council and one that deliberate the affairs of Hong Kong, and when one of our colleagues, the respected Mr Ronald ARCULLI, just wants to make a very small request in the hope that we will spare a little more time to listen to him and the explanation that he gives today is worth our study, that is something that we should consider. As Members, should we not give a chance to our colleague who has made such a small request? If we are not able to do even this, I will be very disappointed with this Council and I also feel that this is a very strange council. Is it just because of a word from the Government that we have to block such a good suggestion? I hope that Members will support Mr ARCULLI as I do and support that we give ourselves a chance, give ourselves six months to look at this Ordinance.

Thank you, Madam President.

PRESIDENT (in Cantonese): Mr CHAN Kam-lam.

MR CHAN KAM-LAM (in Cantonese): Madam President, the Democratic Alliance for Betterment of Hong Kong (DAB) supports the Government's resolution to extend the stamp duty measure for another two years.

The DAB considers that since its introduction, this measure has indeed achieved certain effects including effectively deterring the avoidance of paying profits tax by property speculators operating as confirmors; more importantly, it also increases the costs and risks of the speculators which in turn has dampened speculative activities.

According to the data provided by the Government to the Provisional Legislative Council, in the period between February 1992 and September 1997, out of 29 900 confirmor sales, only 573 involved three or more re-sales. As the more the number of re-sales, the higher the costs the final buyer will have to bear, the interests of the genuine home buyers will certainly be protected if we can reduce the number of confirmor re-sales. On the other hand, figures also show that the current measures does not impose any financial burden on the genuine home buyers.

Madam President, if Members are not too forgetful, I believe they can recall that after the delivery of the policy address by the Chief Executive, some members of the public resented that the policy address did not mention any solid administrative measures on bringing down the property prices. The DAB considers the charging of the stamp duty currently the one and only measure to add to the costs and risks of the speculators and therefore should not be given up lightly. Besides, the slight downturn of the property market caused by the financial and stock crisis recently is only temporary and speculators are still waiting for their chances. If we abolish the stamp duty today, we will send out a misleading message to them that the Government has ceased cracking down on speculative activities, and this will rekindle the speculative activities. And that is not something that the DAB would want to see. Therefore, we support the Government's resolution to extend the stamp duty measure for two more years.

As for the Honourable Ronald ARCULLI's amendment proposing to shorten the extension period to six months, since this Council's workload will be very heavy in the coming months, I wonder if we should spend time on studying the need to shorten the period from two years to six months. We feel that this measure can be extended for two years in the first instance and then leave it to the first Legislative Council to examine. Therefore, the DAB objects to the proposal of Mr Ronald ARCULLI.

On the other hand, regarding the new method of charging stamp duty as proposed by Mr Ronald ARCULLI, although we have not discussed it in detail with him, our preliminary study of his proposal tells us that it is much different from the present measure. So, for the time being, we will study it again.

In addition, during the deliberation of the subcommittee, some Members worried that charging the stamp duty in advance would not curb speculative activities but such costs would be passed on to the users. We cannot agree to such arguments. As the property market operates under a free market system and the prices of the property are ultimately determined by the market, the increase of costs that comes with the re-sales will not be passed on to the buyers. Rather, we feel that the fundamental issue is that if speculation can be dampened, property prices will be maintained at a more reasonable market price level.

Madam President, the DAB has to stress that charging the stamp duty in advance is not the only way to bring down property prices and curb speculation. The most important and more effective way is to increase the housing supply. Therefore, we hope that the Government can, while seeking the extension of this measure, continue to maintain the housing supply in order to meet the demand of the market.

With these remarks, I support the Government's resolution.

PRESIDENT (in Cantonese): Does any Member wish to speak?

(No Member indicated to speak)

PRESIDENT (in Cantonese): Secretary for the Treasury, do you wish to speak on Mr ARCULLI's amendment?

SECRETARY FOR THE TREASURY (in Cantonese): Madam President, according to the Honourable Ronald ARCULLI's amendment, the current stamp duty measure is to be extended by six months only. The Administration opposes this amendment. I would like to respond to the arguments put forward by Mr ARCULLI.

First, we should not just look at the slowdown of the property market in the recent weeks when we decide whether the measure should be continued or the length of the extension. In fact in the past few years, there have been ups and downs in the property market. But statistics unambiguously show that even when property prices fell, there were still speculative activities by confirmors. For example in 1995-96 when the prices dropped, there were 170 confirmor re-sales on average every month. The introduction of the stamp duty measure could not totally eliminate speculative activities by confirmors. But statistics I provided to Members when moving the motion today show that the stamp duty measure was effective in reducing the number of confirmor re-sales before the assignment of the property. The Government is therefore of the view that we should follow the past practice and extend the measure for two years so as to effectively curb speculative activities by confirmors.

Extension of the measure would have no impact on the normal operation of the market or on the genuine home-buyers. Nor is it in conflict with the Government's promise to provide an adequate number of flats. Rather, if we are to abolish the measure, or to shorten the extension period, a wrong message would be sent to the market and people may think that the Government is gradually relaxing or is about to abolish anti-speculation measures. As a result, speculative activities will be fuelled and the normal operation of the market will be affected.

Mr ARCULLI is of the view that if we are to charge the confirmors stamp duty, the cost will be passed on to the end-users or the genuine home buyers. I beg to disagree with this point. Property prices are determined by supply and demand in the market. The stamp duty borne by the speculators might not or could not be passed on to the genuine home-buyers. The price asked by the speculator, which must be the highest price that the purchaser is willing to pay, is

determined by demand and supply in the market as well as other personal factors. In a booming market, the confirmors will not accept a price lower than the market one even in the absence of the stamp duty measure. When we have a balance in the market, the users will have other alternatives and need not accept the price asked by a particular speculator. If we are to abolish the stamp duty charged on the agreements for sale and purchase, the speculators will save the stamp duty and increase their profits. If we expect the speculators to reduce the prices just because they are not required to pay the stamp duty, it is mere wishful thinking; it is unrealistic and does not reflect the way the market operates.

Mr ARCULLI suggested that we should change the stamp duty mechanism and ask the buyers and the sellers to submit information to the Inland Revenue Department (IRD) after signing the agreement for sale and purchase of residential property in order to facilitate the IRD in its investigation and assessment of profits tax. But at this stage, no stamp duty is required. It is only when the property is re-sold before the assignment is signed that the agreement for sale and purchase made prior to the resale will be subject to the deferred stamp duty. I do not think this proposal is feasible because the stamp duty measure is not implemented only to collect profits tax from speculators. Statistics over the past 12 months show that on average each confirmor re-sale has to pay close to \$100,000 of stamp duty. If stamp duty is not charged or only a nominal fee is charged for the signing of the agreement for sale and purchase, the operating costs of the confirmors will go down. It will fuel speculative activities, especially those involving more than one confirmor re-sales, and the end-users will be adversely affected.

With regard to deferring the stamp duty, does it mean that Mr ARCULLI agrees with the Government's point that the charging of stamp duty will help curb speculative activities on properties? So when there is evidence to show that confirmor is involved in certain transaction, stamp duty should be charged. This point contradicts Mr ARCULLI's argument that the stamp duty charged on the confirmor will be passed on to the end-users. According to Mr ARCULLI, the confirmor will only have to pay stamp duty on assignment of the property, but the speculator can calculate in advance the stamp duty needed to be paid and then still pass it on to the end-users. Under his proposal, the end-users' expenses will not be reduced.

Apart from that, Mr ARCULLI's proposed mechanism will create problems in implementation. For example, under the present stamp duty measure, the

purchaser will have to pay stamp duty in order to register the conveyancing instruments at the Land Registry and effectively assign the title of the property to the purchaser. This mechanism can effectively ensure that the parties involved in the transaction will submit detailed information of the transaction to the IRD. But under Mr ARCULLI's proposal, it will be a complicated matter to work out effective penalties in order to ensure that the parties concerned will on their initiative submit information to the IRD.

With regard to deferring the stamp duty payable by confirmors, there will be difficulties in implementation. This is mainly because when the property has already been assigned to the purchaser, there is no effective mechanism to ensure that the confirmor will on his initiative pay the deferred stamp duty to the IRD later. If the end-user is held responsible for paying the stamp duty for the earlier confirmor re-sale, it is unfair. If the confirmor completes transactions through various means, such as a shell company, the IRD will have difficulty in collecting the stamp duty after the assignment of the property. Therefore, our conclusion is that Mr ARCULLI's proposal is practically not quite feasible.

Mr ARCULLI suggested that he could move a Member's Bill to amend the Stamp Duty Ordinance in order to implement his proposed mechanism. It is quite dubious whether the Member's Bill can be submitted to the Provisional Legislative Council in the short term and be endorsed by the Council before mid-April. I therefore urge Members not to have their decision on the extension of the measure swayed by the suggestion of a Member's Bill.

To sum up, Mr ARCULLI's proposal lacks substantial justification and there will be implementation difficulties. Moreover, a wrong message will be sent to the market and the end-user will be affected. Lastly, I understand some Members are concerned about the long-term implementation of the stamp duty measure and have reservations about that. The Government will carefully consider the Members' views and look at the property market before we put forward any further proposal.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr Ronald ARCULLI be made to the Secretary for the Treasury's motion. Will those in favour of the amendment please say "aye"?

(Members responded)

PRESIDENT (in Cantonese): Those against please say "no".

(Members responded)

Mr Ronald ARCULLI rose to claim a division.

PRESIDENT (in Cantonese): Mr Ronald ARCULLI has claimed a division. The division bell will ring for three minutes.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): If there are no queries, the result will now be displayed.

Mr James TIEN, Mr HO Sai-chu, Mr Edward HO, Dr Raymond HO, Mr Eric LI, Mr Allen LEE, Mrs Selina CHOW, Mr Ronald ARCULLI, Mr MA Fung-kwok, Dr LEONG Che-hung, Mrs Sophie LEUNG, Mr Kennedy WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU and Mr Timothy FOK voted for the amendment.

Mr WONG Siu-yee, Mr David CHU, Mr LEE Kai-ming, Mrs Elsie TU, Mrs Peggy LAM, Mr Henry WU, Mr Henry TANG, Dr TSO WONG Man-yin, Mr LEUNG Chun-ying, Mr MOK Ying-fan, Mr HUI Yin-fat, Mr CHAN Choi-hi, Mr CHAN Wing-chan, Mr CHAN Kam-lam, Mr TSANG Yok-sing, Mr CHENG Kai-nam, Mr Frederick FUNG, Mr Andrew WONG, Dr Philip WONG, Dr Charles YEUNG, Mr YEUNG Yiu-chung, Mr IP Kwok-him, Mr CHIM Pui-chung, Mr Bruce LIU, Mr LAU Kong-wah, Mr Ambrose LAU, Mr CHOY Kan-

pui, Mr Paul CHENG, Mr CHENG Yiu-tong, Dr TANG Siu-tong, Mr NGAN Kam-chuen, Mr LO Suk-ching, Dr LAW Cheung-kwok, Mr TAM Yiu-chung and Miss CHOY So-yuk voted against the amendment.

Mr NG Leung-sing and Prof NG Ching-fai abstained.

THE PRESIDENT announced that there were 16 Members in favour of the amendment, 35 against and two abstaining. She therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Secretary for the Treasury, do you wish to reply?

(The Secretary for the Treasury indicated he did not wish to reply)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for the Treasury be approved. Will those in favour please say "aye"?

(Members responded)

PRESIDENT (in Cantonese): Those against please say "no".

(Members responded)

PRESIDENT (in Cantonese): I think the "ayes" have it. The "ayes" have it.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' Motions. Motion under the Interpretation and General Clauses Ordinance. Mr Allen LEE.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MR ALLEN LEE: Madam President, pursuant to Rule 29(2) of the Rules of Procedure of the Provisional Legislative Council, I wish to move the motion to amend subsidiary legislation namely the Kadoorie Farm and Botanic Garden Bylaw, which is Legal Notice 504 of 1997. The Kadoorie Farm and Botanic Garden Corporation Ordinance (Cap. 1156) established a Corporation to run that farm and garden. Section 23 of the Ordinance gives the Corporation the power to make Bylaws. Such bylaws were drafted in the early part of this year. Publication was delayed and it was not until 31 October 1997 that they were published in the Gazette.

Because the Bylaw was drafted several months ago, prior to 30 June this year, reference is made in section 22 to the office of the Attorney General.

Due to an oversight, this reference was not altered, despite the fact that the Bylaw was published after 1 July 1997.

I therefore move the motion that the Bylaw be amended by deleting the words "Attorney General" and the substitution of the words "Secretary of Justice".

Madam President, I beg to move.

Mr Allen LEE moved the following motion:

"That section 22 of the Kadoorie Farm and Botanic Garden Bylaw, published as Legal Notice No. 504 of 1997 and laid on the table of the Provisional Legislative Council on 5 November 1997, be amended by repealing "Attorney General" and substituting "Secretary for Justice"."

PRESIDENT: I now propose the question to you and that is: That section 22 of the Kadoorie Farm and Botanic Garden Bylaw, published as Legal Notice No. 504 of 1997 and laid on the table of the Provisional Legislative Council on 5 November 1997, be amended by repealing "Attorney General" and substituting

"Secretary for Justice".

PRESIDENT (in Cantonese): Does any Member wish to speak?

(No Member indicated to speak)

PRESIDENT (in Cantonese): I now put the question to you and that is: That section 22 of the Kadoorie Farm and Botanic Garden Bylaw, published as Legal Notice No. 504 of 1997 and laid on the table of the Provisional Legislative Council on 5 November 1997, be amended by repealing "Attorney General" and substituting "Secretary for Justice". Will those in favour of the motion please say "aye"?

(Members responded)

PRESIDENT (in Cantonese): Those against please say "no".

(Members responded)

PRESIDENT (in Cantonese): I think the "ayes" have it. The "ayes" have it.

PRESIDENT (in Cantonese): Two motions with no legal effect. I have accepted the recommendations of the House Committee as to the time limits on speeches for the motion debates. The movers of the motions will each have 15 minutes for their speeches including their replies, and another five minutes to speak on the amendments. The movers of the amendments and other Members will each have seven minutes for their speeches. Under Rule 37 of the Rules of Procedure, I am obliged to direct any Member speaking in excess of the specified time to discontinue.

PRESIDENT (in Cantonese): First motion: Review of the operating mechanism of Hong Kong's financial market. Mr Ambrose LAU.

REVIEW OF THE OPERATING MECHANISM OF HONG KONG'S FINANCIAL MARKET

MR AMBROSE LAU (in Cantonese): Madam President, I move the motion as set out on the Agenda.

The recent financial turmoil in Asia, in particular the plunge of Hong Kong stocks in late October, sparked off a drop in European and American stocks. This fully demonstrates that with the globalization of the world economy, no country or region can stay alone and mind their own business.

The international financial turmoil has not died down yet. It has caused harm to the economy of a lot of countries and regions, and Hong Kong is no exception. Therefore, the keynote of my motion, review of the operating mechanism of financial market, moved on behalf of the Hong Kong Progressive Alliance (HKPA) is how to handle a financial crisis and revive the economy, and how to learn from experience and take counter-measures. Although the Hong Kong Special Administrative Region (SAR) Government has succeeded in fending off speculators in the financial turmoil and Hong Kong is the least affected in its economic development compared with other Asian countries, we must admit that the speculators are waiting in the wings for their next victims. We must also admit that the SAR Government has paid a very high price to defend successfully the linked exchange rate system of the Hong Kong dollar. Furthermore, although the financial derivatives have positive contributions to the boom of Hong Kong financial market over the past few years, these derivatives have made the operation of financial market more complicated, and quite beyond the understanding of the citizens. If there is a minor slip in the management of these derivatives, it will cause widespread damage as a slight move in one part may affect the situation as a whole. In these circumstances, it will be the best policy to learn a bitter lesson from the financial turmoil and be prepared for troubles well before they appear.

The HKPA hopes that by moving this motion debate, it can urge the Government to review problems brought to Hong Kong by the financial turmoil,

and to pool the community's collective wisdom, to take initiatives and to come up with more effective ways to fend off speculators in order to make the operation of the financial market healthier, more effective and conducive to the overall economic development of Hong Kong. The HKPA will affirm that this motion debate does not seek to review the financial system itself, but the operating mechanism of the financial market. We do not query the linkage system, but we query the skills and strategies employed in effectively defending the linkage system of the Hong Kong dollar, so that in the event of another attack, the undesirable side-effects of the counter-measures to the Hong Kong economy can be minimized.

Madam President, the biggest difficulty Hong Kong faced during the financial turmoil was to maintain the linkage system where by the Hong Kong dollar is pegged to the US dollar on the one hand, and on the other, having lost the most flexible and effective market regulation mechanism of letting the Hong Kong dollar float, to fight off the attacks, frontal or diversionary, of the speculators in the foreign exchange, stocks and index futures markets. Therefore, it is urgent that we should expeditiously review the chain relationship among the above three financial markets, and in particular, to properly regulate stock lending and short selling of index futures, with a view to strengthening the Government's responsiveness to unforeseeable speculative activities and financial crisis. Moreover, as the Hong Kong financial market booms, the derivatives grow fast, an increasing number of citizens are involved in the financial market transactions. The HKPA hopes that the Government will take measures to enhance the general stock buyers' understanding of the operation of the stock market and financial derivatives, so that they know the extent of risks in their investment and speculation and make rational decisions when they participate in the markets. Whether the stock buyers are rational or not is very important, having a bearing on the Government's ability to counter attacks in future financial turmoil effectively. If there is no rational support from stock buyers, no matter how perfect and effective the financial system and operation mechanism are, they will only look strong but are weak in reality and unable to stand up tests.

The HKPA thinks that it is right for the Government in determining to defend the Hong Kong dollar. The linkage system is not only the cornerstone of Hong Kong's prosperity over the past 14 years and in the future, but is also a guarantee to international investors for their confidence. If we give up the linkage system, the exchange rate of the Hong Kong dollar may plunge along

with other Asian currencies. The confidence crisis that follows will push up interest rates and push down the stock and property markets that eventually will dampen the desire for investment or consumption.

We are worried that Hong Kong has to pay a high price to defend the linkage system. As the Government perceives interests hikes the chief weapon against speculators attacking the Hong Kong dollar, the Hong Kong stocks plunged, in the face of soaring inter-bank rates that once reached 300%, from a record high of 16 820 points on 7 August to its low at 8 755 on 28 October. Sustained high interest rates and plunging stocks are serious blows to the property, banking and tourism industries and to the small- to medium-sized enterprises which need loans urgently. When we all expect a loss in our wealth, the bad effects of decrease in consumption, and economic downturn will appear gradually.

As "flies do not hover around eggs which are not cracked", the international investors attacked Hong Kong because the financial system in Hong Kong is not perfect or unassailable. In fact, there is a "two-inflation" problem in Hong Kong: firstly, the inflated cost of capital, that is, the rocketing stock market, high property prices, and continued high business costs have made the speculators think that the Hong Kong dollar is precariously high, so they took the opportunity to attack Hong Kong exchange value, and profited hugely from the stock and index futures market; secondly, the "inflated ego". The speculators have accurately perceived that Hong Kong is preoccupied with its status of international financial centre, stressing only freedom and openness without adopting necessary monitoring and effective protective policies. As a result, this has helped the speculators "take advantage of Hong Kong people" continually.

Regarding the inflated assets price, with the Hang Seng Index coming down to around 10 000 points after the heavy blow from the financial turmoil, the overall market price/earnings ratio is round 10 times, making Hong Kong stocks objectively attractive; the property market has seen obvious adjustments as well after the heavy blow. All these notwithstanding, the problem is that this financial crisis has exposed to a certain extent the bubble nature of the Hong Kong economy. With the multiple threats of the Korean financial crisis and possible attacks from international speculators any time, we cannot be optimistic which way the stock and property markets will go. To deal with this situation, the Government should introduce some confidence building and economic health

boosting measures by increasing money supply and decreasing interest rates.

To remove the "inflated ego", we must identify objectively the position and strengths of Hong Kong as an international financial market. Honestly, though Hong Kong stocks have a market value of over US\$ 400 billion, ranking number six in the world, it is far less than that of New York, Tokyo and London, equivalent to only 5% of New York's more than US\$ 8,000 billion. If several large investment funds conspire and plan to attack Hong Kong together, they will get their chances. Even if it is not easy for a joint attack by large funds to occur, we cannot be too careful and must always stay vigilant, and not be carried away by the reputation of international financial centre and neglect the need to set up a sound and stringent risk management system in Hong Kong.

We have to examine in some depth if an increase in interest rates is the only way to defend the Hong Kong dollar. What the Hong Kong Monetary Authority (HKMA) practises is certainly not a purely currency board system, in that the Authority has to maintain the exchange rate at 7.8 as well as to preserve the foreign exchange reserves. As a matter of fact, the HKMA sells US dollars at the "warning line" of 7.75 level. As it tightens money supply in Hong Kong dollars prematurely, it has allowed the speculators to push up the interest rates of Hong Kong dollars by attacking the Hong Kong exchange rates. However, as many academics and businessmen have suggested, the HKMA should not use its only means of raising interest rates prematurely, and it should allow the market force to fight the speculators. Specific measures include the cancellation of the old-time restriction requiring "hedging" to be settled with cash, and to change to cashless or non-electronic settlement to reduce transaction cost. Some academics have also suggested a US dollars liquidity adjustment mechanism whereby a bank may use exchange fund bills as pledges and borrow US dollars for a fixed period from the HKMA. When it repays the money, it can choose to pay in US dollars with interest, or in HK dollars with interest at a fixed exchange rate of 7.8. Under this new mechanism, the banks do not need to worry about the devaluation of the HK dollar, and will be relieved to sell US dollars and buy HK dollars. It can then gain from the differential in exchange rates and interests, and the exchange rate of the Hong Kong dollar will be stabilized. The HKPA hopes that the Government should not only listen to voices supporting the linkage system, but also to the different suggestions made by people from all walks of life to better defend the HK dollar so that the undesirable effects to the Hong Kong economy brought by measures countering speculators will be

reduced.

Madam President, a sound risk management mechanism has to work hand in hand with management according to the law. An obvious example is, one day before Modys downgraded the rating of the Hang Kong Bank and Heng Seng Bank, the market suddenly witnessed an abnormal short-selling of more than three million Hong Kong Bank shares. The next day when Modys disclosed an unfavourable report on banks in Hong Kong, the share prices of the Hong Kong Bank and Hang Seng Bank fell dramatically. Why was there such a coincidence? Has the Government probed into related incidents thoroughly and seriously in accordance with the law?

Many European and American countries have strict laws to prohibit and punish insider dealings and market manipulation for private gains. The Hong Kong Government should examine related laws in other countries and improve the legal framework in our financial market. It should also manage in accordance with the law, and not allow speculators to "stay above the law" and to make use of loopholes in law to grab the citizens' hard-earned lifelong savings.

Madam President, while maintaining a free and open market, Hong Kong can review and improve its financial market mechanism to build up a proper risk management system, and enhance the stock buyers' understanding of the derivatives and of the Hong Kong exchange rate and stocks. This can enhance the Government's responsiveness to unforeseeable speculative activities and financial crisis. Moreover, regarding the hidden weaknesses in the Hong Kong economy as exposed during the financial turmoil, the Government should take fundamental measures to remove such weaknesses and at the same time enhance our competitive edge and abilities to tackle crisis. Later on, the Honourable Charles YEUNG and Henry WU of the HKPA will elaborate on my motion from the perspectives of macro-economics and securities market operation, and they will also make some suggestions.

Madam President, I so submit.

Mr Ambrose LAU moved the following motion:

"In view of the recent international financial turmoil, this Council urges the Government, under the principle of maintaining a free and open market, to expeditiously review the operating mechanism of the local financial market, including the chain relationship between the stock, foreign exchange and index futures markets, and in particular to properly regulate stock lending and short selling of index futures, with a view to strengthening the Government's responsiveness to unforeseeable speculative activities and financial crisis; furthermore, the Government should adopt effective measures to enhance the general stock buyers' understanding of the operation of the stock market and financial derivatives."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That, in view of the recent international financial turmoil, this Council urges the Government, under the principle of maintaining a free and open market, to expeditiously review the operating mechanism of the local financial market, including the chain relationship between the stock, foreign exchange and index futures markets, and in particular to properly regulate stock lending and short selling of index futures, with a view to strengthening the Government's responsiveness to unforeseeable speculative activities and financial crisis; furthermore, the Government should adopt effective measures to enhance the general stock buyers' understanding of the operation of the stock market and financial derivatives. Does any Member wish to speak?

MR NGAN KAM-CHUEN (in Cantonese): Madam President, Hong Kong's economy has great strength and a sound foundation; but as soon as the annual meetings of the World Bank and International Monetary Fund wrapped up with important financial figures of various countries still lavishly praising Hong Kong's economic performance, the financial storm struck. The Hang Seng Index plummeted over 7 000 points with a loss of over \$2,000 billion in the book value of stocks in a matter of two months. This stock meltdown was obviously caused by international speculators who took advantage of the turmoil in Southeast Asian currencies to launch an attack on the Hong Kong dollar. In the past month, seeing the rocketing interest rates of the Hong Kong dollar, the industrial and commercial sector's difficulties in their operations, the ever heavier

burdens of the general public, and anxieties shrouding the whole community, we cannot but ask whether the Government could have done better to minimize the effect of the financial turmoil.

I would like to take this chance to discuss the issue of the pegged exchange rate system. The Democratic Alliance for Betterment of Hong Kong (DAB) thinks that the system of pegged exchange rate, as a symbol of people's confidence in the prosperity and stability of Hong Kong, should not be shaken or changed. But the Government must look squarely at the problems involved with its operation in order to build a sounder and more stable market mechanism that can regulate market functions so that the advantages of the pegged exchange rate can be better realized and the international speculative attackers more effectively repelled.

The original design of the pegged exchange rate system was not to rely on the direct interference by the Hong Kong Monetary Authority (HKMA) to stabilize the exchange rate of the Hong Kong dollar. The currency board system as inherent in Hong Kong's pegged exchange rate has fully an automatic adjustment ability in the market but this ability has not been effective in this Hong Kong dollar crisis and the underlying reasons are worth our examination.

The change in the operation of the pegged exchange rate system leading to the reduction of arbitrage activities in the market

In the 1990s, owing to the large amounts of capital flowing into Hong Kong and the HKMA's intention to maintain the Hong Kong dollar as a strong currency, the exchange rate of the Hong Kong dollar against the American dollar strayed from 7.8 to 7.73 over a long period of time and the two-tier bank-note settlement system of the pegged rate was ultimately abolished. Consequently, the banking industry has gradually reduced its participation in the Hong Kong-US dollar transactions which in turn weakens the arbitrage power of the Hong Kong dollar. On the other hand, as the exchange rate has maintained the prolonged deviation at the level of 7.73 which is different from the arbitrage level of 1 to 7.8, it is hard for those in the market to figure out the reasonable level of the Hong Kong dollar's exchange rate and this also leads to the reduction of arbitrage activities, restricting the development of the Hong Kong dollar in the foreign exchange market.

The HKMA's active interference dampening the confidence of the market

The HKMA has always resorted to raising the interest rates to ward off the speculators on the Hong Kong dollar and considers 7.75 as the warning line at which level it will actively defend the Hong Kong dollar by buying in, thus pushing the interest rates of the Hong Kong dollar sky-high. The huge difference in the interests between the Hong Kong and US dollars is a sign that the risk premium of holding Hong Kong dollar is extremely high and the risk in making use of the two currencies for interest arbitrage purposes has greatly increased. Therefore, the financial sector loses confidence in the Hong Kong dollar and is not tempted by the high interest rate. With the reduction in arbitrage activities in US dollars, the difference in interests will of course not be narrowed.

The HKMA destroying the co-ordination of the banks

On 23 October, the HKMA withdrew large amounts of Hong Kong dollars from major Hong Kong dollar supplying banks, leading to a shortage of Hong Kong dollars in the inter-bank market and a tremendous rise in interest rates. This arbitrary move of the HKMA, a departure from its usual practice of discussing with the note-issuing banks to find the countermeasure, disrupted its co-operation with the banks. This move fanned up panics in the market and a sense of crisis about the whole incident bloomed. The banks on the one hand were worried that the HKMA would impose a punitive interest on them and on the other hand feared that the interest rate would not come down shortly; hence they did not dare to extend Hong Kong dollar loans. Consequently, the interest rate was maintained at a high level over a long time and the economy suffered.

Facing up to the problem and actively seeking a solution

Although the pegged rate system has been in place in Hong Kong for over a decade now and has worked, the loop-holes that exist in its operation cannot be overlooked. The DAB urges the Government to deal with the problem in the following ways in order to dampen the foreign attacks on the Hong Kong dollar and find other solutions than just resorting to the high interest policy.

First, the one tier settlement system of the Hong Kong dollars should be reverted to the former two tier system so that commercial banks and note-issuing

banks can change Hong Kong dollars at the exchange rate of 1 to 7.8 again and the arbitrage function between the Hong Kong and the American dollars can be enhanced to dampen speculation and bring down the rocketing interests.

Second, to set up a buy-back market for the exchange fund bills so that the holders of these bills can leave them as a security with the MA to borrow Hong Kong dollars and redeem the notes at a pre-fixed price and date. This way, while the HKMA's adjustment ability over the supply of the Hong Kong dollar can be strengthened, it will also serve as an indicator to the market regarding the interest rate movements in the medium and long run.

Third, to step up the monitoring of the market. The Government not only has to regulate Hong Kong dollar dealings, including spot, swap and forward transactions, but must also have a good grasp of the option trading and the movement of the inter-bank market.

Fourth, to enhance the co-operation and co-ordination with the banks. It should only draw money from the inter-bank market when there are no better alternatives.

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

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

DEPUTY PRESIDENT (in Cantonese): Mr David CHU.

MR DAVID CHU: Mr Deputy, you are either lamb or lion in the financial markets. For seven weeks we have been battered by speculators who first moved against our currency and then against our stocks. The time has come for us to refuse to be victims. We must fight back, both tooth and nail, if we are not to be prey, we have to be lion, not lamb from now on.

I agree with the Honourable Ambrose LAU that we in Hong Kong are not operating a free market, only the illusion of one. A free market is a place where people trade and in which no one is dominant. We do not have such a market because ours is prone to manipulation by a few international financial houses.

Our market is small and extremely vulnerable. We are not like New York, London and Tokyo the sheer size of which daunts speculators. Our market capitalization has been assessed at less than US\$150 billion by the Hong Kong Stock Exchange. Our Exchange on a typical day records US\$2.1 billion in turnover when the world over more than US\$1,300 billion will be traded.

Mr LAU is right about Hong Kong having to "review the operating mechanism of the market" to thwart the speculators who thrive on others' insecurity and indulge in conspiracy. Back in January 1995 I had also asked the Government of the day to re-examine trading derivative regulations to curb the excesses of several suspicious brokerages and merchant banks. They have the money and the cunning to manipulate the market to the harm of small investors.

I mentioned that back in December 1994 some players had fanned rumours to scare investors and then traded heavily in futures to gain from the jitters. On that day the Hang Seng Index futures deals reached 30 000 contracts worth US\$1.5 billion compared with only US\$1 billion trading in stocks.

To this very moment we have brokerages and merchant banks periodically making calculated remarks through the media to frighten investors. They can do this with impunity because the tactic is legal, even when it is immoral. I fully appreciate why Mr LAU is calling on the Government to "enhance the general stock buyers' understanding" of the stock market to save them from injury by others' malice and manipulation. We remember how some brokers allegedly spread lies about the International Bank of Asia (IBA) earlier this month to start a nervous chained reaction. The run was halted by prompt statements of support from the Financial Secretary, the Monetary Authority and the three note issuing banks and by sound IBA senior management. I am sure we would like to get a piece of those who this week started the rumours about a local bakery and caused a run on cakes. I regret that the Government 10 years ago repealed a Public Order Ordinance clause that would have mandated criminal charges against the rumourmongers.

We must now be proactive in our defence. This is why I advocate that the Government, together with the Monetary Authority, set up a bureau to monitor all markets — stocks, precious metals, derivatives, futures, and so on. No, not just the markets in Hong Kong but also elsewhere to detect speculative

trends.

This bureau, under the Financial Secretary, shall have access to an undisclosed pool of funds drawn from the foreign reserves, the fiscal reserves, Land Fund and future proceeds from the Mandatory Provident Fund. The Financial Secretary shall have the discretion of using the resources to counter moves by speculators from time to time. This way the speculators will not go unchallenged.

I also concur with Mr LAU that we need to review all regulations. We should, for example, raise requirements for index trading. We must reduce the heavy weighting of a few major Hang Seng Index shares to prevent manipulation of key stocks to influence the Hang Seng Index. There should also be a uniform closing time for the stock market and the index market. We must also scrutinize all futures instruments and regulations with a view to protecting the small shareholders.

With the globalization of finances, every economy these days operates like a branch of an extended bank, exposing each to speculation and conspiracy. The days of unilateral action in isolation by any economy are past. Before long the International Monetary Fund (IMF) and World Bank have to form a kind of financial police who can mobilize enormous sums of capital to deal with speculators on an international basis. If not, the IMF and World Bank will just have to keep on bailing out economies ravaged by speculators and by their own mismanagement. Only then, with the protective measures in place, would there be a genuinely free market.

Mr Deputy, I vote for the motion. Thank you.

DEPUTY PRESIDENT (in Cantonese): MR JAMES TIEN.

MR JAMES TIEN (in Cantonese): Mr Deputy, last weekend I went to Bangkok for a few days and did not return until yesterday. I wanted to find out the chief reason for the recent financial turmoil in Asia at its place of origin and what the big differences are between Bangkok and Hong Kong. Actually, it is not hard to see the reasons. Financially, ruling a country or a region like Hong Kong is like doing business and looking after a family. The most important thing is you should not spend money recklessly if you do not have it. Even if you have

money in your purse, you have to make sure whether it is your own money or whether it is borrowed. The problem with Thailand is that she borrowed from many foreign banks in order to invest in infrastructure. At the same time, its industrial and commercial sector borrowed from many foreign banks to build a lot of buildings, while ordinary citizens obtained loans and spent all their money on buying luxury cars and gold watches. Now the foreigners are demanding the repayment of loans, they are in big troubles. Hong Kong does not have this problem. Perhaps under the many years of British rule, Hong Kong had practised the fiscal policy of keeping expenditures within the limit of income. This meant that the annual expenditure was not allowed to exceed growth, that is, inflation plus real growth. This is commendable. Besides, the greatest difference is that we have an effective Independent Commission Against Corruption which deals with corruption very competently. Therefore, I am optimistic about Hong Kong's economy in the medium and long term. This is because we have a solid foundation, unlike Thailand or other Southeast Asian countries.

However, Mr Deputy, in the short term, that is to say in these few months or in one or two years, I am less optimistic than the Government. I disagree with the Financial Secretary's remark in Vancouver earlier that all problems might be solved by December. Of course, I hope that the Government is right and that the problems can be solved. Nevertheless, recently, we have seen how the recession in the tourism industry has affected all the retail outlets in Hong Kong and it is obvious that all businesses are doing badly. The main reason is that the high interest rates have made it difficult for businessmen to operate and created uncertainties for the "working man" in terms of mortgage repayment, employment or salary increase. In view of this, what will our economy be like next year?

The Government said that as we have shifted our emphasis from manufacturing to the service industry, we need not worry. For the industrialists, the number of orders placed for next year so far is still very small. In fact, due to the devaluation of the currencies of Southeast Asian countries, Hong Kong has lost a lot of business. Between January and March next year, other service industries in Hong Kong, such as cargo service and air freight, will be affected. If there is no freight, there will be no need for insurance and no need to go to the bank to redeem bills. These service industries will be affected sooner or later. The Government must deal with this problem prudently.

As we all agree, one of the roots of the problems is the need to defend the

Hong Kong dollar. Actually, during the last turmoil, on 24 and 25 October, the Government did nothing but said empty words. It merely talked about defending the Hong Kong dollar and adopting a tight-money policy, thereby victimizing the commercial and industrial sector as well as the public. Our money was gone. The Index dropped a few thousand points and the total market value shrunk from \$4,000 billion to about \$2,700 billion. Naturally, the Government said that it was for the sake of driving back speculators and it was the right thing to do. But the worst thing was that we lost more than we gained. I believe that the review proposed by the Honourable Ambrose LAU is meant to cover the chain relationship between the foreign exchange market, interest, stock and index futures markets so that speculators will not be able to take advantage. I believe many members of the public hope that the Hang Seng Index will go up again or that property prices will cease to drop. But if they recover somewhat, speculators will reappear. It will be no help if the Government uses again its only and the same tactic of increasing interest rates. I hope that after the review, the Government will come up with better solutions to this problem.

There are some things we can do. Due to the recent poor economic conditions, the Government should consider whether it should implement the "users pay" principle and the principle of recovering costs in deciding the level of Government fees and charges. At present, the proposals submitted by the Government to the Provisional Legislative Council for consideration are all subject to the principle that the increase rate will not be higher than the inflation rate and we are asked to support them. Due to the present economic situation, I hope that the Government can consider dropping these proposals in these six months. Even if the Government does make these proposals, I will urge other Members to veto them as far as possible. Of course, in accordance with the policy of "giving a dividend to the community", I also hope that the Government will consider reducing profits tax and salary tax. Why would I make such a suggestion? In the past, the Government always said we need a substantial reserve to protect the Hong Kong dollar (the US dollar is supported by gold, but the Hong Kong dollar is not). However, in this case, the Government did not take this measure. The reserve which amounts to more than US\$70 billion was not used at all in the defence of the Hong Kong dollar. Does this mean that this reserve is sufficient? If it is, do we need to put so much surplus to the Government's coffers? If there is no need to do this, I urge the Government to return wealth to the public in the next few months and leave more money in the market. The "market" refers to the commercial and industrial sector, big consortiums, small and medium enterprises and the general public. I think Hong Kong will be going through a very difficult time in the next six months.

Thank you, Mr Deputy.

DEPUTY PRESIDENT (in Cantonese): Mr CHIM Pui-chung.

MR CHIM PUI-CHUNG (in Cantonese): Mr Deputy, today's debate may be a bit too late, but since it involves an important issue of the future of Hong Kong, it is right to propose it any time. On behalf of the Honourable colleague who moved the motion, I would like to call on Members here to urge the Government to make reviews; though many of you may not be familiar with financial affairs, you can voice the feelings of your family members.

Mr Deputy, I think the financial turmoil we are discussing today is an "alternative war". Why? Because this is basically a declared war in the world of capital and assets, for example, the Special 301, anti-dumping, and so on. Now everyone keeps his reserves in US dollars. We have to understand why they choose the US dollar. In the past, the United States Government pledged that anyone with US\$35 could exchange it any time for one ounce of gold. This was the case more than 20 years ago and it is no longer true any more; today we have paper gold. However, even though we keep our reserves in US dollars, one day we may also find that our assets are greatly reduced. When will this happen? If I knew, I would excel many people. Anyway, this is something worth our study.

Mr Deputy, with regard to the debate today, I shall put forward three issues for discussion and I hope the Secretary for Financial Services will pay particular attention to what I say. Later I will criticize him. He may say that I have only seven minutes, even if I scold him, all I have is seven minutes. But every word I say has far-reaching implications.

First of all, let us talk about the pegged exchange rate. Under the present circumstances, to be frank, I absolutely support the existence of the pegged exchange rate. It is because Hong Kong was subjected to a very serious attack over 10 years ago when there was no pegged exchange rate. As to whether there will be changes in the future, I am sure that there will be. Hong Kong

currency may be pegged to many other strong currencies, not just to US dollar.

As the Chief Executive of the HKMA, Mr Joseph YAM made no mistake, theoretically. He defended the pegged exchange rate. If people were hurt, it was their own business, Mr YAM did his job. He already received his medal and became the best banker of the world, yet he still hopes Hong Kong people will commend him because he indeed earned a lot of foreign exchange for Hong Kong within the few days of 22, 23 and 24 October. However, he has not assessed the impacts on the citizens and the banks which in money terms turned out to be greater than what he earned. Therefore, in theory, he was not wrong from where he stood. Later I will tell you who was wrong. But his negligence and arrogance really shocked Hong Kong, in particular the bankers. When in history has there been an overnight interbank rate as high as 300%? This is never heard of. It will serve as a warning in his life, and it is also a record. For that reason, the Chief Executive of the HKMA is not absolutely free from responsibility, he is responsible, yet he also did his job. The problem is, just as what he said himself, the dose he administered was too big and it hurt the Hong Kong citizens.

The second body which deserves my strong criticism is the Securities and Futures Commission (SFC). Now many people, including myself, have nicknamed it "the securities traitor", that is, a traitor within the securities industry. Although it is a government policy to open up the market, it does not mean that no supervision is needed. The power of the SFC is so enormous that it frequently suspends from trading, investigates, reprimands or prosecutes some of the small-scale listed companies in Hong Kong for all and any reasons. We in the financial sector do support the SFC, but when it faces foreign investors, it is at its wit's end. At what time did it ever accuse that they were wrong? Some people say that we are a free market and if we accuse the foreign investors for any wrongdoing, they will not come to Hong Kong. This is not so. We do need freedom and the Hong Kong Government implements a free policy, but freedom does not mean that we have to be robbed. It is obvious that they are coming to rob us, but you insist on freedom, and tell them: Rob us! Rob us! With such manner, how can it be worthy of Hong Kong people's support?

All the five heads of the SFC are lawyers. I am not saying it is not right that they are lawyers. Lawyers are all right, they are clever, because they know how to protect themselves. They get the pay, but detach themselves from the affairs. As for other matters, they use policy as a shield and say that the market

is open because the Government wants it to be open. However, they will catch the weak ones. Those who wrongly catch the powerful ones will get fired. How many days does Mr Anthony NEOH, the Chairman of the SFC, spend in Hong Kong? Since he connives at whatever his subordinates do, they only have to notify him before they take any action. They are right because the Chairman is not in Hong Kong, how can we say that they are wrong? This framework may have nothing wrong in the form, but the whole framework has to be reviewed.

Mr Deputy, after I have said so much, who has to bear the responsibility? Naturally they are the Financial Secretary and our Chief Executive. Why? Because in the deployment of employees, the employer is absolutely responsible. Should my subordinate err, I never scold them because, who told you to employ them in the first place? The third person who is responsible is of course the Secretary for Financial Services because of his capacity as such. The policy secretaries of the Hong Kong Government all think of themselves as technocrats. Yes, they are certainly bureaucratic, certainly protecting each other, and certainly speaking in a bureaucratic tone. But how are they technical? What foresight do they have? To Hong Kong, this is a very important issue, if it is placed in the hands of unqualified technocrats, it will turn into an unfortunate issue. I am not saying that we definitely have to criticize them, but let us take a look at how our policy secretaries and Financial Secretary began their careers. They are just Administrative Officers. They are only deployed to do their present jobs, yet they believe they can work wonders. In fact they have to take advice, otherwise they will make mistakes.

Even if I were given 70 minutes today I would not have enough time to speak. Now a little time is left and I would like to give some advice to investors. If, after today, the Hong Kong Special Administrative Region Government is still unable to formulate policies to protect the interests of investors, I can only advise small investors and stock buyers to stay away from the market because the Government's protection of you is insufficient. This is no longer a place for you to make money.

These are my remarks.

DEPUTY PRESIDENT (in Cantonese): Mr TSANG Yok-sing.

MR TSANG YOK-SING (in Cantonese): Mr Deputy, in the stock market crash in October, the Hong Kong stock market lost up to HK\$2,000 billion in book value. The confidence crisis brought about by the stock market crash has far-reaching effects and it is difficult to assess its full impact at present. Before and after the return of sovereignty, what was it about Hong Kong that people had the most confidence in as shown in all opinion polls? The economy. If we have another poll now, the case will be completely different. In this catastrophe, we saw how the international speculators exploited Hong Kong people and plundered their wealth. Ironically, their means and tactics were no secret at all. People had been talking about them. Even bus passengers were saying that they would attack the linked exchange rate, forcing the Hong Kong Government to increase interest rates so that they would make a sure fortune on the index futures market. This was exactly what they did, everything happened as predicted, and they did make a fortune. In this process, our financial officials told us that they could save either the foreign exchange market or the stock market, but sorry, not both. But was this really the case?

As we all know, the Hong Kong stock market settles its account in Hong Kong dollar. In early October, the Hong Kong stock market was worth over \$4,200 billion, while our foreign exchange reserve was just over \$600 billion after conversion. If investors confidence collapsed and they sold their shares to buy foreign exchange, would the Monetary Authority have been able to maintain the linked exchange rate?

Most ironic of all, we heard the advice offered by the international speculator Mr SOROS that excess fluctuation in the stock market would lead to "social disintegration" and that it was necessary to control the short selling of derivatives which caused major turmoil in the financial markets of several countries. What did the financial officials in Hong Kong think of those remarks?

Mr Deputy, the Democratic Alliance for Betterment of Hong Kong (DAB) considers that the Hong Kong Special Administrative Region (SAR) Government has the unshirkable responsibility to maintain the stability of the stock market. Therefore, it must ensure the healthy development of the Hong Kong stock and futures market through various means.

First, we think it necessary to develop investment vehicles in foreign currency assets for the stock and futures market. The volume of Hong Kong's

economy is limited. Financial officials should not have a swelled head and promote only shares in Hong Kong dollar assets. Instead, they should develop investment vehicles in foreign currency assets to forestall any direct impact on Hong Kong's economic system.

Second, derivatives such as index futures should be matched with spots. At present, when index futures are due, investors need not purchase the spots. Thus speculators can continue selling until share prices collapse. As we know, only a very small proportion of trading in western futures is spot transaction, while the rest is gambling and a book-keeping game. However, since those players in the Hong Kong market are mainly small and medium investors and there are no big investment organizations to match with foreign speculators, it is very easy for the big crocodiles to eat the small fish. Thus, the interests of small shareholders in Hong Kong are not safeguarded at all.

Third, an early-warning system should be established to monitor the attacks launched by speculators on the stock and futures market in order to protect the small investors. The measures would include: (1) setting up an account system for the short selling of index futures, under which short selling of index futures must register first; (2) making it obligatory for those using index futures for hedging to provide cash or spots as security; (3) increasing the deposit for index futures; and (4) providing for the payment of a deposit to the Stock Exchange for the issue of warrants.

Fourth, risk management must be strengthened. Whether the economy is prospering or depressed, the risk management of broker's firms must be strengthened. The capital of broker's firms must be strictly vetted and a "capital adequacy ratio" similar to that under the banking monitoring system should be established. Restrictions must be placed on the margin loans of broker's firms and the capital of clients must be vetted.

Fifth, the monitoring standards should be applied uniformly across the board. With the present composition of the Hang Seng Index, short selling index futures is no different from short selling big blue chips. However, the Securities and Futures Commission (SFC) ignores this. While the SFC considers unusual fluctuations in the prices and trading volume of big blue chips as normal, third and fourth liners would have their trading suspended and

explanation demanded if their share prices experience the same fluctuations. For instance, on 28, 29 October this year, the fluctuation range of Hong Kong Bank in a single day was more than 30%. On 29 October, there was again unusual massive short selling of its shares. However, the SFC turned a blind eye to this and made no investigation or inquiry. Such an attitude is very questionable.

Sixth, the small investors' understanding of derivatives should be enhanced so as to increase their risk consciousness. According to a recent survey with retail investors as the target, only four out of over three hundred people interviewed indicated that they had attempted short selling index futures, which is a main hedging device in the stock market. Such a small proportion is astounding.

Mr Deputy, Hong Kong's financial officials have declared that the fall in the stock market this time would help to ease the problem of the excessive price inflation of Hong Kong's assets. The DAB can only half agree to this. If the SAR Government does not confront the potential problems in the development of the stock and futures markets and seek a more solid foundation to develop derivatives, despite the crash in the stock market, the assets price of the stock market might rise again, giving another opportunity for international speculators to strike again, resulting in one more economic turmoil in Hong Kong.

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

DEPUTY PRESIDENT (in Cantonese): Dr Charles YEUNG.

DR CHARLES YEUNG (in Cantonese): Mr Deputy, as a result of their general lack of understanding of the operation of the stock market and financial derivatives, stock buyers suffered heavy losses in the earlier stock market meltdown. The Hong Kong Progressive Alliance (HKPA) suggests that the Government should adopt effective measures to increase stock buyers' knowledge and understanding in these areas. In my opinion, the Government

can disseminate such information through public information programmes of Radio Television Hong Kong and other media, which can present it through concrete examples and in a lively and easily comprehensible manner. At the same time, it should address the speculative mentality in the community and encourage people to diversify and adopt a practical attitude in their career.

One must not overlook the fact that the bubble economy built on property and stock market speculations has greatly damaged the values of hard work and pragmatism Hong Kong people held in the past. The fall in the stock market and the adjustments in the property market brought about by the financial turmoil have destroyed the myth in the past decade or so that property and stock market speculations are a sure win. Therefore, the Government should grasp this opportunity to mitigate the speculation mentality in the community through publicity and education.

The present world economy is highly integrated and everyone is inter-related. When a country makes policy decisions, it cannot disregard the different feedback effects. Hong Kong's economy has been affected by the financial turmoil, one of the main causes of which is the unhealthy state and mismanagement of the economy in some countries. However, speculators have also taken advantage of the "inflated ego" of Hong Kong as an international financial centre. As Hong Kong stresses only unlimited freedom and openness, while neglecting to take the necessary regulatory measures, the result has been that some financial operating mechanisms have been exploited by speculators to take advantage of investors in Hong Kong. This is like opening one's door to thieves and congratulating oneself upon one's hospitality and openness. The combination of the increase of the assets price and "inflated ego" is the main reason that international speculators had their chance.

Mr Deputy, with regard to the problem of the increase of the assets price, after the serious blow dealt by the financial turmoil, the Hang Seng Index has dropped to around 10 000 points and the overall price/earning ratio is about 10 times. Objectively speaking, the investment value of Hong Kong stocks has returned to normal and the property market has seen distinct adjustments after heavy losses. The problem is that the financial turmoil has exposed to a certain extent the danger that the economic bubble might burst, which is worrying. In view of this and the multiple threats of the financial crisis in South Korea and the

attacks of international speculators at any time, the Government should take the dual measures of strengthening the economy and increasing the money supply.

Strengthening the economy is the long-term measure. As the Managing Director of the International Monetary Fund Mr Michel CAMDESSUS said on the 13th this month in Singapore, the financial crisis which affected Asia was a "blessing in disguise" because it revealed the weaknesses inherent in the economy. The same thing applies to Hong Kong. The weaknesses that have been exposed should be dealt with by strengthening the economy. In the past decade or so, investing in property and stocks almost became a pseudo "law" for making profit without any risk of loss. This resulted in rife speculation in society. Everyone participated in the property and stock market speculation frenzy. Consequently, few devoted themselves to the industries and trades which really enable Hong Kong to stand on its own and maintain its strong competitiveness.

The proportion of property mortgage loans of Hong Kong banks has exceeded 40% of their total loans, which is close to the 50% in Japan in the early '90s when its bubble economy burst. In the Hong Kong stock market, the constituent stocks of the Hang Seng Index are over-reliant on property stocks and banking stocks, while banking stocks are also dependent on property stocks. Without a solid foundation, the inflated prices in the stock and property markets will drop as soon as speculators launch their attacks. Since the financial turmoil has exposed the weaknesses in Hong Kong's economy, we should make use of this opportunity to review the operation of Hong Kong's financial system. Over the years, this is something the HKPA has been concerned about and has urged the Government to review.

With these remarks, I support the motion.

DEPUTY PRESIDENT (in Cantonese): Miss CHOY So-yuk.

MISS CHOY SO-YUK (in Cantonese): Mr Deputy, the recent financial turmoil has very extensive impacts as not only Hong Kong and the United States are influenced, the whole of Southeast Asia is involved. If Hong Kong is to

continue standing firmly in the international financial market, the Hong Kong Government has to expeditiously review the operating mechanism of the local financial market so as to consolidate Hong Kong's financial strength.

The present financial turmoil has shaken a lot of areas, while the stock, foreign exchange and index futures markets are all under influence, many geographical regions are also affected. Therefore, Hong Kong has to set up an investigation committee to make an overall review and outside experts should be invited to study and look into the matter together government officials, with a view to finding out where the problems lie as well as ways to solve and respond. They will also summarize experience so that when similar crises happen in the future, corresponding measures can be taken as prevention.

Besides, the pegged exchange rate system in the financial system of Hong Kong is by no means unique in the present-day world. I doubt whether the Government has tried to look at other countries with a similar system to see if their experiences are worth learning.

In the recent one or two years, articles on ways to improve the pegged exchange rate mechanism abound in local newspapers and magazines. Scholars who visited other countries and learned their experiences, came back and published a lot of their views in the newspapers, opining that Hong Kong should pay attention to such areas. However, it seems that the Government has not paid any attention to the views of these scholars. The way the local currency, stocks and index futures were battered this time might not be the only way they are subjected to attacks; there may well be other methods, and there should also many responses. The Government should look into these problems in depth with local and overseas experts in order to find solutions and preventive measures, it should also expeditiously review the operating mechanism of the Hong Kong financial market.

At the same time, the volume of the local stock market has expanded steadily in recent years with a lot of new mainland stocks listings. Although this is a welcome trend, the Government and the supervisory bodies in the trade should be more alert to the quality of newly listed stocks and see whether they completely meet the relevant requirements, and whether the supervision of the listing procedure has loosened. I hope that the Government will come up with effective means as soon as possible to ensure the long-term and healthy development of the various financial markets in Hong Kong.

I also agree that the Government should adopt effective measures to enhance the general stock buyers' understanding of the operation of the stock market and financial derivatives; and I further suggest that the Government should communicate more with the academic and financial sectors so as to, on one hand, give play to the spirit of "Hong Kong people ruling Hong Kong", and on the other hand, provide opportunities for the academic and professional sectors to discuss things with the Government and to understand each other better. In this way, there will be interflow between the Government and the public and problems arising from lack of contact may be avoided.

With these remarks, Mr Deputy, I support the motion of the Honourable Ambrose LAU.

DEPUTY PRESIDENT (in Cantonese): Dr LAW Cheung-kwok.

DR LAW CHEUNG-KWOK (in Cantonese): Mr Deputy, since the Thai currency devaluated, the financial systems in South East Asia have become unstable. The Hong Kong currency faced unprecedented battering at the end of October. After interference by the Hong Kong Monetary Authority and changes in the market, the high interest rate apparently repelled international speculators on the Hong Kong dollar. But the high interest rate continues. The stock market plummeted more than 40% from its peak. Property prices have also fallen by about 15%. Financial analysts have reduced their forecast economic growth rate in real term for Hong Kong by at least one percentage point. Next year, retail trade, property market, tourism industry and overall employment rate will surely be adversely affected considerably.

Recently, there have been a bank run, a "bakery run" and even one involving coupons of a children amusement establishment. All these indeed reflected a serious erosion of the confidence of the general public.

The financial turmoil Hong Kong has to face today clearly shows the Government has failed to understand the increasingly complex operations and

development of the Hong Kong financial market and the intricate relations therein. Moreover, the linked exchange rate is now operating in an objective environment and practical situation quite different from what they were when it first came into existence. Therefore, to stabilize the economy and protect the interest of the people, the Hong Kong Association for Democracy and People's Livelihood agrees with Mr Ambrose LAU's motion to urge the Government to expeditiously review the operating mechanism of the local financial market, including the chain relationship between the stock, foreign exchange and index futures markets.

I do not have a simple but practical proposal to deal with the present turmoil. However, regarding the scope of the proposed review of the relevant policies, I would like to raise two points:

First, when the linked exchanged rate system was introduced in 1983, it was said the interest rates of the US dollar and the Hong Kong dollar would remain at the same level. The position was maintained for a number of years. But in Hong Kong inflation has been consistently high for some time, much higher than in the United States. The actual deposit interest rates and the actual Hong Kong Interbank Offered Rates at which large enterprises can borrow from the market are negative in value. This negative real interest rate severely disrupts the savings, consumption and investment behaviour of the people and the enterprises. Bubble economy results. The most elementary economics textbooks tell us clearly that a system in which negative rates prevail for prolonged period will sooner or later collapse.

Second, the present development in derivatives in Hong Kong has, as some studies show, turned such derivatives into "heads-or-tails" gambling tools rather than a means for hedging or for minimizing risks. They are easily manipulated by major participants as well. The Government should review and invoke provisions in the Gambling Ordinance to supervise derivatives tradings in the securities market.

With these remarks, I support the motion.

DEPUTY PRESIDENT (in Cantonese): Mr Henry WU.

MR HENRY WU (in Cantonese): Mr Deputy, Mr CHIM Pui-chung's speech was well-meaning. He said he did not know when gold prices would go up or what the trend of the financial market was. In fact, he knew. But he refrained from talking about these to avoid a rush at gold purchase or the purchase of other financial products and to avoid being investigated for rigging the market.

At the special meeting of the Panel on Financial Affairs on 31 October for a "Briefing on the Current Financial Crisis Surrounding the Hong Kong dollar and the Hong Kong Stock Market", I pointed out that the 1987 global stock market crash and the recent one, 10 years afterwards, both had great and profound influences on the Hong Kong financial market. But the reasons leading to the two crashes were very different. After the 1987 crash, there was a review on the securities industry, followed by material reforms. From then onwards, the securities industry could on the whole gain wholesome and steady development, despite disputes and problems in the period, which in particular, involved reported unfairness and unreasonableness in the difference displayed in the supervision of brokers with foreign capital and Chinese capital as well as big and small brokers. Small brokers with Chinese capital were disgruntled. At the time they thought the Securities and Futures Commission (SFC) were inexperienced and were bullying the weak and fearing the strong. Part of the work of the SFC, they thought, overlapped with that of the Stock Exchange of Hong Kong Limited (HKSE), in particular in the supervision of members.

In recent years, under the premise of mutual understanding and mutual accommodation between SFC and HKSE, there have been improvements to eliminate work duplication and in the operation of the market. Transparency and risk management have been fostered in all areas and the Hong Kong stock market could steadily blossom. Although there was a recent financial turmoil and stock holders suffered huge losses, the market could basically manage to operate normally. This shows the Hong Kong stock market has matured.

Mr Deputy, in the present financial turmoil, the market crashed. That was clearly the result of a raid on the Hong Kong exchange rate. This factor was absent in the 1987 crash. That was why at the 31 October meeting I requested the Government to conduct a detailed review on the operating mechanism of the entire financial system, including of course the co-ordination and interaction of derivative products in foreign exchange, securities and futures so as to minimize

the risk of a raid and to ensure the stable operation of the Hong Kong financial system. Among the numerous proposals for improvement, I use the following as examples:

1. *Enhance the transparency for the buying and selling of Hang Seng Index Futures and relevant derivatives*

Enhancing the transparency for buying and selling in the market can minimize the possibility of manipulation or rigging. The HKSE is employing electronic means for transaction. The same means is being employed by the Hong Kong Futures Exchange (HKFE) for individual products. Using electronic means for transaction not only quickens transactions but also enhances accuracy and transparency. Thus illegal activities can be minimized.

2. *The closing times of the HKSE and the HKFE should be unified*

The establishment of a market for the Hang Seng Index Futures or other derivatives is meant to facilitate investors in their hedging activities and minimizing risks against fluctuations in the market to reduce unnecessary losses. But now the closing time of the HKFE falls behind that of the HKSE and hedging activities cannot be carried out correspondingly. Speculators can therefore easily use this time gap to rig the market. This is unfair to investors.

3. *Increase the proportion of market value represented by the constituent stocks of the Hang Seng Index*

There are only 33 constituent stocks for the Hang Seng Index. With an expanded market, they cannot reflect the real market position, given their limited value in the market. To solve the problem, and to avoid unnecessarily big fluctuations in the market due to fluctuations in the share values of a few large listed companies and hence to minimize unnecessary risks due to manipulation, I think it is appropriate to expand the number of constituent stocks of the Hang Seng Index.

4. *Increase the transparency of the short-selling of stocks*

Under Hong Kong securities laws, investors can short-sell if they can prove they have stocks in hand or the right to ownership to stocks after paying a certain amount of margin before short-selling. At present, there is no mechanism to allow the public to know the source of the short-sold stocks in question. This tarnishes the mechanism which has been said to be operating in an open and fair manner. To enhance transparency and minimize illegal activities, details about the source and quantity of stocks sold short in significant amounts should be published in time for public information.

5. *Enhance knowledge about derivatives*

Hong Kong ranks third in the world in its number of derivatives. So, there are numerous derivatives and their nature involves very specialized knowledge. I think the SFC and officials from the financial branch of the Government need to enhance their knowledge in derivatives. In addition, the Government should educate investors, and put strict policies in place to supervise the issue of derivatives and their operation to ensure there is a fair, open and prudent development in the market as a whole.

Mr Deputy, in a short span of a few minutes I could only cite these examples in regard to improvements needed. There are a host of other issues involving various aspects that require our attention, such as margin deposits for futures index, the issue of warrants and the exchange rate system. So, the Government should carry out a detailed review on the whole operation of the financial system.

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

DEPUTY PRESIDENT (in Cantonese): Mr Ronald ARCULLI.

MR RONALD ARCULLI: Mr Deputy, the motion moved by the Honourable Ambrose LAU is both wide-ranging and subject-specific. Wide-ranging because it makes reference to maintaining free and open market, reviewing the local financial market and the Government's responsiveness to the future speculative activities and financial crises. Subject-specific because it seeks to include in this review the relationship between stock, foreign exchange and index futures on the one hand and to ensure proper regulation of stock lending and

short selling of index futures on the other.

Our financial markets like others around the region have seen some fairly hefty losses since summer, but that is where the similarity starts and ends. Yes, the value of our shares in the stock market has gone down. Yes, the value of property generally has gone down. Yes, interest rates in our financial markets have fluctuated within a fair wide range. Yes, most if not all of us have felt the pain of devaluation of our assets. But look at our financial system. It has repulsed severe attacks, and some say, concerted attacks on our US/Hong Kong dollar peg. It has remained effective and efficient without any failures in either our banking or financial services sectors. Why do we think this is so? I will attempt to give a few reasons.

Firstly, Hong Kong is probably the most open and free market in Asia. With an open and free market comes a high level of transparency although I believe there is room for even further improving this transparency.

Secondly, our financial markets are properly regulated with sound laws and effective and professional enforcement although some may say that we are over-regulated and in fact too expensive. But one has to give credit where credit is due. Ten years ago today, we thought then that Hong Kong had a pretty sound and well-regulated stock market, but we fell down along the path of development and expansion. The lesson learnt then was that governments and stock and financial markets must, and I repeat, must, anticipate crises on the one hand and market developments on the other and be ready for it. An even better approach to market development is to be a leader, and not a follower. I would have little more to say on this point.

Thirdly, in Hong Kong we welcome competition with no entry barriers for sound and properly managed financial institutions and expect them to make their contribution to Hong Kong's development side-by-side with their local counterparts.

Fourthly, we have a sound and robust economy that has seen growth in real terms consistently over the past decade despite our relatively high inflation rate. Even today as we speak we expect our economy to have real growth this year although even the most optimistic economist, he or she will not be willing to

adhere to earlier forecasts of 5.5% real growth. It is difficult to make any real assessment of our current economic situation due partly if not large to external factors. But our sound and robust economy is the result of teamwork between our entrepreneurs, our workforce, our Government and our regulators.

As a community we should look at the events of recent months and see how well our financial markets have held up to the storms that put our systems to some of the most severe tests. The bad news is that our assets have lost some value. The good news is that we have none of the problems that some of our neighbouring countries are experiencing and therefore suffer less pain than most of them both now and in the medium term.

Mr Deputy, I said earlier that I would say a few words on the issue of transparency. Some years ago, directors of companies listed on our stock exchanges had relatively simple obligations regarding their positions in such companies. Today our laws and stock exchange requirements put on them pretty heavy duties in terms of disclosure on say, their shareholdings and dealing in shares of their company. There are also periods during which they are not allowed, for instance, to deal in shares of their companies. Substantial and principal shareholders like directors have statutory obligations regarding fairly strict disclosures as well.

Right now, the perception is that it is easy to push the Index down by shorting key stocks in the Hang Seng Index and that this is facilitated by stock lending. The criticism is the lack of disclosure in this respect. The disclosure requirement for stock lending and borrowing is something that we can look at and examine to see whether greater transparency will in fact help to reduce volatility and, in fact, also help to educate the market where there is again an area that I feel we can usefully venture down.

Another aspect is whether the current regime needs change. At present, the Financial Secretary, Financial Services Branch, the Hong Kong Monetary Authority, the Securities and Futures Commission, the Stock Exchange of Hong Kong and the Hong Kong Futures Exchange have some overlapping rules and perhaps on occasions, inadequate co-ordination, in both enforcement and perhaps development policies. We should also examine this aspect.

On a broader basis, our regulations, trading and execution, clearing and settlement systems are perhaps in competition with each other, thus creating

higher costs, both in operation and development terms, not to mention the use of high technology in development of our financial markets. Perhaps it is time to review these matters, so as to see whether our current system and modus operandi are the best models for Hong Kong.

Mr Deputy, we must not forget that Hong Kong has gone a long way in the last 10 years. Although I listened with great sympathy to some of the suggestions put forward by some of my colleagues today, I would hasten to add that, from my perspective, what we should look at is system examination. In terms of whether or not there should be a little bit more for deposits, for stock borrowing or in the Hang Seng Index Futures trading, this is where I believe the free market mechanism will work. What we must not do is to look inward. We must continue to look outward and look forward. I think that will sustain Hong Kong well into the next decade.

Thank you very much.

DEPUTY PRESIDENT (in Cantonese): Mr Allen LEE.

MR ALLEN LEE (in Cantonese): Mr Deputy, I think the motion moved by Mr Ambrose LAU today is the most important one to Hong Kong this year. There has been a financial turmoil in Hong Kong recently. I trust no one ever questioned the economic performance of Hong Kong before or after the transition. Nor would one ever ask what the outcome of the raids on the Hong Kong currency is. Our officials sitting here must have thought life was going to be easy.

What Mr CHIM Pui-chung said just now drew some laughter. I do not think it was laughable. We are now part of the global economy, not an independent system any more. So in addition to coping with the present situation, we need to think of ways to cope in future if someone is to raid the Hong Kong currency again. We need to be prepared for the consequences. I am not trying to be wise after the event. Hong Kong has an economic problem. What is it? Everything is too expensive. Hong Kong tourism suffers a setback. Fewer visitors are coming to Hong Kong now. The retail industry suffers too. So do the hotels and restaurants. Now officials are shy to say what the

economic growth rate will be , or what the situation will be next year. It is now the end of November but they are still reluctant to make a forecast. Why? This is the result of the economic upheaval.

The Liberal Party wholeheartedly supports the Government and the linked exchange rate. If the linkage was broken, the local people or even everyone on earth would lose faith in the Hong Kong dollar. But as we fight hard to preserve the linkage we must consider it as a "war". When we do the fighting in the front, we must not lose sight of our rear, our homes, which must not be robbed of everything, like it was last time. I think the officials should be objective. They should not be as incompetent as Mr CHIM Pui-chung said they were: bureaucratic but not technical. I think there is a lesson to learn from the crisis. We need to revamp the whole system. One of the areas is supervision.

Many people say the Hong Kong economic system is a free one. What to supervise? Why supervise? So, there are people who think they can have their chances; they came through some loopholes and caused confusion. What were they up to? They had only one aim, as people the world over knew, which was to reap some profit. If the confusion they caused would result in their losing money, they would surely have left without being told. Therefore we must liaise with other international supervisory bodies, because this is an international problem now. Who would have thought the dive in the Hong Kong stock market could result in a drop of 500-odd points in the New York stock market. Everybody say the New York stock market is an enormous one. But if it was, it would not have been so affected.

I think the Hong Kong Monetary Authority and the Securities and Futures Commission can take a number of steps to prevent people from fooling us, from stealing money from us. This money Hong Kong people have taken some years to earn. This money gives us prosperity. But this money is gone all of a sudden. Our assets vanished. This should not be. We must understand Hong Kong people are being panicky. They queued at St Honore Cake Shops for cakes. I do not know what people did with 20 boxes of cakes. They were afraid the cake shops would close their doors. The Government must stay alert. It must review the mechanism. It must find out why some people thought they could have their chances.

I admit our position is different from Thailand, Malaysia, the Philippines, Korea, and Japan in a number of ways. Hong Kong was fooled, despite its

economic strength. It was raided. At the meeting on 30 October, Mr Joseph YAM said we won, but I saw no smile on his face. Nor was there any on the face of the Secretary for Financial Services. Why? Because he knew many Hong Kong people lost. This is a big issue. The money lost was our savings. For now we must not be too agitated. We must keep calm and start thinking of ways to cope. If raiders exist, they will make war with us any time if they are given the opportunity to do so. We must not sit here and do nothing. Do not let what Mr CHIM Pui-chung said come unfortunately true. So, I feel it is time we make a review. I believe Hong Kong has very strong economic potentials. The turmoil was not our own making. I think government officials should assume the responsibility. They need to be conscientious. Do not think what Members say amount to an impeachment of the Government. In fact, we act out of our concern about the interest of Hong Kong. We need to set a common goal if we want to do a good job. I hope the officials will consider carefully what I said.

DEPUTY PRESIDENT (in Cantonese): Does any other Member wish to speak?

(No Member indicated to speak)

DEPUTY PRESIDENT (in Cantonese): Secretary for Financial Services.

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Mr Deputy, I have been listening carefully to Honourable Members' speeches in support of the Honourable Ambrose LAU's motion. Members have all shown considerable concern for the recent fluctuation in the financial market and its impacts on Hong Kong's economy. This is of course also an issue which the Government pays great attention to and should deal with cautiously.

In order to maintain Hong Kong's status as an international financial centre and to stabilize its economic situation, in particular its currency, the Government has been prudently supervising the operation and development of the market through relevant financial supervisory bodies. Particularly in the latter half of this year when the financial markets of Southeast Asia began to become unstable,

our work in this aspect was further keyed up. Therefore, when the Hong Kong dollar was battered twice by speculators, we were successful in defending our currency and repulsing the speculators.

Members mentioned that, in this financial turmoil, many citizens and investors suffered losses. While businessmen and people paying mortgages have to bear higher interests, the retail and consumer trades will be under pressure in the days to come. The Government is not indifferent to these difficulties, but they are unavoidable in this free and open economic system of ours. The most important thing is, Hong Kong's good economic foundation will be able to help us through these difficulties more quickly and step into the next economic cycle.

I am grateful that just now Members supported unanimously the view of the Government, and agreed that Hong Kong cannot and should not change the pegged exchange rate which we have been using for 14 years. Although the Financial Secretary talked about this issue at the meeting when Members commented on the policy address, and I also talked about it in the special meeting of the Panel on Financial Affairs, I would still like to stress here in simple terms again the importance of the pegged exchange rate to the stability and development of Hong Kong's economy.

Hong Kong is an economic system completely open to the world, we are also an important link in the international financial system. From the past experiences, especially in the recent turmoil, we clearly feel that the economic situation and market of Hong Kong are definitely influenced by international and regional markets, and we also influence other international markets. Therefore, aside from a good economic foundation, Hong Kong has to have a good financial system, in particular a steady currency value, in order to resist outside attacks. Conversely, a floating currency system and the fluctuation and instability it will bring will only do harm to an economic system like Hong Kong.

In the market fluctuations in the last few weeks, we have not only successfully defended the Hong Kong dollar, but have also seen that the trading and clearing in the stock and futures markets operate normally. The close co-operation between the Government and the supervisory bodies proves that the efforts we made in market supervision and risk management in the past 10 years were effective. Members expressed earlier many opinions about the measures adopted by the the Hong Kong Monetary Authority (HKMA) to maintain the

pegged exchange rate, as well as the chain development in the foreign exchange, futures and stock markets. As the Financial Secretary and I myself have undertaken, when this financial turmoil in Asia calms down, the Government, the relevant supervisory bodies and the exchanges will review the techniques and operations which need to be improved as seen in the present market fluctuation.

In Mr LAU's motion, the importance of the principle to uphold a free and open market is clearly pointed out. With the addition of the Members' unanimous support of maintaining the pegged exchange rate policy, these two issues will exactly be the biggest and most important bases of this review. The content of the review will be focused on the operation mechanism and areas which can be improved technically in the financial market.

After the special meeting of the Panel on Financial Affairs last month, the Chairman of the Securities and Futures Commission (SFC) already sent letters to the Chairmen of the two exchanges and the Hong Kong Securities Clearing Company Limited (HKSCC) to ask them for their opinions on the following three aspects: risk management and derivatives, supervision and conduct of members, as well as complaints from and education of investors. The Government welcomes such active co-operation because we firmly believe that the Government should not unnecessarily intervene in the market directly, or instruct the market to conduct certain kind of review. The direction of actions should be upwards.

In the course of the review, we will also seek the opinions of academics, media and people in the trade. The Financial Secretary will meet them individually and if some of their views are relatively more technical, the MA and the SFC will follow up.

Mr Deputy, we will take into consideration the opinions expressed by Members on these issues just now when we have the review, so I do not intend to respond to them one by one here. I just want to discuss briefly two issues mentioned in Mr Ambrose LAU's motion.

Just like lending of ordinary assets, stock lending, on one hand, provides a stable and low-risk source of income for assets owners, and on the other hand, meets the borrowers' urgent need of stocks to meet clearing needs. Through stock lending, stocks originally held in private hands can be circulated in the market again, this may relatively enhance the circulation in the market and

reduce the risk cost of the intermediaries and market makers. In other international financial markets, such kind of activity is very common.

While we accept the positive effects of stock lending on the circulation and mature development of the market, we have not in the meantime overlooked the need of supervision. The SFC and the Hong Kong Stock Exchange already have detailed codes of practice for brokers who engage in short selling, including the requirement for them to borrow equal quantity of stocks, and to maintain detailed records. According to the statistics of the Hong Kong Stock Exchange, the transactions involving short selling account for about 1% of the daily turnover on the average.

A Member queried a moment ago whether it would be unfair to local investors since those taking part in stock lending at present are mainly international and overseas investors. It is hoped that we, in the near future, will be able to provide stock lending service to the general market participants through the HKSCC. We will consult extensively the people in the trade for details of the plan.

Anyway, in the review, we will further study the issue and pay particular attention to whether the supervision is stringent enough, whether the rule of the game is fair and whether the transparency of the trade is sufficient. If problems are identified, improvements will be made.

Index futures are very common in major international financial centres. Other than having a certain guiding function for the market outlook, the index futures also provide the essential hedging for the institutional investors and financial investment vehicle makers in the market and lower their position risk. Just like other market investment vehicles, buying and selling the Hang Seng Index futures is also a normal market activity. While the investors' decisions of buying and selling reflect the different views on the trend of the market outlook, they also help to set a reasonable price level in the spot market.

The SFC and the Hong Kong Futures Exchange always remind investors that, before making investments, they have to fully understand the characteristics and risks of the investment vehicles concerned, and also think of their own capitalization so as not to incur unbearable losses.

In the recent financial turmoil, the volatility of the Hang Seng Index was

relatively greater and the Hong Kong Futures Exchange already raised correspondingly the deposit for Hang Seng Index futures contracts in order to maintain a reasonable risk management level.

Besides, I know that the Hong Kong Futures Exchange will also review the operation of the index futures market, in particular its transparency, to find whether there are places that can be improved. It will also study the actual feasibility of the proposal concerning the automated matching in index futures trading.

Doubtlessly, enormous selling of index futures will create pressure on the spot market, and Members have expressed concern about this issue earlier. However, as an open and mature international financial centre with high circulation, Hong Kong must provide people in the trade with sufficient arbitrage and hedging instruments. Therefore we think that the total denial of the market functions of index futures instrument is not a wise and down-to-earth way of doing things. With the economic characteristics of Hong Kong at present, financial activities have to be internationalized. In the past few weeks, our status and strength were further proved. Therefore, any reform should not harm this estimable status, otherwise not only the interests of the Hong Kong Special Administrative Region will be hurt, the opportunities for economic development of our country will also be hampered. We are not maintaining Hong Kong as an international financial centre because of our inflated ego, and neither is it because of the stipulation in Article 109 of the Basic Law, we are doing so because it has an inseparable relation with the long-term interests of Hong Kong's economic development.

When we are affirming the market functions of the index futures instruments, we should learn from this experience and further improve the operation of the relevant trading, as well as strengthen the positive function of index futures as an arbitrage and hedging instrument to stabilize the market. At the same time, the Hong Kong Stock Exchange and the SFC will study other derivatives, including the issue and trading of covered warrants, to see whether there are places that need to be improved.

In these days of financial unrest, we have noticed that the responses of the general investors are very calm and mature. Even in the few days when the volatility in the stock and index futures markets was the greatest, the markets still operated in good order, whereas buying, selling and settlement were all done

normally. In the final analysis, the investors in Hong Kong today cannot be mentioned in the same breath with those in 1987. They have obviously grown and matured. However, we know that there are still many areas where enhancement of education is needed. For example, Members may remember that, at the latter stage of the booming stock market, many investors, especially the casual ones, only knew the number of the stocks and listened to "tips", the education of investors is thus not to be neglected. In this regard, the SFC and the two exchanges will, in accordance with actual needs, design a comprehensive investor education programme so as to enhance public understanding of the markets and all kinds of investment vehicles.

I have said just now that I believed Hong Kong will pass this adjustment period very soon. This is not based on blind confidence, but because the economic foundation of Hong Kong is still very robust. Our economic system is flexible and adaptable. After this adjustment of assets price and with the economic reforms promoted in the Mainland, as the biggest international financial centre of China, we can well contribute to the economic development of our country on one hand, and bring about new opportunities for the local economy on the other.

The Chief Executive, Mr TUNG Chee-hwa, pointed out clearly in his Policy address that, in order to maintain Hong Kong's superiority in the international financial systems, we have to further promote the competitiveness of Hong Kong. In the production aspect, we have to develop towards the high value-added industries. We also have to ensure that serious imbalance will not happen in the production elements of the economy, such as the demand and supply in real estate. Under this policy, we will strengthen the infrastructure of financial system, enhance the efficiency, reliability and interrelation of the various operation systems, train up local talents for the financial market, strengthen the education of investors, as well as formulate a long-term policy for the development of the financial market. The conclusions and proposals of this review will also definitely make the system more perfect.

Madam President, I support the motion.

THE PRESIDENT resumed the Chair.

PRESIDENT (in Cantonese): Mr Ambrose LAU, you may now reply and you

have a total of two minutes 49 seconds.

MR AMBROSE LAU (in Cantonese): Madam President, I am very grateful to all colleagues for their constructive ideas on today's motion debate. In today's lively debate, we have already achieved the goal of pooling together our collective wisdom to have the Government strengthen the operation mechanism of our financial market. At the same time, I am also very glad that the Secretary for Financial Services has promised to make the review and study the recommendations of Members during the review. There are not many financial experts in this Council, but as the saying goes, "the wisdom of the masses exceeds that of the wisest individual" and therefore I very much hope that the Government will, in reviewing and studying this issue, look deeply into the various suggestions of Members of this Council seriously and objectively, be ready to accept the good advice, and come up with an effective means as soon as possible to improve the operation mechanism of the local financial market.

Of course, if we are really hit by another financial turmoil again in future, it will take more than a sound financial operation mechanism alone to effectively repulse the spectators and defend our economy. It is most important for the people of Hong Kong to join hands together, have a united mind and will. We should never throw ourselves into confusion or take advantage of others' misfortune, damaging the overall interests of Hong Kong for the sake of personal gain. The Hong Kong Progressive Alliance firmly believes that the fiscal reserve of US\$88 billion is the foundation of Hong Kong's solid financial system. Only when everyone is vigilant in times of peace, draws a lesson from the bitter experience, raises their alertness and continues to improve Hong Kong's financial operation mechanism, with the Hong Kong people's concerted efforts and full confidence in the future of Hong Kong's economy, will Hong Kong be able to "ride safely in the fishing boat through the rough waters". Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That Mr Ambrose LAU's motion be approved. Will those in favour please say "aye"?

(Members responded)

PRESIDENT (in Cantonese): Those against please "no".

(Members responded)

PRESIDENT (in Cantonese): I think the "ayes" have it. The "ayes" have it.

PRESIDENT (in Cantonese): The second motion: The Sale of Flats to Sitting Tenants Scheme. Mr Frederick FUNG.

SALE OF FLATS TO SITTING TENANTS SCHEME

MR FREDERICK FUNG (in Cantonese): Madam President, the Hong Kong Association for Democracy and People's Livelihood (HKADPL) has always held the view that housing is a basic need of the people and therefore must be properly dealt with. For people to live and work in peace and contentment, and for achieving social stability, we must have sufficient housing units. In addition, we must make sure people can afford the rent, or to buy them; and responsible housing management is important as well. Of course, there are those who treat housing units as commodities and purchase flats to guard against inflation, for investment or even for speculation so as to increase their wealth. But to the ordinary people, owning a flat means solving the basic problem of housing. This means more to them than treating flats as commodities for speculation or gaining more wealth.

Recently, the Government is preparing to sell public rental housing (PRH) flats for the third time. It is said the terms will be even more attractive than the last two times in order to entice more sitting tenants to buy them. Political parties are giving a helping hand to promote the sale to steal some limelight for fear that they will not gain any credit when the Scheme is formally launched. If

the aim of the sale is to transfer the ownership from the Government to the tenants and the focus is on the price only, while the Scheme is regarded as a big benefit to the sitting tenants, the sale is just a manifestation of responsibility shirking and a trap for the tenants.

The Housing Authority (HA) tried to sell the PRH but failed two times before. This coming back is meant to make a big success by selling low and quick. A very important line of thinking behind the scheme is to fulfil the great plan of having 70% of the people owning their own property in 10 years, as laid down by the Chief Executive of the Hong Kong Special Administrative Region (SAR), Mr TUNG. The ADPL feels a responsibility to remind the Government that if the sale was meant to shirk the Government responsibility to provide housing to the low-income group so that it is freed from the management, maintenance and rebuilding of public housing, ultimately, it is not only the tenants in PRH but also the SAR Government who will be victimized. To be successful in the sale of PRH flats, we must focus our attention on the interests of the tenants in good faith so that we can assure the tenants we are doing it in their best interests. We have several basic proposals to make in respect of the sale:

(1) Public Housing should not be sold as commodities

What is public housing? It is housing provided to low-income families and it is public property. Neither the Government nor public housing tenants should transfer PRH flats to the private market through the sale of the same as this will diminish the resources for the provision of housing to the low-income group.

We think the sale of PRH flats should serve two purposes. First, to let tenants living in public housing own their flats so that they can live and work in peace and contentment, which in turn will enable them to work hard for the construction of Hong Kong to pay back the community. Second, to establish a second market for PRH flats, which is not linked to the private market, so that the low-income group can be immune from speculative and hoarding activities in the private property market. To achieve the above aims, we must establish a second market for PRH flats after the sale of such flats. We suggest the price of PRH flats to be sold to sitting tenants should be equal to the cost of replacing such flats at the time of sale. Purchasers, who buy such flats for their own accommodation, should obtain loans only from banks to be repaid by instalments, or should pay rent as instalments. If after buying a flat the owner wishes to sell

the flat, he or she must sell it to other PRH flat owners, PRH tenants or eligible applicants on the General Waiting List for public housing. The seller and the buyer may freely negotiate for a price and there is no need to pay the premium because the ultimate ownership is still vested in the Government. Since the target of resale is restricted and no family is allowed to own more than one such flat, undesirable factors such as monopoly and speculation are eliminated. The price of these flats will therefore not be distorted or inflated.

(2) *The HA should assume the responsibility for redeveloping the sold PRH flats.*

People's impression of PRH flats has not improved in recent years. The quality of PRH flats is rather poor. We can still see on the television and the newspapers examples of peeling off of concrete from these flats. There are also 26 problematic public housing blocks. We can still remember three of them were only 22 years old. So, the quality of public housing has often been questioned. In addition, regarding private property, illegal means is often employed to regain possession of property. Members may still recall that threats and harassment were employed to force the tenants or flat owners of Yue Hing Building to vacate their flats. I do not think all PRH flats for sale can be sold and there will be some tenants who continue to rent them. As the HA is the developer and major owners, it should assume the responsibility for redevelopment when there is a problem with the buildings.

(3) *Management of public housing flats after sale*

The HA should be responsible for managing the flats. The HKADPL thinks that the building management should basically be the responsibility of the HA and the Housing Department ultimately. I stress that it is the ultimate responsibility that I am referring to. The HA or the Housing Department may not be directly managing the buildings. After sale, there will still be tenants who rent their flats. They will be paying rents while owners will be paying management fees. Whether it is the Housing Department or its staff managing the buildings directly, or appointed management companies doing all or part of the management work, the Housing Department should still be held responsible for any management problems that may arise to ensure the housing estates are efficiently managed with reasonable management staff. One view is that the management work be given to the tenants or the owners' incorporations formed by the tenants. This suggestion may give rise to three kinds of difficulties.

First, tenants do not have the experience or knowledge to manage a housing estate with 4 000 to 9 000 units. We are not talking about just one building. Assistance from Government departments, such as the Home Affairs Department, given to existing owners' incorporations to manage their buildings, is known to be insufficient. Added to this is the fact that owners lack the legal and professional knowledge so that they often fail to efficiently manage their buildings. In the example of Sun Hing Building, owners ended up losing money unnecessarily. Second, in the past two years the Housing Department has been contracting private management companies for the management of newly built housing estates. The list of qualified management companies contains only 10-odd such companies. In future after the sale of the public housing estates, there will be over 20 to 30 housing estates to be managed. Will there be qualified management companies appearing in large numbers then? Third, under usual circumstances in a public housing block where units are sold, it is believed the HA still owns the largest number of units. If the HKADPL proposal is accepted, the ownership should basically still belong to the HA. So, irrespective of any organization formed by the owners in any way, the HA or the Housing Department still has the dominating power because the ownership belongs to them basically as they own the largest number of flats, and from the HKADPL point of view, the Government basically remains the owner. If there is a management problem, owners and tenants alike will push the HA to solve it. In the example of On Ning Garden, although the Government regarded it as private sector participation Home Ownership Scheme and is not related to the Housing Department or the HA, the Housing Department in the end had to complete the maintenance work before it could sue the relevant property developer, which might have only several ten thousand dollars in hand and can offer no compensation at all. At the end of the day, the Housing Department had to deal with the problem. But if the Housing Department is responsible ultimately in the first place it will do the follow up and monitoring work, and when problems arise, it can easily tell what has gone wrong.

(4) Set up a maintenance fund and help owners with difficulty

Other than expenses connected to daily work, a lion's share of the expenses is for repairs and maintenance. In the Buildings Department's proposed Building Safety Inspection Scheme, buildings over 20 years old must be periodically checked and maintained. The Department estimates the inspection expenses to be around \$2 million for a 200-unit building, excluding maintenance

costs. In view of this Scheme and to save money for emergency use, the HKADPL suggests that a maintenance fund be set up for the public housing flats sold. The initial payment to the fund may come from say 5% to 10% of the selling price and thereafter each owner may be asked to pay \$100 every month to the fund, which may be saved up to meet emergency expenses. Some tenants may be enticed to buy the flats though they may not be really able to afford them, or they may not be able to pay the instalments due to a change in their financial circumstances. The HKADPL suggests that if tenants find themselves in financial difficulties after purchasing the flats they may sell the flats back to the HA and revert to rent-paying tenants.

Madam President, since the review of the 1987 Long Term Housing Strategy, the housing policy has shifted to focusing on private property. The Government has been reducing its housing commitment. Consequently, those who could not obtain public housing had to suffer from high property prices and high rents. In the present sale of PRH flats, the Government sticks to its abominable policies and keeps using the carrot and stick means to push the people to buy flats for their own. Even PRH flats are put on the market for sale now. The excessive promotion to entice people to buy is affecting the lower class and their purchasing power will be weakened after they buy their units, thereby directly affecting their quality of life. This may at the same time indirectly undermine the overall economic situation of Hong Kong. The Hong Kong Government may be the one who suffers in the end.

Since the '80s, the HKADPL has been saying the housing policy is heading towards the wrong direction. The Government should change direction as soon as possible and provide public rental housing for people who need it, in particular the 150 000 families on the waiting list and the approximately 100 000 new immigrants who may come to Hong Kong in the next 10 years. Only if resources could be fairly and reasonably redistributed through the housing policy, could the Government be deemed one that responds to the needs of the people.

In the past five years the HA made a profit of \$30 billion, and possibly another \$120 billion in the next five years. With such a handsome profit, the HA should not aim at profits in the sale of public housing. "Benefit the people with what is taken from them". In a community where there is a consensus to ask the Government to return wealth to the people and to store wealth among the people, should the Government likewise heed this consensus when selling PRH units? I hereby warn the Government and the HA not to be a heartless rich by

washing their hands of their responsibility for solving the housing problem in Hong Kong and leaving it to the mercy of market force. With their huge reserves and surpluses, they should consider ways to improve the living conditions of the people.

I re-iterate that the HKADPL supports the principle of satisfying the aspiration of the people to own flats and to improve their living conditions through the sale of public housing at affordable prices to the people. However, the HA must assume the responsibility of the management and redevelopment of the PRH flats after selling. It should set up a second market for PRH flats to restrict the sale of the same to ensure the price is affordable by the low-income people. I trust the HKADPL's proposal for the sale of PRH flats is supported by the sitting tenants. Only in this way can we help the people to live and work in peace and contentment, foster stability in the community and benefit the long-term development of Hong Kong.

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

Mr Frederick FUNG moved the following motion:

"That, in view of the Government's intention to introduce the Sale of Flats to Sitting Tenants Scheme, this Council urges the Government to adopt the following specific policies:

- (1) the construction cost of redeveloping the public rental housing (PRH) flats at the time of sale be used as the selling price of the flats;
- (2) the Housing Department should continue to be responsible for the management of the sold PRH;
- (3) a maintenance fund be established for carrying out the maintenance and improvement works on the housing blocks;
- (4) the re-sale of sold PRH flats be restricted to PRH flat owners, PRH tenants and applicants on the General Waiting List;
- (5) PRH flat owners, who have genuine financial difficulties, be

allowed to re-sell their flats to the Housing Authority and to revert to the status of PRH tenants; and

- (6) the Housing Authority should assume the responsibility for redeveloping the sold PRH flats, as well as undertake to compensate and rehouse the PRH flat owners if the flats are to be redeveloped in future."

PRESIDENT (in Cantonese): Members have been informed by circular on 22 November that Mr Allen LEE and Mr CEHNG Kai-nam have separately given notices to move amendments to this motion. I propose to have the motion and the two amendments debated together in a joint debate.

PRESIDENT (in Cantonese): Council shall now proceed to a joint debate. I will call upon Mr Allen LEE to speak first, to be followed by Mr CHENG Kai-nam; but no amendments are to be moved at this stage. Members may then express their views on the motion as well as on the amendments to the motion. Mr Allen LEE.

MR ALLEN LEE (in Cantonese): Madam President, when the Liberal Party (LP) was formed some four years ago, housing policy was one of our policies on people's livelihood in our party objectives. At that time, the LP suggested in its party objectives: "At present, there are some three million people living in public rental housing (PRH). A major achievement in Hong Kong is its public housing schemes, which have been highly regarded. However, housing remains a major problem waiting to be solved. There are still a large number of people on the waiting list waiting for allocation of PRH flats. In terms of PRH resources and subsidy, the LP thinks priority should be given to the most needy, such as the low-income families and the single elderly people. We think the Government should frequently review its policy on PRH subsidy, in response to changes and development in the community to ensure resources are fairly distributed. We think the ultimate aim of the housing policy is to let everyone have the opportunity to realize their aspiration of owning their flats. The LP supports a carefully thought out plan to sell PRH flats. We suggest the Housing Authority sell PRH flats to sitting tenants at discounted prices and relax restrictions on transfer of ownership. Proceeds from sale should be re-invested in the construction of more PRH flats. The Government should expedite the completion of more PRH and Home Ownership Scheme flats to house more wait-

listed people at an early date."

Madam President, while Mr David WILSON was the Governor, I made suggestions to him to sell PRH flats at low prices. Why at low prices? Because sitting tenants in PRH are the grassroots people of Hong Kong. They do not have the means to buy private property but they want to have their own flats so that they can live peacefully. Later, the Government launched two schemes to sell PRH flats without success, because the selling prices were linked to those of private properties. There were no buyers. The schemes were doomed to fail since the selling prices were linked to those of private properties. Learning from this experience, the Chief Executive, Mr TUNG Chee-hwa, promised to sell PRH flats at low prices after his took office. We are happy to see this, the result of our hard lobbying several years. He promised to have 70% of the Hong Kong people owning their flats in 10 years. If the sale of PRH flats failed again, that target of the Chief Executive's could not be achieved. That much is certain. So, this time I need to tell the Secretary for Housing that he must succeed.

In Mr FUNG's motion there are a number of conditions for the sale of PRH flats. We disagree with some of them. For instance, why is the construction cost at the time of construction not used as a basis for calculation? Mr FUNG also proposes that the Housing Department should continue to be responsible for the management of the sold PRH flats. Why is that so? Moreover, it is proposed that the re-sale of PRH flats be restricted to PRH flat owners, PRH tenants and applicants on the General Waiting List. The many restrictions will surely diminish the attractiveness of the sale. After sale, a flat becomes the private property of the owner and should therefore be managed by the owner. Let me quote an example. Wang Fuk Court at Tai Po was built under the Private Sector Participation Scheme. The tenants there recently decided that the 9 980 households living there would not want the Housing Department to manage the place. They wanted to form their owners' corporation and appoint another management company, quite contrary to Mr FUNG's suggestion that large-scale housing estates must be managed by the Housing Department. So, what Mr FUNG said is not supported by facts, but what I say is.

Some insist that selling PRH flats at low prices is a "bonus" for sitting tenants. I, however, do not think this way. Our one important aim is to let

most Hong Kong people own their flats and live peacefully, irrespective of their class. Mr CHENG Kai-nam thinks that when PRH flats are sold, premium should be paid. This again stems from the idea of "bonus". We must not forget some three million people are living in PRH flats. I want all of them to own their flats. I do not want to see banners of protest everywhere every time the Government increases the rent. All I want is that they have their own private property, they protect their own interest and they feel secured. We should not politicize the issue. That is why I move my amendment, which will make the scheme both simple and quick. Over the last four years, I did a number of surveys by questionnaires. 80% of the PRH tenants supported my ideas.

With these remarks, I beg to move.

PRESIDENT (in Cantonese): Mr CHENG Kai-nam.

MR CHENG KAI-NAM (in Cantonese): Thank you, Madam President. The Chief Executive, Mr TUNG Chee-hwa, in his maiden policy address, said that he hoped that a 70% home ownership rate could be achieved in 10 years' time.

The Sale of Flats to Sitting Tenants Scheme to be implemented by the Government can be regarded as one of the secret weapons to achieve this target. However, regardless of the intention of the Government, there is an increasing demand of the public for home ownership and it is a fact that many sitting tenants aspire to be property owners.

According to a survey conducted by the Democratic Alliance for Betterment of Hong Kong (DAB) in 26 public estates between five to 15 years old, 60% of the people polled indicated that they would like to purchase the public rental housing (PRH) units. At "sale of flats" meetings I organized for the residents in over 10 estates, each time the attendance reached several hundreds people. Obviously, residents have a strong desire to buy their flats. The success of the scheme depends on whether the price is affordable, whether there is guaranteed maintenance, whether the re-sale conditions are attractive and whether there will be a fixed percentage of sold units in each building. We should bear in mind that one of the reasons for failure of sales in 1991 and 1993 was the setting of maximum number of sold units in each block. The Honourable Allen LEE proposed that the price of public rental units should be

based on the original construction cost. I think this is unrealistic because at least Mr LEE's proposal did not factor in the accumulated inflation of the construction cost. The DAB suggests that the price level should be based on the replacement cost at the time of the sale to be adjusted with depreciation. After we have arrived at the basis of the selling price, we also take into account the location, site orientation, the age of the building and so on. Anyway, the price of each unit should not exceed \$300,000. For the mortgage, the Housing Authority (HA) should provide terms not inferior to that offered to buyers of Home Ownership Scheme (HOS) flats. In other words, the mortgage loan can be up to 95% of the property price with an amortization period of 20 years while the maximum annual interest rate should be the prime rate plus 0.5%. Based on this calculation, we estimate that to purchase a 500 sq ft unit at a price of \$300,000, the monthly instalment at an interest rate of 8.875% is around \$2,500. Add to it the management fee, rates and government rent, the owner's monthly outlay will be around \$3,500.

As we all know, the Housing Department's purpose of selling these PRH units is to get rid of the heavy burden of managing these public estates. But we are of the opinion that the first and foremost factor to be taken into consideration is to ensure that the residents can buy their own homes and lead a comfortable life. The Housing Department (HD) not only has to satisfy the tenants' aspiration to own property and have a comfortable home, it also has to ensure the quality and maintenance of the building before and after sale. Before the units are sold, the HD has to conduct inspection, carry out maintenance work and refurbishment on the building and the units which will be put on sale. Otherwise, it will be difficult to attract the buyers. Nor can the perspective owners set their hearts at ease. But we have to point out that for estates which will soon undergo regular maintenance and replacement of facilities, the HD should advance the refurbishment before the sale in order to deliver on the pledge in the Chief Executive's Policy address.

There have all along been numerous complaints about improper management of public housing estates. The DAB feels that when certain proportion of PRH units has been sold, the Housing Department should help the owners to form their own Owners' Corporation. It should provide the greatest co-ordinated effort in management. On the contrary, if the sold units do not exceed a certain percentage, all the sold units and unsold units should remain under the management of the HD. Of course, we do not forget that the HD, under such circumstances, is to play two conflicting roles: one is to manage the

tenancy matters and the other is to manage affairs concerning the whole estate, part of which has been sold.

In 1995-96, there were 660 000 PRH units under the HA. This is an enormous number. At the same time, the tenants have all along been criticizing the poor maintenance and repair which has become a deterrent to perspective buyers. According to 1995-96 accounts, the HA has spent \$2.6 billion on maintenance and improvement work of various types of public housing in that year. One can imagine that the owners of PRH units will have to bear a substantial amount of maintenance cost in the future. In order that owners and residents can set their hearts at ease, it is necessary and essential to set up a maintenance and repairs fund. The HD should set aside a certain amount of money from the selling price as the capital of that fund and the warranty period of the units after sale should not be less than three years.

The residents are very concerned about the re-sale conditions of PRH units. The DAB is of the opinion that the re-sale conditions of these units should not be harsher than those of HOS flats. For example, an unit after having been sold to the sitting tenants for three years can be re-sold to other PRH unit owners or the HOS green-form applicants. After a premium has been paid, the unit can be sold and purchased freely in the market. Here, I have to point out that what the owner has to pay is compensation rather than the premium. Under the Honourable Frederick FUNG's motion, sold units are only allowed to be re-sold to sitting tenants and green-form applicants for HOS flats. This will greatly dampen the sitting tenants' desire to buy. Of course, the tenants are concerned that in case they run into financial difficulties and are unable to pay mortgage payment, they would become "shelterless". We therefore suggest that the HA should allow owners in difficulties to sell the units back to the HA at the original price and revert to tenants with certain conditions.

Mr Frederick FUNG proposes that the HA should be responsible for compensation and rehousing the owners when the sold public housing blocks are to be redeveloped in the future. I beg to disagree with that because the PRH owners, after having purchased their units, already own the property. After paying the premium, they can also sell their units in the free market with no interference from the HA. The HA is still obliged to make reasonable compensation to the owners even when the building is to be redeveloped three or four decades later. Given the compensation arrangement, the owners should not be given the same treatment as the tenants in terms of rehousing. In a nutshell,

we hope that 250 000 PRH units can be sold in the next 10 years. Thank you, Madam President.

PRESIDENT (in Cantonese): Mr CHENG, please stop. Mr HUI Yin-fat.

MR HUI YIN-FAT (in Cantonese): Thank you, Madam President. I believe colleagues would probably remember that half a month ago or so, the Owners' Corporation of Sun Hing Building at Mongkok was ordered by court to pay a compensation of \$25 million to a worker who fell from height while repairing drains for that building and sustained paralysis of the whole body. Each household on average has to share over \$60,000 of the compensation. This case has exposed the consequence of improper management of private buildings and has made quite a number of flat owners suddenly realize that building management involved various kinds of responsibilities and expertise. I agree that public rental housing (PRH) units should be sold at a reasonable and affordable price so as to help those who cannot afford to buy flats in the private sector to realize their dream of home ownership. However, the Government should not hard-sell these PRH units in an irresponsible way in order to achieve 70% home ownership rate and neglect the after-sale responsibilities. The prospective owners should be reminded that they have to face a lot of responsibilities and duties when they have purchased the units.

Madam President, my worry is not unfounded. It was almost a decade ago when the Government intended to sell the PRH units. The Housing Authority (HA) set up an ad hoc committee in 1989 to launch a pilot scheme to sell 7 000 PRH units. By the end of 1991 when the application period expired, only 500 households, or less than 10% of the households, indicated their interest to buy. The root of the failure is that the selling price was pegged to the market value, thus dampening the tenants' desire to buy. Today when the private property prices are still beyond the reach of the PRH tenants, the Government strikes up an old tune and attracts the tenants' attention by proposing extremely low prices to sell these units. As a result, the selling prices of the PRH units have become the focus of public discussion. However, we must not forget to mention the after-sale responsibilities. Moreover, the Government needs to explain clearly all relevant details to the tenants before the sale of PRH units.

I agree to the Honourable Frederick FUNG's motion that prior to the sale

of these PRH units, the Government should resolve all problems associated with the management, maintenance, re-sale and redevelopment responsibility which will arise after the sale of these flats. But I still have reservations about the original motion. As I said earlier, an owner has the responsibilities as well as obligations. When we discuss this issue, we should not put all after-sale responsibilities back to the Government. The prospective owners should be aware of their commitment when they decide to buy their own homes.

We must bear in mind that according to the Housing Ordinance and the Buildings Ordinance, all public sector buildings and properties are not covered by the Buildings Ordinance. However, under the existing legislation, the exemption provision will cease to apply to the PRH units after they have been sold and such flats will assume a status similar to that of the Home Ownership Scheme (HOS) flats. As a result, responsibilities regarding to the facilities of the building such as fire safety and structural specifications as well as maintenance will be shouldered by the unit owners who will have to bear all the responsibilities relating to the whole building according to the share of ownership and the provisions laid down in the Buildings Ordinance. So the problems cannot be resolved by merely setting up a maintenance fund. If PRH units between five to 10 years of age are to be sold as proposed by the Government, legal problems will emerge as there is mixed ownership in a block of building resulting in the application of different provisions of the ordinances. Under the general maintenance requirement for private buildings, problems will pop up in the next five to 10 years.

Apart from the above, we should look at the issue relating to the Government's responsibility for the redevelopment of sold properties. As regards the amendments by the Honourable Allen LEE and the Honourable CHENG Kai-nam which have totally deleted the Government's responsibility for redevelopment, I have reservations. In my opinion, the responsibility for redevelopment is a relative issue. Certainly the Government has the responsibility because these public rental blocks cannot compare favourably with many private blocks in terms of quality. Ten or 15 years after the sale, redevelopment of these blocks may be needed. Sitting tenants who are readily to buy their units also understand that the blocks will need to be redeveloped one day. Madam President, I therefore urge that the Government should anticipate the problem in advance and come up with a proposal which is fair to the Government as well as to the PRH owners to tackle future redevelopment issue and other complicated after-sale responsibilities. This is to avoid the Sale of

Flats to Sitting Tenants Scheme giving the public an impression that the Government only cares about the profits and pass the buck to the people. I do not want to see in the future that the sold PRH units are ridiculed as cheap in price and poor in quality. Nor do we want to hear people's complaints about them in the future.

Madam President, I so submit.

PRESIDENT (in Cantonese): Mr NG Leung-sing.

MR NG LEUNG-SING (in Cantonese): Thank you, Madam President. Public housing is a valuable resources of the Government and the general public. For many years, public housing has helped to ease the housing problem of low-income families and played a crucial role in providing decent homes for citizens who thus can lead a contented life. At present, about half of the households in Hong Kong are living in public rental housing (PRH). The Chief Executive, Mr TUNG Chee-hwa, in his first Policy address, said that in the coming 10 years, 200 000 PRH flats would be sold in order to satisfy the low-income families' aspiration to own their own homes. In implementing this policy, the department concerned together with the Housing Authority (HA) are actively studying and drafting specifics for the sale of PRH programme. As a member of the HA, I have participated in the deliberation and studying of the issue. Basically I have the following views to share with Members.

First, whether the sale of PRH flats is successful depends on pricing. The Administration should take into account the affordability of the households fully. However, cost should also be counted in order to strike a balance and price should be set at a sensible and reasonable level acceptable to all. At the same time, the sale programme should also be a reference for deployment of resources in future.

Second, the sale of PRH flats is to commercialize or privatize public housing. So, market principle should be adhered to. After the sale, the property ownership should be fully transferred to the owners. Maintenance and quality inspection of the highest quality should be carried out prior to the sale of these flats. After the sale, the responsibility for maintenance and repairs should automatically pass on to the owners.

Third, after the household has lived in a sold PRH flat for a certain period of time and the payment of a reasonable land premium, re-sale of the sold PRH flat in the free market should be allowed. The practice should be in line with that of the current Home Ownership Scheme.

In my opinion, if the three basic conditions mentioned above are fulfilled, the sale of PRH programme should satisfy the interest of all parties and guarantee to be a success.

It is proposed that owners in genuine difficulties can sell the flats back to the HA and revert to the status of tenants. It is also proposed that the HA should be responsible for redevelopment of sold public housing. And the HA should also undertake to compensate and rehouse the owners of sold PRH flats in case these flats are to be redeveloped in future. I think these proposals have departed from the original objectives of the sale of PRH flats and are undesirable.

Finally, I would like to point out that in the Government and in the HA which is composed of members from all walks of life, there are specialists who have lots of experience in housing matters. So, specifics of the policy should be formulated by the specialist department. I appreciate the spirit behind the motion on the sale of PRH flats proposed in this Council at this stage. But I think that it is inappropriate to lay down too many specifics and details which may easily complicate the issue.

Madam President, I so submit.

PRESIDENT (in Cantonese): Mr CHOY Kan-pui.

MR CHOY KAN-PUI (in Cantonese): Madam President, to expand the existing subsidized home ownership schemes and to sell public rental housing (PRH) flats to the sitting tenants are the keys to successfully fulfilling the Chief Executive's pledge to achieve 70% home ownership rate in 10 years. The Hong Kong Special Administrative Region (SAR) Government has planned to sell 250 000 PRH units in the coming 10 years. Next year, the first batch of 25 000 flats will be put on the market. The authorities concerned are now considering the

concrete measures in order to provide comparatively lenient and favourable conditions with regard to prices, maintenance, repairs and re-sale so as to attract the PRH tenants to buy. Strong determination to live up to the pledge is shown by the Government.

The Hong Kong Progressive Alliance (HKPA) is supportive of the scheme because:

- (1) it is the aspiration of certain PRH tenants to own homes. Apart from a desire to have a secure home, they also want to have an inflation proof investment through home purchase. But having insufficient means to buy a private flat, they would like to buy a public one.
- (2) it will boost a sense of belonging and contribute to social stability;
- (3) it can indirectly suppress property prices because the demand for private property will decrease after the households have bought their own flats. The pressure of surging property prices can be relieved;
- (4) if the plan is successfully implemented and 250 000 PRH flats at a minimum price of \$0.2 million each can be sold in 10 years, it can generate an income of \$50 billion for the Housing Department. This huge sum can be ploughed back into the building of more PRH and Home Ownership Scheme (HOS) flats so that more people in need can buy their own homes and low-income households can rent a PRH flat; the waiting time for PRH flats can be shortened as well.

To order to ensure that this scheme will be successful, the Government should learn from the previous failure of sale of PRH flats due to high prices. When the prices are set, the people's affordability must be taken into account. According to tenants who wish to buy PRH flats, they prefer newer buildings and larger flats at a price around \$0.2 million to \$0.3 million each. I hope the Housing Authority (HA) will fully consider the tenants' wish when it considers the prices and the age of the buildings. On the other hand, I hope the Government can provide guarantee to these tenants so that they can get 95% mortgage loan from the banks on a progressive repayment schedule so as to

reduce the burden of the initial years of repayment. In so doing, the monthly outlay including the management fee and rates would not be much higher than the original rent they pay. If they can afford it, they need not try to cut expenditures on other daily necessities which have already taken up a large proportion of their income.

The HA should also explain clearly to the tenants their responsibility in maintenance and repairs of the buildings after sale. Before the sale, there must be thorough inspection and maintenance so that tenants will not have to shoulder a heavy burden. The HA can consider the setting up of a maintenance fund and provide a warranty period of three years to the owners. During the initial period after sale, the HA should be responsible for management and maintenance. In the latter period, it can consider that the management right should be transferred to private management agencies gradually like HOS flats. I believe by so doing, the management will not be done in a bureaucratic manner and quality management with enhanced efficiency can be provided at a cheaper price. Of course, in the long term, the owners should be encouraged to set up the Owners' Corporation. Being one of the largest landlords, the Housing Department should have a role to play in monitoring the management of the buildings and the repairs.

Restriction on re-sale is crucial to the success of the scheme. I suggest that the owners can re-sell the flats to other PRH households or applicants on the General Waiting List. However, if the flat is to be sold to another PRH owner, there must be a prerequisite that the owner must re-sell his original property to the HA. In a nutshell, the HA must ensure that a PRH owner owns one property only. If owners meet with financial difficulties, they should be allowed to sell the flats back to the HA and can revert to the status of tenants and continue to live in the same flats. Apart from the above re-sale restrictions, selling of the sold units in the free market several years later should be allowed after the payment of land premium. As for the specifics, we can refer to the HOS re-sale provisions. Such flexibility, I believe, will bring success to the scheme.

Madam President, these are my remarks.

PRESIDENT: Mrs Elsie TU.

MRS ELSIE TU: Madam President, the Member's motion and the two amendments to the motion spell out some detailed proposals. They sound very much like political platforms, especially because their movers belong to different political parties.

Mr FUNG offers an attractive housing package of reasonably cheap flats for sale to his constituents, who will then face no responsibility for management, and very little for maintenance of their premises. Mr LEE offers even cheaper flats but insists, reasonably enough, that their owners must maintain and manage them.

Mr CHENG reasonably offers his constituents some assistance in setting up owners' organizations, and some maintenance. And all three offer some kind of opt-out in case owners need to resell. Mr CHENG sensibly suggests selling back to the Housing Authority and I would agree with that. There is merit in many of the suggestions. But to vote on the motion, we are all required to support the platform of only one of the three parties. A bland motion calling for ideas on the subject of selling public flats would have enabled all of us to suggest ideas and to call upon the Government to pay heed to our proposals.

In the event, Madam President, how can we make a choice among these three platforms? Since I agree with bits and pieces of all three platforms, but can accept none of them as the ideal solution, I intend to vote against all of them, but in doing so, I call upon the Government to take heed of all the opinions expressed today, as well as the opinions expressed by the public and by experts and professionals, so that a package can be put together to be fair to all — including fair to the taxpayer, and also fair to those living in appalling conditions in private housing, and paying high rents for the privilege of living in those hobbles. Madam President, as an independent Member, I find it difficult to support the whole or any of the housing platforms of the debate today.

I think the whole issue requires open discussion, and it cannot be tied down to the proposals made in this motion and the amendments.

PRESIDENT (in Cantonese): Mr CHAN Kam-lam.

MR CHAN KAM-LAM (in Cantonese): Madam President, since 1950s, the housing programme in Hong Kong has solved the housing problem of half of our population. This success has set an example to neighbouring regions and countries. So when we discuss the sale of public rental housing (PRH) flats to sitting tenants, we should not consider this a way for the Government to shirk its responsibility.

The quality of public housing, including the PRH flats and Home Ownership Scheme (HOS) flats has been subjected to criticisms and queries. Recently because of the heatedly discussed case of On Ning Garden built under the Private Sector Participation Scheme, and the case of Hiu Lai Court at Sau Mau Ping where problems popped up only six months after the residents moved in, people have been more concerned about the Housing Authority's (HA) role in the sale of PRH flats scheme in respect of maintenance and management.

Given that private housing is generally expected to have a high appreciation potential, most PRH tenants will buy a HOS flat or a private flat when their financial ability has improved. So, the sale of PRH flats scheme soon to be implemented by the HA should be targeted at these grass-roots people who do not have such means but have the aspiration to own property. The scheme should provide them a way to buy their own homes and should not be regarded as a way for the HA to shed its important responsibility.

There have been few HOS estates under the HA that can take over the management through the formation of Owners' Corporations. Those managed by private management companies are still under the supervision of Housing Managers of the Housing Department. On the other hand, PRH tenants have been relying on the Housing Department to manage their buildings and will ask the Department to help in any and all matters. Such a mentality will not change in a short time after the tenants have bought their flats. It is, therefore, unrealistic for the HA to expect the residents to manage their own estates right after the sale. Of course we must not deny the owners' right to manage their own estates.

The DAB proposes that after a certain proportion of flats have been sold, the HA should help owners set up Owners' Corporations or management committees. At the same time, the HA, which remains to be the landlord of certain proportion of tenants, should play a pro rata role in the work of the Owners' Corporations in order to protect the tenants' rights unless the whole

block has been sold.

To ensure the quality of PRH flats to be sold, the HA should carry out a thorough inspection of and repairs work to the whole building and the flats concerned before the sale. It should also provide the prospective owners an inspection certificate issued by independent professionals. This is to ensure that owners will not have to spend a lot of money on repairs after the sale. After the sale, the HA should provide a warranty period of not less than three years. At the same time, in case there is structural problems like subsidence as at On Ning Garden, the HA must assume the full responsibility for repairs as the developer. The DAB proposes to set aside 5% of the proceeds from the sale as the principal of a maintenance fund of the estate. In the future, contribution to the fund will be made from the monthly management fees paid by the owners.

Madam President, as regards the price, the DAB thinks that no flat should be sold at a price higher than \$0.3 million. The main reason is that the PRH residents mostly belong to the low-income group. After they have purchased the flats, they have to pay mortgage repayments, management fee, rates and government rent. Their burden must be much heavier than renting a PRH flat. So the DAB thinks that the affordable monthly outlay on housing for them, including mortgage repayments, rates and management fee, should be 150% or 200% of the current rental and should not exceed 25% of the household income. According to the HA, the median income of a four-member family is \$13,000, then the outlay on housing should not exceed \$3,250. But in case they are unable to pay back the mortgage loan due to unemployment or other financial difficulties, we think they should be allowed to sell their flats back to the HA and revert to the status of tenants and stay in the same flats.

The DAB fully supports the Chief Executive's measure to solve the housing problem in Hong Kong by increasing the supply of housing units, shorten the waiting time for PRH flats and the sale of PRH flats. But the success of the sale of PRH flats scheme depends on the quality of the buildings, maintenance, management and the price. The DAB is of the view that the scheme must be beneficial to the HA and the PRH tenants. So the recipe for success is low price, guaranteed quality and lenient re-sale restrictions. Otherwise, the sale of PRH flats will become a "betrayal of the PRH tenants" which will tarnish the reputation of the Hong Kong Special Administrative Region Government. Nothing but endless trouble will come out of it.

To sum up, in order to sell 250 000 PRH flats to sitting tenants within 10 years so that they can own their homes and lead a contented life, it is essential to follow the "six nots" principle. First, the price should NOT exceed \$0.3 million; second, the mortgage terms and conditions should NOT be less favourable than that for the HOS flats; third, the Housing Department should be responsible for maintenance for NOT less than three years; fourth, re-sale restrictions should NOT be more stringent than the HOS flats; fifth, there should NOT be restriction on the number of sold units in each block; sixth, tenants who refuse to buy should NOT be adversely affected.

With these remarks, Madam President, I urge Members to support Mr CHENG Kai-nam's amendment.

PRESIDENT (in Cantonese): Mrs Selina CHOW.

MRS SELINA CHOW (in Cantonese): Madam President, the Honourable Frederick FUNG intentionally or otherwise neglected the fact that the Liberal Party has all along advocated the sale of public rental housing (PRH) flats. When we look at the original motion, however, we find that there is a major failing in the motion and that is, the flats sold will become neither public nor private property. When an owner owns a property, he has his rights as well as his obligations. But Mr FUNG's motion seems to try to get the best of two worlds: to have ownership of the property on the one hand and to leave the responsibilities concerned with the Government or the Housing Authority (HA) on the other. This, the Liberal Party does not support.

The objective of privatizing PRH flat is that all people will have an opportunity to become property owners regardless of their financial means. I believe this is the wish and the aspiration of the majority of Hong Kong people. Also, the Liberal Party is of the view that this scheme can strengthen Hong Kong people's sense of belonging and the owners' sense of responsibility towards their own flats. Moreover, as it provides people an opportunity to make investment in something that will appreciate in value, it will help upgrade an individual and the whole community.

The major divergence of opinions between the Liberal Party and the Democratic Alliance for Betterment of Hong Kong (DAB) is the pricing basis as

seen in the original motion and our amendments. The Liberal Party strongly opposes that the price be set on the basis of the replacement cost because this is unfair when compared with the construction cost basis we propose. We know that the Secretary for Housing advocates the replacement cost basis. He may have had lots of opportunities to lobby the two HA members, Mr FUNG and Mr CHENG Kai-nam. But I have no idea whether this is the case. Both Members support the replacement cost basis proposed by the Secretary. But we strongly oppose such a basis. Why do we oppose it?

PRESIDENT (in Cantonese): Mr FUNG, is it a point of order?

MR FREDERICK FUNG (in Cantonese): A point of elucidation.

PRESIDENT (in Cantonese): For elucidation, you will have the floor after Mrs CHOW's speech.

MRS SELINA CHOW (in Cantonese): If the replacement cost is the basis, the latest construction cost will be taken as a reference to set the price of the PRH flats. In that case, the older the building, the more unfair it is to the tenants. So, we propose to set the prices according to the construction cost, that is, the older the building, the lower is the construction cost; and newer buildings with an age of 10 years, five years or three years, the construction cost will be higher. So I do not understand why some Members said that our amendment did not take inflation into account. Of course we did, because the construction cost at the date of completion of the flats already took inflation into account. However, we have also mentioned on many occasions that a reasonable amount of interest should be added to the construction cost of PRH flats which were completed in different years. We may need further discussion on this matter.

Mr CHENG Kai-nam, I beg your pardon for I have to say that the DAB's formula in the amendment is "shifty" because it, on the one hand, proposes the replacement cost basis but, on the other, does not mention depreciation. In this way, it is rather free to set the price which can be as low as \$100,000 or \$50,000. Another feature of "shiftiness" is that, in his speech, he mentioned \$0.3 million, which is not seen in the amendment. I have no idea how to arrive at \$0.3 million. But if he advocated the replacement cost basis and proposed a price

ceiling of \$0.3 million, what is the logic there? How did he arrive at \$0.3 million? I believe Mr CHENG has to elaborate this point. But I am sure there is problem in the logic. If we follow that, the replacement cost basis is meaningless.

Both Mr FUNG and Mr CHENG mentioned that owners in difficulties should be allowed to revert to the status of tenants. In fact, anyone who meets the means test can apply for a PRH flat. A PRH owner who meet financial difficulties such as going bankrupt, can apply for a PRH flat if he or she is eligible. However, the Liberal Party disagrees that the PRH owners can revert to the status of tenants immediately without the need to queue up with other needy households on the waiting list again. The fact is they have purchased their own flats which can be re-sold, and it means that they have certain assets. I think their proposal violates the principle of fairness.

The Liberal Party knows that tenants have expressed a strong desire to have a free choice when they purchase the PRH flats. So the Honourable Allen LEE has also incorporated this point in his amendment. To sum up, Mr LEE's amendment reflects the Liberal Party's views on the sale of PRH flats. Our amendment has the greatest flexibility. To a certain extent we agree with the Honourable NG Leung-sing's views that at this stage, we should not argue on the details. But for matters of principle, we should include certain flexibility in the policy so that the Housing Bureau can flesh out the details. Our amendment has taken care of the major principle of fairness and the wishes of the residents. It also strikes a balance between the interests of PRH tenants and non-PRH residents. I urge Members to support Mr Allen LEE's amendment.

PRESIDENT (in Cantonese): Mr Frederick FUNG, do you want an elucidation?

MR FREDERICK FUNG (in Cantonese): I would like to elucidate two points. Just now the Honourable Mrs Selina CHOW quoted what I said and I think she misquoted, so I would like to elucidate these two points.

First of all, in the proposal of the Hong Kong Association for Democracy and People's Livelihood (HKADPL), we actually did not say that we want only the property ownership but not the responsibility. We do not want ownership, the Housing Authority (HA) still has to bear the ultimate responsibility. I said

earlier that, in a public rental housing block where flats are put on sale, I believe the HA still owns the largest proportion of the property ownership because some residents are still tenants and the property ownership still belongs to the HA. In HKADPL's plan, as the HA still has the property ownership, what we are buying is "a shell", title not included. You may find it ridiculous, but such things exist in reality. The cottages in Hong Kong are one of the examples.

PRESIDENT (in Cantonese): Mr FUNG, have you finished your elucidation?

MR FREDERICK FUNG (in Cantonese): The second point is about replacement cost. We are not persuaded by the Secretary for Housing, and the HKADPL did mention the replacement cost before. Recently, in the Panel on Housing

PRESIDENT (in Cantonese): Is it a point of order?

MR CHAN KAM-LAM (in Cantonese): Madam President, a point of order. I think Mr FUNG was interpreting his own views.

MR FREDREICK FUNG (in Cantonese): I was trying to interpret the meaning of "replacement cost".

PRESIDENT (in Cantonese): Mr FUNG, your position is a bit special. Later on, you will have five minutes to speak on the amendment. So, please use that opportunity to explain.

PRESIDENT (in Cantonese): Mr CHENG Kai-nam, do you wish to elucidate too?

MR CHENG KAI-NAM (in Cantonese): Madam President, all along, we have been discussing the construction cost of redevelopment rather than replacement cost. There is a difference between them.

PRESIDENT (in Cantonese): Dr TANG Siu-tong.

DR TANG SIU-TONG (in Cantonese): Madam President, with the limited space and the large population in Hong Kong, the issue of housing has been bothering us for years. Under the past rule of the British Hong Kong Government, since it was "a borrowed time, a borrowed place", the housing policy was never perfected. The Chief Executive, Mr TUNG Chee-hwa announced in his first Policy address that, in the coming 10 years, the Government would work to achieve 70% home ownership in Hong Kong. The direction of the future housing policy is thus officially established.

The Sale of Flats to Sitting Tenants Scheme is one main point of Hong Kong's future housing policy. To allow more citizens purchase their own properties, the sale of flats to sitting tenants is doubtlessly a relatively fast and direct way to attain the goal. While the basic direction of the Scheme is indisputable, its concrete details still have to be worked out. Today, the Hong Kong Progressive Alliance (HKPA) is happy to hear Honourable Members express their different views on the issue, many of which are very reasonable and worthy of our support.

As is known to all, a successful salesman must have his own successful selling method; selling public rental housing (PRH) flats is the same. The two previous failed attempts to sell PRH flats can be used for reference in the present sale of PRH flats. The successful sale of PRH flats to their sitting tenants is largely decided by the thoroughness and soundness of the Scheme, whereas price is of course one of the important factors. Setting an attractive and reasonable price is indeed an annoying problem. The HKPA thinks it is more reasonable and practical to set the price of the PRH flats by using replacement cost properly adjusted with depreciation as the benchmark. People would suspect that the public assets are being given out should the flats be sold at too low a price as will be the case if the original construction cost of the unit is used as the calculation basis. The profits made by the HA from the sale of PRH flats can be used later on more housing construction. If the PRH flats are sold at too low a price, there will be bad effects on the future allocation of housing resources. Furthermore, when setting the price, I think it would be more reasonable to take account also of the age, orientation and floor level of the flat on top of the replacement cost

and depreciation. We have to understand that difference in view and floor level will influence the rate of return when an owner re-sells his PRH flat in the future. Although the Sale of Flats to Sitting Tenants Scheme does not encourage re-sale, since the PRH tenants purchase these properties with "real money", it will be impractical to think that the rate of return can be ignored. Factors such as the floor level or orientation of a flat will surely influence its re-sale price in the future, therefore, in order to get a better rate of return upon re-sale of the property, a lot of people do not want to buy flats on lower floors.

To attract tenants to buy the PRH flats, other than an attractive price, it is also very important to allow them to re-sell the flats someday. The HKPA suggests that, in order to increase the rate of return of PRH flats, the Government should set a time limit: after the tenants have bought the PRH flats for a certain number of years, the flats can be re-sold freely. When drawing up the relevant details, the Government should pay attention to the arrangement regarding land premium so as to avoid asking for too much premium and dampening the tenants' desire of purchase. In the public's mind, private property is an important investment. If the re-sale of sold PRH flats is restricted to applicants on the General Waiting List as proposed by the Hong Kong Association for Democracy and People's Livelihood, the rate of return may be too low to attract the tenants.

With regard to the management of the sold PRH flats, the HKPA stresses that it should depend on the nature of the sold PRH flats. If the whole block is sold, the PRH flat owners should bear the responsibility; if half of the block is sold and half is rented, the responsibility should be shared proportionally and the Housing Department (HD) should take up the responsibility of assisting the Owners' Corporation when a specified proportion of the units are sold. If the sold flats cannot reach a that specified proportion, all the flats should be managed by the HD. In recent years, the public have begun to accept such a pattern of mixed title and there is no problem there that cannot be solved. Therefore, the HD should be flexible in taking up the responsibility of managing flats with mixed title.

As for the maintenance and improvement works of the sold PRH flats, the HKPA thinks that, after the flats are sold, the Government should provide a certain structural safety guarantee period. It should also inject capital to set up a maintenance fund in order to safeguard the future maintenance of the housing

blocks, whereas the PRH flat owners ought to share part of the maintenance cost.

Madam President, I so submit.

PRESIDENT (in Cantonese): Mr Andrew WONG.

MR ANDREW WONG (in Cantonese): Madam President, I highly appreciate the Honourable Mrs Elsie TU's speech just now, but I cannot and should not imitate her in proposing a vague and general motion like the one she moved last time about recruiting native English-speaking teachers because it would after all be better for a motion to have concrete content. The motion today is moved by the Hong Kong Association for Democracy and People's Livelihood (HKADPL), needless to say, by the Honourable Frederick FUNG. There is one amendment moved by the Liberal Party, and another one by the Democratic Alliance for Betterment of Hong Kong (DAB). In fact, the Hong Kong Progressive Alliance (HKPA) can also move an amendment, but I think it may get too confusing then. After listening to their views, I find the contents quite similar, though there are slight differences among them. Anyhow, vague and generalized motions have always been the stages for the different parties to show their platforms, I on the contrary think this issue of selling public rental housing (PRH) flats to sitting tenants should actually be a matter that concerns our whole Provisional Legislative Council. I hope that we can have a common stance or can reach a consensus in order to negotiate with the Government and the Housing Authority (HA). It would be better if we discuss the issue in the Panel on Housing of this Council and negotiate with the Government after reaching a consensus, because it is in fact not very meaningful to have a motion debate.

I have always wondered, while the Government have built so many PRH blocks and at the same time hopes the public to purchase their own property, how the sale should proceed if the present 660 000 PRH flats are to be sold to the sitting tenants. I am not talking about the relevant details, but the basic concept. Should we sell them as Home Ownership Scheme (HOS) flats, or as flats in the second market with restrictions? I think that, since the PRH flats are built for the citizens with lower income, we cannot frequently vet their income with complicated procedures because of the rent. We therefore just need to give them assistance in the initial stage and after they have bought the PRH flats, they can freely re-sell or lease them in the so-called second market comprising

families of Hong Kong permanent residents, with each family limited to one such flat only. In such circumstances, the PRH flats are not sold in the pattern of HOS flats where there is an income restriction. For HOS flats, after the owner has bought the property for a certain period of time, he can sell it in the free market subsequent to making up the original price discount, there will then be no difference between a HOS flat and a private flat. So, spiritually, I concur with and am more sympathetic to Mr FUNG's motion. He advocates that there should be restrictions because he thinks the owner has just bought a shell of the flat without title. In fact the owner has the ownership of the flat, he merely does not have land title. He also has the right to use the flat which is freely re-salable, although it is restricted to Hong Kong permanent residents. The market is consequently very big and these flats do have a value. Under such circumstances, I cannot agree with the HA's inflexible proposal of selling PRH flats in the same way as selling HOS flats.

Of course, the Liberal Party also opines that the PRH flats should be sold in the form of HOS flats. However, after relaxing the eligibility, many people may think that the locations are too remote, whereas the citizens who have bought HOS flats may also think the locations are too remote. But since they can freely buy and sell the flats without any land premium, the price may even be lower because only the construction cost and the aggregated inflation as mentioned by the Honourable Mrs Selina CHOW earlier are recovered; furthermore, the so-called inflation is not the inflation of property but of the currency, so this proposal is reasonable.

If all the PRH flats are to be sold to the sitting tenants within a short time and thus forming a relatively big free second market, the selling price should not be based on the construction cost or replacement cost, but should be on the property's own value. If the owner only has ownership of the flat but not land title after he bought the flat, should the property be redeveloped in the future, it will definitely be the HA who makes the decision. If the building is to be redeveloped with the consent of 75% of the owners, the redevelopment cost will of course be born by the owners. With such conditions, it is obvious that the price of older buildings cannot be set at too high a level, and I think this is exactly where the crux of the problem lies. I appeal to Honourable colleagues that, while I will not vote on the motion and the two amendments, it is best if we all abstain and go back to the Panel on Housing for discussion, in the hope of really assisting the Government to attain the goal of home ownership, and not to continue its present HOS policy. When the sale of PRH flats becomes the same as that of HOS flats, the property market will be more liberalized and the public may go on with their speculation.

Madam President, I am prepared to leave the Chamber after speaking to show my repugnance of the motion and the two amendments. (*Laughter*)

PRESIDENT (in Cantonese): Mr KAN Fook-yee.

MR KAN FOOK-YEE (in Cantonese): Thank you, Madam President. On the issue of the sale of public rental housing (PRH) flats, the Honourable Members who move the motion and the amendments are all leaders of political parties, whose stances I can understand. However, I do not agree with source of their arguments. As a land economist, I have the following views on the motion and the amendments.

The Honourable Frederick FUNG and the Honourable CHENG Kai-nam both criticize the Government's attitude of selling the PRH flats. Mr Frederick FUNG said that the Housing Authority seemed to be having a big promotion sale of PRH flats at generously reduced prices, hell-bent on succeeding in this endeavour. He also said that the sale of PRH flats represented the Government reneging on its housing commitment to citizens with low income, shifting the duties of management, repairs, maintenance and redevelopment to the PRH flat owners. He believes the PRH flats should not be commercialized. Mr CHENG Kai-nam said, "The sale of PRH flats is like dropping the big burden of PRH management". I, to a certain extent, agree to what both of them said and think that the Government should not adopt such an attitude. The Honourable Allen LEE, however, said something very encouraging. He encouraged the Government to march boldly forward, to make sure the present scheme will succeed though there have been two previous failures. In this regard, I feel what Mr Allen LEE said is really like the lyrics of a karaoke song, "You often march boldly forward, there is no need to look back".

But if the Government really adopts Mr Allen LEE's motion, I guess that the result will be like letting the PRH tenants divide up the assets of the Hong Kong Special Administrative Region (SAR) Government at the lowest cost. In this aspect, I think the Honourable NG Leung-sing's view on social assets is worthy of the SAR government officials' consideration. Should the PRH flats be regarded as "a hot potato" which the Government is happy to dump at any and all cost, this attitude does not deserve our support.

The most important factor the Government should take into account is, if it is going to allocate the resources, the allocation has to be fair. Should the Government allow at all cost some people to divide up part of the social assets, the people who do not get anything will ask the Government for other assets. Please do not forget that, other than the 2.5 million PRH tenants, with six million people in Hong Kong, there are still 3.5 million who do not benefit from the PRH and among whom many are still "shell-less snails". If the PRH flats are allocated regardless of the cost, it is very likely that, in the future, part of the public will ask the SAR Government to give them the land of the SAR so that they can build houses for accommodation purpose with their own money. This is something the Government cannot treat lightly.

Just now the Honourable Mrs Elsie TU asked, "How can we make a choice among these three platforms". I very much concur with her in this point because the fair allocation of social assets is a very complicated problem. However, if I have to choose one among the three proposals, I think that the amendment moved by Mr CHENG Kai-nam of the Democratic Alliance for Betterment of Hong Kong is more desirable since he has given consideration to the selling price and restrictions, so that the sitting tenants will not be purchasing the PRH flats with a price too low in the eyes of the community. Madam President, I so submit.

PRESIDENT (in Cantonese): Mr LAU Kong-wah.

MR LAU KONG-WAH (in Cantonese): Madam President, the Honourable KAN Fook-ye has just said that the Honourable CHENG Kai-nam's plan is more desirable among the three motions, but I think Mr CHENG's plan is the most desirable one. The reasons are as below:

Recently, we held consultative meetings in a number of districts and contacted many public housing estates residents. The topic has become a hot one. In fact, I think that the public housing estates residents have focused not on the price (certainly it will be the most acceptable if the price is set below \$300,000), but rather on the general terms of the sale, that to them is very important. The general terms include the plans we have just mentioned and the principles that we have just mentioned.

From the perspective of the Government, no room is allowed for failure this time. I personally think that we have to take into account two principles in our debate of the various plans suggested today. Firstly, the success of the scheme is merely a secondary objective; more important is, the primary objective of the scheme, if successful, is to help citizens achieve living in peace. Secondly, we have to take into consideration the overall social effects aside from the needs of public housing estates residents. I shall examine the following two areas on the basis of these two principles.

First, the Honourable Allen LEE's amendment highlights the need for the scheme to be successful. From the wordings of his amendment, in fact, he has overlooked the objective of "living in peace". To take the "households with financial difficulties" as an example, in every housing estate we visited the residents told us that they strongly hoped they could revert to tenants at once if they had any financial difficulties during the mortgage period. I believe that they cannot set their minds at rest if we have disregarded this aspect.

The Honourable Mrs Selina CHOW remarked that it would be superfluous to re-instate their tenancy. This is in fact, very important because they may not feel at ease to buy these PRH flats if they had to queue up again. The reason is simple, the quality of the PRH flats is poor and the present market is also poor. In view of this sentiment, I think the Government should consider this aspect seriously.

The Honourable Frederick FUNG mentioned the public housing estates residents. I think it is rather narrow to view this issue just from the perspective of the public housing estates residents as he did, because in doing so the needs of the whole society is disregarded. To take a simple example, we may consider the issue of re-sale and its conditions. I am very surprised when I heard him just say "buying the shell of the flat without buying the ownership". As we may see that the second-hand market of Home Ownership Scheme (HOS) flats is not flexible and not active because the sale is limited to public housing estates households only. If the future situation continues to be so, the whole market may be like a pool of still water. In fact, we aim to allow free trading of the public housing estates flats. I expect that these relatively cheap public housing estate flats may be sold to the youngsters. When I talked to a group of young students about this issue just now, I said I thought that they could not afford to buy private housing after their graduation from universities. However, if these public housing estate flats can be freely traded and sold to the youngsters, I

believe that it will be a great help to society. On the other hand, I think the overall social effect is disregarded if trading of the flats is only allowed among public housing estate residents. Mr CHENG Kai-nam's amendment, therefore, has basically provided a safety net for households with financial difficulties and the safety net is the key to the success of the whole scheme. Furthermore, double re-sale will make the whole market more flexible, satisfying the expectations of public housing estate residents. It is in fact the wish of public housing estate residents to see more flexible re-sale conditions.

Second, when Mr Allen LEE suggested in effect in his amendment "hands off once the flats are sold", he is totally out of touch with what the residents really want. When Mr Frederick FUNG in his motion advocated "the perpetual responsibility", he ignored social reality. Why do I mention "hands off the flats once sold"? In Mr Allen LEE's amendment, the clause relating to building management has obviously been deleted, but it has neither mentioned whether there will be management responsibilities nor put forward specific suggestions. Or did he think that building management should be taken up by the Owners' Corporation right from the start? I think it is not desirable for us to adopt the last scheme. In sector private participation home ownership scheme housing now, the Government has shed all its responsibilities after the Owners' Corporation is set up. With this example, we can see clearly that it is unrealistic as well as undesirable.

Mr Frederick FUNG refers to the period of management when he advocated "the perpetual responsibility", meaning the Housing Department has to manage the housing blocks perpetually, and even has to be responsible for the redevelopment of buildings. This is not quite feasible. Therefore, Mr CHENG Kai-nam's amendment to transfer the management from the Housing Department to the Owners' Corporation after an appropriate period is better and more desirable.

Madam President, Mr Andrew WONG is not here now. He remarked that we need not discuss the issue here and it should be handed back to the Panel on Housing. I think it is not right to do so as our Provisional Legislative Council should have a direction. As there are a number of Secretaries present now, I believe it will benefit the whole scheme if we, as representatives of the citizens, can provide some directional suggestions. Therefore, I am baffled that he is absent from his seat.

Lastly, I think the "six nots" principle of the Democratic Alliance for Betterment of Hong Kong is the best. I wish to repeat these "six nots" principle because Mr CHENG Kai-nam did not exactly say that just now. They include: the selling price of the flats should NOT exceed \$ 300,000; mortgage loan terms should NOT be less favourable than those of HOS; maintenance warranty offered by the Housing Department should NOT be less than three years; the re-sale terms should NOT be more stringent than those for HOS; the number of flats sold in each building should NOT be restricted; and tenants refusing to buy should NOT be affected. All these, I am confident that they can be put into practice.

Thank you Madam President.

PRESIDENT (in Cantonese): Miss Chan Yuen-han.

MISS CHAN YUEN-HAN (in Cantonese): Thank you Madam President. In the first Policy address, the Chief Executive of the Hong Kong Special Administrative Region (SAR) mentioned that the details of sale of flats scheme would be disclosed next month. Since the commentaries on the Long Term Housing Strategy (LTHS) were published towards end of last year, the scheme to sell public housing flats has become the focus of public attention. I discussed this issue with several thousand residents in the year and through today's motion I wish to make know what the residents think about the sale of flats scheme and the Hong Kong Federation of Trade Unions' (FTU) proposal of "rents for mortgage repayments" in the sale of public rental housing (PRH) flats scheme.

The Government has made it clear that the sale of flats scheme is sure to go ahead. According to a research survey, the FTU understands that the PRH residents are more positive towards scheme than they were the last two times. The Government policy on the PRH rent has forced tenants to purchase PRH flats, as they are very much worried about the high PRH rent increase in recent years. The LTHS has also stated that PRH rent will be increased by 15-18%, causing anxiety among residents. Another reason is that the selling prices of current Home Ownership Scheme (HOS) flats are high and linked with the market, even though they are still less expensive than private housing. Therefore, to the PRH residents, though it is a difficult and remote matter to

purchase their own flats, if they can afford it, they may choose to accept the policy of sale of PRH flats, rather than having to face high rent increase by the Government. Having contacted the residents, we know that they are concerned about the prices, maintenance, management and future redevelopment problems. These are all the concerns of residents and issues that they have to face.

Madam President, given these concerns, the FTU published a long term housing strategy document early this year and collected opinions from society. It submitted a proposal on "rents for mortgage repayments" to the Government and the Housing Authority to allow the residents to purchase their present flats.

Our concept is very clear. We propose that the amount of future mortgage repayment should be roughly equivalent to the present level of rent payment, that is, around \$1,500 to \$2,000. Generally speaking, the majority of the PRH households have to pay around \$300,000 or less to purchase a flat. The selling price is identical to that we found in our research surveys in January and April of PRH residents. It demonstrates that the concept of "rental rents for mortgage repayments" is feasible and is widely supported by the citizens. We did not conduct the surveys in only one estate, but we did the surveys by random sampling in all PRH estates in Hong Kong before we got the above findings.

However, the Director of Housing and the Secretary for Housing proposed \$600,000 and \$400,000 respectively as the selling prices of the flats. I wish to clearly say that if the Government makes such proposals without consulting the residents, such proposal will make the residents feel uneasy, and making such proposals is an irresponsible act. If the Government truly wishes to provide the PRH residents a chance to live and work in peace and contentment, I think such proposals are despicable. The Government should explain in clear terms to the residents, and not put out test balloons, fool around with simple figures, and make the residents troubled over this issue.

Madam President, the tenants are concerned not only about the flat prices, but also maintenance. At present, the PRH flats, new and old ones alike, have maintenance problems. At times, new PRH flats have more maintenance problems than the old ones. Therefore, the residents are worried that once the

PRH flats are sold, the responsibility for maintenance will be theirs. In fact, I agree that the residents who purchase flats in the future should assume maintenance responsibilities, but we are aware that the PRH flats are poor in quality and inferior in material used and cannot be compared with private housing. Therefore it is unreasonable for the public housing estate residents to bear full responsibilities. The FTU has suggested to the Government that for each flat sold, 25% of the proceeds will go to a maintenance fund, while profits from car-parks and shopping arcades will be used to subsidize the cost of maintenance and management. I believe this is an approach for the SAR Government to return wealth to the citizens. Moreover, some residents have worriedly asked, if they run into financial difficulties after they purchased the flats, whether they are allowed to rent their flats back instead? This reflects the PRH residents' worry about their future financial capacity. The sale of flats scheme should reserve a chance for the residents who purchased PRH flats to return the flats to the Housing Authority and revert to the status of tenants, to apply for rent assistance to reduce their expenses on housing, in case they run into financial difficulties and cannot pay mortgage repayments.

Madam President, I think that it is a very important issue, particularly during the recent years, with the structural changes in our economy and the recession in Hong Kong. I have met many people who wish to change from HOS owners to PRH tenants. I hope that the Government can accept my opinions.

Madam President, the sale of flats scheme must be launched on the premise that the burden of PRH tenants should not be increased. How can the PRH residents purchase flats if they have to increase their expenditure on housing, without any improvement to their living environment? This is exactly why some of the PRH residents do not wish to purchase the flats. I hope when the Secretary for Housing makes his reply, he will not discuss policies and give too many excuses. I think that the Government has to give specific details of the scheme to the tenants practically, but should not discuss it any further. The Government must have received many suggestions regarding purchasing the flats by the PRH residents at a ceiling price of \$300,000 through "rents for mortgage repayments". The Government must pick up the maintenance costs. When the residents have any financial difficulties, they should have a chance to revert to tenants. These problems have been talked over for one whole year, the Government should make a reply today and I do not wish it to drag on further to

the next month.

Madam President, I so submit. Thank you.

PRESIDENT (in Cantonese): Mr CHAN Choi-hi.

MR CHAN CHOI-HI (in Cantonese): Thank you, Madam President. We tried to pressurize the Government into revealing the selling prices of the public housing units in several meetings with the Housing Authority but we have yet to get a definite answer from them.

Actually, are prices in fact the biggest concern? Many Members have said earlier that maintenance is a more important consideration. I wish to look at the sale of public housing from a wider perspective.

Public housing is basically public property. In the course of turning public property into private assets, we must handle it with great care. We should not try to turn public property into private assets by every means and at any cost for the sake of achieving a certain goal, which is in this case to have a home ownership rate of 70% in 10 years. We have received the information of the Hong Kong People's Council on Public Housing Policy which has somehow shed some light on the way the general public think. Why on earth do we want to sell the public housing flats? Is that because, other than having to achieve the above goal, we also want to create a myth of everyone owning a home? I feel that this is a sheer myth. I do not think it necessary that when people own a home, they will have a stronger sense of belonging. I simply do not feel that the two have to be directly related. Therefore, I think that there is a need to review once again the rationale behind the sale of public housing policy.

I would not wonder why all political parties have been working very hard lately. Every party, including the Democratic Party, has visited every housing estate and consulted the people there. I believe that there have been over a thousand consultation meetings held by now. But if the Government accepts all the conclusions indiscriminately, I can tell you that it is doomed to fail a third time. I do not wish to see it fail again, but I think that if it continues like that, this is likely to be a failure again as I am beginning to see what the causes of the

failure are. From the speeches of Members tonight, we can see that the Government may suffer yet another failure. Of course, Mr WONG may not have to bear all the blames for this new failure. It is only that after the establishment of the Hong Kong Special Administrative Region Government, we bring the sale of public housing up for discussion again. I hope that everyone will handle this issue with great care. Public housing is public property and in the course of turning it into private property, we have to pay great attention to all problems involved.

PRESIDENT (in Cantonese): Mr TSANG Yok-sing.

MR TSANG YOK-SING (in Cantonese): Madam President, for a long period starting from next month, the Sale of Flats to Sitting Tenants Scheme (SFSTS) will definitely be the issue public rental housing (PRH) tenants will be most concerned about. Since the Honourable Frederick FUNG, members of the Hong Kong Association for Democracy and People's Livelihood (HKADPL) and members of the Democratic Alliance for Betterment of Hong Kong (DAB) talk to PRH tenants almost every evening, we know one thing very clearly: we will not watch others hold consultation meetings from afar and throw cold water all around, saying that the SFSTS is sure to fail and will certainly not work.

We are very glad that Mr FUNG has proposed the motion on the SFSTS today. Many proposals in his motion coincide with the DAB's proposals and have our support. There are only one or two points which are rather strange. For instance, why is it that flats cannot be re-sold? In our consultation meetings with PRH tenants, many of them asked whether the flats could be re-sold and what the conditions of re-sale would be. This is a very important factor which will affect their decision to take part in the SFSTS or not. Thus, we cannot agree with the restrictions placed on re-sale as proposed by Mr FUNG. The last proposal in the motion about redevelopment is also rather strange. However, I have come to understand it. Later, I will explain why he has made this last suggestion. Since we consider that some proposals in the motion can be improved upon, the Honourable CHENG Kai-nam of the DAB has moved an amendment.

As for the amendment proposed by the Honourable Allen LEE, first, he has deleted the proposal in Mr FUNG's original motion that PRH owners who have financial difficulties and cannot continue with the mortgage repayments be allowed to revert to the status of PRH tenants. If we have paid attention to the response of PRH tenants to the SFSTS, we will understand very well, as Mr FUNG understands it very well, that this is something PRH tenants are very much concerned about. As we all know, PRH tenants belong to the financially weak group in society. Very often, they do not know whether their circumstances will change and they have no plans. Every PRH resident will ask what will happen if he is unable to pay any further after having made mortgage repayments for two or three years. The Housing Department will then repossess the flats, and as they have no longer any tenancy, they will have to wait all over again. If they become homeless, they will at best be given compassionate treatment. As PRH tenants, they start off with a secure place to live. If they have to take a very big risk all of a sudden, they will naturally have tremendous reservations. If this part is deleted, the SFSTS will hardly be attractive to PRH tenants. Therefore, we cannot support Mr Allen LEE's amendment.

With regard to cost, Mr Allen LEE was a bit misleading in his speech. He said right at the beginning that the original construction cost should be used as the basis. Would that not be too great a bargain? Ten or twenty years ago, the construction cost of a flat might just be \$100,000 or \$80,000. However, the Honourable Mrs Selina CHOW added later that that would take into account inflation. That is a totally different story. The Liberal Party's proposal is in fact to calculate the price by adding inflation to the original construction cost, while the DAB proposes that the price should be the replacement cost of the flats adjusted with depreciation. This is the difference between us. Thus, we cannot support the Liberal Party's amendment.

Let me return to Mr FUNG's original motion. When he made the proposals in his speech, I was extremely surprised, since his speech totally rejected and was entirely against the SFSTS. Mr FUNG should have stated his objection to the SFSTS in his speech outright. His concept is that public housing is public property and should not be divided up and sold to private persons. Put in this way, the concept will be very clear. From this point of view, although one talks about "sale", the Government and the Housing Authority (HA) will still have ownership. Therefore, the HA will still be responsible for matters such as management. Although the Government sells the flats to tenants, they are not owners. The real owner is still the Government.

After selling the flats to PRH tenants, the Government will still be the owner and be responsible for management. The Government, and not the persons who bought the flats, will also be responsible for future demolition, and rebuilding, since the buyers of the flats are not owners.

We have to ask whether this really represents the interests of PRH tenants. PRH tenants would ask what good it would be to them if they buy the flats. After buying the flats, their status will change from tenants to so-called "owners". Mrs Selina CHOW has mentioned what responsibilities owners have. Mr FUNG hopes that PRH tenants can have it both ways. In my opinion, his proposals will in fact make them lose both ways. After becoming owners, they will lose the services provided by the Housing Department to tenants. They have to pay management fees, maintenance fees and rates, whereas before, after paying the rent, if there are problems like a leak in the water pipes and lighting problems, they just need to call the Housing Department to have them fixed. This is because their flats have become private property. But, they do not enjoy the rights as owners, such as the right to re-sell their flats. Thus, they will lose both ways. How can it be called "sale"? Did Mr FUNG think that because the term and the scheme seem to have been accepted by the present PRH tenants, he would use the same label and call it "Sale of Flats"? On the surface, the Government is selling PRH flats, but in fact it is not selling them. To use Mrs Selina CHOW's words, it is being "shifty".

Just now two Members already stated the "six nots" of the DAB to the sale of PRH flats policy. They might be called the DAB's platform. I hope that the Honourable Mrs Elsie TU, the Honourable Andrew WONG, other independent Members, members of the ADPL and the Liberal Party will not refuse to support them just because they are the DAB's platform, even if they are reasonable proposals. If the ADPL or the Liberal Party copies them and puts them on their platform, we will welcome it very much indeed. There will not be problems of intellectual property. They will be welcome to copy them. Therefore, I call on Members to support the amendment moved by Mr CHENG Kai-nam.

PRESIDENT (in Cantonese): Mrs Selina CHOW. A point of elucidation?

MRS SELINA CHOW (in Cantonese): Madam President, I have to thank Mr TSANG Yok-sing for having mentioned my name several times. Every time he speaks, he mentions my name several times. Just now, Mr TSANG talked about inflation. If he had read my speech, he would clearly understand. I said different units were built in different years, and so inflation becomes part of the construction cost and affects the fixing of prices. I also said at the same time units built in different years can be compensated with a reasonable interest, that is, old units having an older age have in their construction costs the element of interest. I hope he does not relate without reason

PRESIDENT (in Cantonese): Mrs Selina CHOW, please do not repeat what you have already said.

MRS SELINA CHOW (in Cantonese): Madam President, that was what I said in my speech but Mr TSANG distorted what I said. So I needed to raise a point of elucidation. Thank you.

PRESIDENT (in Cantonese): Mr LAU Kong-wah, what do you wish to clarify? You can only clarify your own speech, not other Members' speeches.

MR LAU KONG-WAH (in Cantonese): I cannot grasp the points Mrs Selina CHOW has just clarified. I just cannot understand what she said. Can she repeat it?

PRESIDENT (in Cantonese): In that case, we had better listen to Mr Edward HO's speech first. Mr Edward HO.

MR EDWARD HO (in Cantonese): Originally I did not plan to speak, but after I

listened to the speeches of some Honourable Members, I find that the elections of next year seem to have started: with independent Members attacking the party Members, and the party Members attacking each other.

I think it is a pity that the Honourable Andrew WONG left his seat, but he should be very familiar with the operation of the Council as he was once its President. Motion debate certainly has its uses as each Member or Party may express opinions to let the general public know what they are. The panels also have their functions because the Members can listen to the Government's briefs or suggestions and ask questions in detail in the panel meetings. I think that the panels cannot replace motion debates. I think it is a very strange thing to leave our seats because we disagree with the viewpoints or opinions of some Members, particularly for one who was once the President.

I was shocked to hear the Honourable Frederick FUNG say that what was to be sold was not title rights. What was he trying to say? In fact, I am not going to repeat too much as the Honourable TSANG Yok-sing said a lot. The Housing Authority will not evict the tenants. After these tenants have a home and pay the rents, naturally somebody will be responsible for building management, and will pay the management fees and rates, so why do they suddenly need to pay the higher replacement cost, while they do not have ownership of the property? What good will it bring them? Moreover, they can only sell the flats to other public rental housing (PRH) residents, but why do other PRH residents want to purchase their flats? We propose the sale of PRH flats now mainly because when members of the public, or the grassroots level need assistance, they can rent PRH flats; and when they have the means, they will be given a chance to purchase their own flats. This in fact can reduce subsidies from society. After they become owners, they start to have their own assets, and they may improve their living environment soon, like buying a larger flat. At the time they can sell the flats to others and gain some money, and these will be their own assets.

The Honourable KAN Fook-ye did not like to divide up public property. I think different people may have different views. In fact, we have already divided up public property: we are now subsidizing the PRH tenants on a monthly basis and that is government public property; the same applies to the Home Ownership Scheme and the Sandwich Class Scheme as the flats are sold at a relatively low price, again this is a form of subsidy.

The success of our society is attributable to our use of public resources to help the needy. When they can stand on their own feet, earn their own living and no longer need subsidies from others, they will be encouraged to take care of themselves. Therefore, to take the management as an example, it is not like what the Honourable LAU Kong-wah said when he commented on the Honourable Allen LEE's amendment, "hands off once the flats are sold", meaning that after the PRH flats are sold to the citizens, everything becomes their baby. We do not say that. After the PRH flats are sold, the Housing Authority as the developer, will help them establish an Owners' Corporation for the management of the building. However, if they are owners themselves, they can decide if they want to form an Owners' Corporation. They can choose to manage the building themselves, and do not need the Housing Department to manage for them forever. Mr Allen LEE also quoted an example just now saying that it would be cheaper for them to hire management staff themselves and the results would be better. I think it is worth encouraging.

Regarding the replacement cost and construction cost, I guess Mr LAU Kong-wah wished to have a clarification. We suggest construction cost be used, that is to say, if a flat was built in 1970, its price will be calculated according to the construction cost of 1970. It is 1997 now, so there is a gap of 27 years. When interest rate is added to each of these years, that is the interest the Government charged the Housing Authority for loans, which so far as I know, is 5%. Formerly, the construction cost of a flat might be \$50,000 or \$80,000, but now, the construction cost will not be this figure. For instance, a flat built in 1970 might have a possible construction cost of \$50,000, and for one built in 1980, however, its construction cost might be \$100,000. The difference in the cost may be what Mrs Selina CHOW refers to as the inflation.

Why do we refuse to calculate according to the replacement cost? Though we can count the depreciation rate of older buildings to bring the replacement cost and construction cost closer, we think that it is relatively fair to use the construction cost as the basis for calculation because new and old buildings are completely different in terms of standard and facilities. Besides, we find it difficult to explain to buyers why the present replacement cost is used as the basis (though depreciation rate is inclusive) when they purchase the old buildings which are 10-odd years old. Therefore, I think that our amendment contains the most reasonable suggestions.

Thank you.

PRESIDENT (in Cantonese): I now ask Mr Frederick FUNG to speak on the amendment. Mr FUNG, you have five minutes.

MR FREDERICK FUNG (in Cantonese): I wish to reply some of the Honourable Members' questions while I analyse the motion and the two amendments.

We have six arguments: firstly, the replacement cost. The Liberal Party proposed to use the original construction cost of the flats as the basis, but included the inflation and interest later in its member's speech, in an attempt not to give an impression of offering "too a big discount". In fact, after inflation and interest are factored in, the amount is close to the replacement cost I suggested, and the problem just raised by the Honourable Edward HO will not occur. For instance, the redevelopment cost of a public housing estate like Oi Man Estate is completely different from that of a Y-shaped estate in Sha Tin. Therefore, the price proposed by Mr HO is very close to that I proposed, but different from that of the Democratic Alliance for Betterment of Hong Kong (DAB) because the DAB calculation is based on the construction cost of Oi Man Estate flats today. As Oi Man Estate was erected 23 years ago, there is depreciation that must be deducted. The present construction cost of Oi Man Estate may be \$150,000, after depreciation, it is only \$70,000. However, the DAB has "elastic measures", that is the price of the PRH flats set is only a base. It is more expensive in the urban area than in the New Territories and the officials can name any figure they wish. These "elastic measures". Thus, in this aspect, I think the ideas of the Hong Kong Association for Democracy and People's Livelihood (HKADPL) is closer to the Liberal Party, but more distant from the DAB.

Secondly, the management problem. Obviously, the Liberal Party thinks that the matter of management has absolutely nothing to do with the Government, but we think that the Housing Department should take up the responsibility. However, as I have said in my speech, when the Housing Department assumes the management responsibility, it does not mean that it will directly take up management itself. The Housing Department may manage it directly, or hand over part of the job, or even the whole to others. When problems prop up in the future, it should be the responsibility of the Housing Department. The

suggestion of the DAB is an in-between. They think that it depends on the number of flats sold. When it reaches a certain ratio, it can set up the Owners' Corporation which will take up the responsibility. In fact, it is the Liberal Party's suggestion that the Housing Department must be responsible if it has not reached a certain ratio. The DAB proposal is a transitional step from the phase I put forward to the phase the Liberal Party finally suggested. This is the second difference for the three parties.

Thirdly, the maintenance fund. The three parties have consensus regarding this aspect.

Fourthly, the re-sale issue. I think that this is where we have the biggest divergence of views among us. In this regard, the Liberal Party and the DAB have the same thinking, while the HKADPL is different. We think that the sale of PRH aims to allow the PRH residents to live in peace, as a flat is a dwelling place, not a commodity that enter the private property market. We do not agree to let the PRH flats enter the private property market. The only way to do so is through property ownership, that is what the Honourable Andrew WONG referred as the land ownership. Land ownership cannot be sold because once it is sold, the property can enter the market. Only the residence rights, as so called by Mr Andrew WONG, can be sold. This is what I called the "shell". It is a replacement cost, that is, the PRH residents who purchase the flats will pay an amount equal to the construction cost of the flats. The amount that allows the Government to construct the same type of flats will become the property price. We cannot put the PRH flats in the free market because as more and more public flats enter the free market, the number of public flats will gradually decrease. The choices of the low income group will also decrease. This is the most important point and the most fatal difference among us.

Fifthly, reverting to the status of tenant. The Honourable TSANG Yok-sing and CHENG Kai-nam mentioned this, so I am not going to repeat. Our ideas are close to the Liberal Party's in this aspect, but the Liberal Party said that it was not possible to allow that. If it is not possible, the PRH residents may have problems in deciding if they want purchase the PRH flats. With many other restrictions, such as they cannot apply for the PRH within some years after they have bought the Home Ownership Scheme, they are not willing to purchase the flats as they cannot apply for PRH even if they run into financial difficulties in the future.

Lastly, about redevelopment. If my logic is adopted, the PRH residents have not purchased the property ownership at all. If problems prop up in the future, majority of the property ownership is in the hands of the Housing Authority, the Housing Authority will go for redevelopment naturally. It is very natural according to our logic, so we will include it in the motion. If the logic is opposed, it will be deleted naturally. Finally, the positions of the DAB and the Liberal Party are very close, but ours is different from theirs and other parties' in nature. Thank you, Madam President.

PRESIDENT (in Cantonese): Secretary for Housing.

SECRETARY FOR HOUSING (in Cantonese): Madam President.

Introduction

I welcome this debate as the saying goes "it is in the mood". First, I must deny categorically that private housing plays a leading role in the housing policies of the Government. The allegation is wrong. In fact, the Government aims to help all families find homes according to their financial ability. Second, an irresponsible Government can also have "six nots" so-called by the Democratic Alliance for Betterment of Hong Kong (DAB), but the Government's "six nots" are different. We do NOT do the following: "not to talk about ideals; not to heed reality; not to think of ways to improve; not to forge ahead; not to listen to the public opinions and not to take the well-being of society as the personal responsibility". We shall not practice these "six nots". The Hong Kong Special Administrative Region Government is a responsible Government which "talks about ideals; heeds reality; thinks of ways to improve; forge ahead; listens to the public opinions and takes the well-being of society as the personal responsibility".

Since we published the consultative document, the "Evaluation of the Long Term Housing Strategy" last January proposing the sale of public rental housing (PRH) flats, we have gained support from many quarters in society, in particular, the PRH families who wish to purchase flats. The Honourable Frederick FUNG said the Government should "store wealth among the people", and in fact, the Government has satisfied this principle after introducing the sale of PRH flats scheme as I believe majority of the citizens think that having their

own property is equivalent to having assets. The Chief Executive announced in the Policy address on 8 October that a minimum 250 000 PRH tenants could purchase their flats in the next 10 years. Besides, the first lot of around 25 000 PRH flats would be sold early next year. The Housing Bureau is discussing the details of this plan with the Housing Authority in order to make this plan more perfect. Today's debate allows us to listen to Honourable Members' opinions before we finalize the details.

Setting the Selling Price

Regarding price setting, the Government's position is to set the selling price of the PRH flats at a reasonable level that majority of the PRH residents can afford. Moreover, we must ensure that the price set is fair to the public. These two principles have been widely accepted.

Regarding the method of calculating the selling price, I have heard a variety of suggestions: some Members suggest the replacement cost of the PRH flats be the selling price; some think that the replacement cost can be used as a base, and adjustment will be made according to the location, age of building and other related factors; some suggest the original construction cost be the selling price; still others think that the selling price shall not entail mortgage repayment instalments exceeding two times to two and a half times of the rent paid by tenants, that is the so-called "rents for mortgage repayments". The Government is sure to consider Members' opinions before it makes decisions.

All along, the financial system in Hong Kong has played a positive and important role in the subsidized home purchase schemes of the Government. We believe that we can continue to draw support from the financial sector to help families which participate in the sale of flats scheme. The Housing Authority is now working out flexible mortgage arrangements with some financial institutions to help families which have participated in the sale of PRH flats scheme.

Problem of Management of Flats Sold

Many Members are concerned about the future management of the PRH flats sold. Mr Frederick FUNG proposed that the Housing Department assume the management responsibility after the PRH flats are sold. I think the Director

of Housing should thank Mr FUNG's indirect compliment to the Department's management ability. Certainly, we may consider to let the Housing Department take up the management work for all flats sold, but on the other hand, we may hire professional building management firms for the job. I agree that the Housing Department should continue to be responsible for the management of related estates before the Owners' Corporations are set up, but the future owners of the PRH flats are also entitled to participate in decisions on the issue. Therefore, the Government will assist in setting up Owners' Corporations for the estates sold. In this aspect, the Honourable CHENG Kai-nam should feel at ease.

Maintenance of PRH Flats Sold

The Government understands that Members we are very concerned about the maintenance arrangements. In policy address, the Chief Executive announced that the Housing Authority would first check the condition of the buildings and carry out necessary and basic renovation works before the sale of the flats. Upon the sale of the flats, we have a warranty period for the structural safety of the buildings. Furthermore, part of the proceeds from the sale of PRH flats will be set aside for the purpose of setting up the maintenance fund, and we shall continue to discuss the details of these measures with the Housing Authority.

Setting Re-sale Conditions

Regarding the re-sale conditions, the Honourable Frederick FUNG, Allen LEE, CHENG Kai-nam and other Members have proposed very different directions in their suggestions. We think that we should consider this issue from two angles, firstly, excessively stringent re-sale conditions will dampen the PRH residents' desire to purchase; secondly, the re-sale conditions should not be too loose, or we or the Housing Authority will be suspected of encouraging speculation, and the Government is sure to be criticized. We must strike a balance between the two approaches.

PRH Owners with Financial Difficulties

Several Members proposed that owners who run into financial difficulties after they purchased the flats can sell the flats back to the Housing Authority and revert the status of tenants. We agree to consider carefully the needs of some PRH owners who can no longer afford the repayment of mortgage loans because they run into financial difficulties. As to how to handle these situations, we think that we must act prudently.

Future Redevelopment of PRH Flats Sold

I wish to express my thanks to some Members who have taken a long-term perspective on the future problems that may arise after the sale of PRH flats. Certainly, the redevelopment of PRH flats sold may not happen within a short period, because we do not plan to sell the PRH soon to be redeveloped. Regarding how to solve the redevelopment problem, I believe it depends on individual cases of the estates that need redevelopment.

Summary

Madam President, the Government is determined to launch the sale of PRH flats scheme. There is no doubt that we are determined. Today's debate has strengthened our confidence to launch this scheme because the majority of the Members support this scheme in their speeches, though there is divergence of views regarding details. I wish to thank Members' lines which remind or encourage me, such as: "to prepare for danger in times of peace", "to return wealth to the citizens" "to be determined to succeed, and not to fail". I wish to respond by saying that "millions of people all of one mind can beat everything; and a collection of wisdom may find good policies". Let me thank all the Members who have given their opinions on the sale of PRH flats scheme.

Thank you Madam President.

PRESIDENT (in Cantonese): I now call upon Mr Allen LEE to move his amendment to the motion.

MR ALLEN LEE (in Cantonese): Madam President, I moved that Mr Frederick FUNG's motion be amended as set out on the Agenda.

Mr Allen LEE moved the following amendment:

To delete "view of the Government's intention to introduce the Sale of Flats to Sitting Tenants Scheme" and substitute with "order to ensure the success of the sale of the public rental housing (PRH) flats scheme"; to insert "original" before "construction"; to delete "redeveloping the public rental housing"; to delete "()" from "(PRH)"; to insert "the" before "PRH"; to delete "at the time of sale"; to add "the basis for determining" after "used as"; to delete "the Housing Department should continue to be responsible for the management of the sold PRH flats;" and "(3)"; to add "(3) PRH tenants be allowed to freely purchase any PRH flats on sale; and" after "housing blocks;"; to delete "resale of sold" and substitute with "buyers of"; to delete "restricted to PRH flat owners, PRH tenants and applicants on the General Waiting List;" and substitute with "allowed to sell their flats in the market without restrictions after a specified time"; and to delete "(5) PRH flat owners, who have genuine financial difficulties, be allowed to re-sell their flats to the Housing Authority and to revert to the status of PRH tenants; and (6) the Housing Authority should assume the responsibility for redeveloping the sold PRH flats, as well as undertake to compensate and rehouse the PRH flat owners if the flats are to be redeveloped in future".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment moved by Mr Allen LEE be made to Mr Frederick FUNG's motion.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour of the amendment please say "aye"?

(Members responded)

PRESIDENT (in Cantonese): Those against please say "no".

(Members responded)

PRESIDENT (in Cantonese): I think we need a division. The division bell will ring for three minutes.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): If there are no queries, the result will now be displayed.

Mr James TIEN, Mr HO Sai-chu, Mr Edward HO, Mr Allen LEE, Mrs Selina CHOW, Mr Ronald ARCULLI, Mrs Sophie LEUNG, Mr Howard YOUNG, Mr CHIM Pui-chung and Mrs Miriam LAU voted for the amendment.

Mr LEE Kai-ming, Mrs Elsie TU, Mr Henry WU, Mr CHEUNG Hon-chung, Mr MOK Ying-fan, Miss CHAN Yuen-han, Mr CHAN Wing-chan, Mr CHAN Kam-lam, Mr TSANG Yok-sing, Mr CHENG Kai-nam, Mr Frederick FUNG, Mr YEUNG Yiu-chung, Mr IP Kwok-him, Mr Bruce LIU, Mr LAU Kong-wah, Mr Ambrose LAU, Mr CHOY Kan-pui, Mr CHENG Yiu-tong, Dr TANG Siu-tong, Mr KAN Fook-ye, Mr NGAN Kam-chuen, Mr LO Suk-ching, Dr LAW Cheung-kwok and Miss CHOY So-yuk voted against the amendment.
Prof NG Ching-fai, Mr Kennedy WONG and Dr Charles YEUNG abstained.

THE PRESIDENT announced that there were 10 Members in favour of the amendment, 24 against and three abstaining. She therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Now that we have dealt with Mr LEE's amendment, Mr CHENG Kai-nam may move his amendment. Mr CHENG.

MR CHENG KAI-NAM (in Cantonese): Madam President, I moved that Mr Frederick FUNG's motion be amended as set out on the Agenda.

Mr CHENG Kai-nam moved the following amendment:

To add ", offset by a rate of depreciation," after "time of sale"; to add "the base for setting" after "be used as"; to delete "continue to be responsible for the management of the sold PRH flats" and substitute with "take up the responsibility for assisting the PRH flat owners in setting up Owners' Corporations if the number of sold PRH flats reaches a specified proportion of the total number of available PRH flats, and should continue to be responsible for the management of both the sold and unsold PRH flats if the number of sold PRH flats fails to reach the specified proportion"; to insert "the Housing Department should set aside a certain proportion of the proceeds from the sale of PRH flats as the principal of" before "a maintenance fund"; to delete "be"; to delete "the re-sale of sold PRH flats be restricted" and substitute with "three years after purchasing the PRH flats, owners should be allowed to re-sell their flats"; to insert "other" before "PRH flat owners"; to add "or to sell their flats freely in the market after repayment of the land premium; and" after "General Waiting List"; and to delete "; and (6) the Housing Authority should assume the responsibility for redeveloping the sold PRH flats, as well as undertake to compensate and rehouse the PRH flat owners if the flats are to be redeveloped in future".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment moved by Mr CHENG Kai-nam be made to Mr Frederick FUNG's motion.

I now put the question to you as stated. Will those in favour of the amendment please say "aye"?

(Members responded)

PRESIDENT (in Cantonese): Those against please say "no".

(Members responded)

PRESIDENT (in Cantonese): I think we also need a division. The division bell will ring for three minutes.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): If there are no queries, the result will be displayed.

Mr LEE Kai-ming, Mr Henry WU, Mr CHEUNG Hon-chung, Miss CHAN Yuen-han, Mr CHAN Wing-chan, Mr CHAN Kam-lam, Mr TSANG Yok-sing, Mr CHENG Kai-nam, Mr Kennedy WONG, Dr Charles YEUNG, Mr YEUNG Yiu-chung, Mr IP Kwok-him, Mr LAU Kong-wah, Mr Ambrose LAU, Mr CHOY Kan-pui, Mr CHENG Yiu-tong, Dr TANG Siu-tong, Mr KAN Fook-yee, Mr NGAN Kam-chuen, Mr LO Suk-ching and Miss CHOY So-yuk voted for the amendment.

Mr James TIEN, Mr HO Sai-chu, Mr Edward HO, Mr Allen LEE, Mrs Selina CHOW, Mr Ronald ARCULLI, Mrs Sophie LEUNG, Mr MOK Ying-fan, Mr Frederick FUNG, Mr Howard YOUNG, Mr Bruce LIU, Mrs Miriam LAU and Dr LAW Cheung-kwok voted against the amendment.

Prof NG Ching-fai, Mrs Elsie TU and Mr CHIM Pui-chung abstained.

THE PRESIDENT announced that there were 21 Members in favour of the amendment, 13 against and three abstaining. She therefore declared that the amendment was carried.

PRESIDENT (in Cantonese): Mr Frederick FUNG, you may now reply and you have three minutes five seconds left.

MR FREDERICK FUNG (in Cantonese): Thank you, Madam President.

I am grateful to the 16 Members who spoke today, whether they supported or opposed my motion, or abstained from voting. Basically, this issue has very far-reaching effects on Hong Kong people. I think that the commercialization of public rental housing (PRH) flats is a qualitative change and may create housing problems for people with low income.

Madam President, I attempt to read out several sentences in an article on privatization of PRH flats in the Hong Kong People's Council on Public Housing Policy's collection of discourses: "Since accommodation is a basic need, housing cannot be simply interpreted as a commodity; moreover, the market should not be allowed to make demand into need." At present, the major goal of selling PRH flats is not to sell them as fast and as much as possible, but to provide a better, more comfortable accommodation with more sense of belonging to the sitting PRH tenants after they have purchased their own PRH flats. This is a more superior goal of selling PRH flats as compared with renting PRH flats.

Madam President, the Hong Kong Association for Democracy and People's Livelihood (HKADPL) has always believed that housing is a basic need, and the main purpose of building PRH flats is to meet this basic need. Only so can Hong Kong people live and work in peace and contentment, and can society be stable. Although housing also serves as a commodity which some people use as a guarantee of value, investment or speculation, with regard to the PRH flats, we should not take these functions into consideration now that they are to be sold. What we should take into account is, after a person has bought his own flat, if he used to be able to afford the rent, now he should be able to pay the mortgage. The conditions of living and management should be improve and better than before, whereas he should be living more comfortably. This is the basic principle of selling PRH flats.

Although, in the debate today, the fundamental direction of the HKADPL differs slightly from those of other Members, I hope the Government can make reference to the effect brought about by our proposal. I can tell Members that, in the consultative meetings held by the HKADPL, many tenants opined whether the PRH flats could be turned into commodities and put on the market was not their most important concern. Because the \$300,000 today represent roughly 20% of the market value, if the market value doubles in 10 years, which means

increasing from \$300,000 to \$600,000 and the price of the PRH flats will rise from \$1.5 million to \$3 million, \$600,000 may only be able to buy an area about the size of a toilet in the market. Therefore, the PRH flat owners will not put their flats on the market.

In the whole debate, I think the most important factor is whether the PRH flats should be put on the market. The HKADPL does not subscribe to this approach. Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Frederick FUNG as amended by Mr CHENG Kai-nam be approved.

Will those in favour please say "aye"?

(Members responded)

PRESIDENT (in Cantonese): Those against please say "no".

(Members responded)

PRESIDENT (in Cantonese): I think the "ayes" have it. The "ayes" have it.

NEXT MEETING

PRESIDENT (in Cantonese): In accordance with the Rules of Procedure, I now adjourn the Council until 2:30 pm on Wednesday, 3 December 1997.

Adjourned accordingly at fourteen minutes to Nine o'clock.

Annex I

WRITTEN ANSWER

Written answer by the Secretary for the Civil Service to Mr LEE Kai-ming's supplementary question to Question 3

Our current policy is that temporary staff should normally be employed on casual or ad hoc duties while other means of appointment of a more permanent nature should be considered for full-time jobs which are of a longer term nature. We have made it clear in our latest circular that temporary staff should not normally be engaged for more than 12 months.

Annex II**WRITTEN ANSWER****Written answer by the Secretary for the Civil Service to Mr CHENG Yiu-tong's supplementary question to Question 3**

The Correctional Services Department was correct in their refusal to allow the Vietnamese Interpreters to have the same redundancy terms as staff on permanent or month-to-month pensionable terms. However, during the course of our investigations, we discovered that the Interpreters had not been granted leave in accordance with the provisions of the Employment Ordinance. Through our intervention, steps have now been taken to rectify the leave arrangements. We will continue to provide assistance for departments and temporary staff when employment problems arise.

Annex III

WRITTEN ANSWER

Written answer by the Secretary for the Civil Service to Mr CHIM Pui-chung's supplementary question to Question 3

For the purpose of the current voter registration exercise, some 30 000 staff would be needed on a temporary basis. They were employed as temporary staff and would enjoy the same rights and benefits provided for under the Employment Ordinance and the Employees' Compensation Ordinance.