

# OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 9 May 2001

The Council met at half-past Two o'clock

## MEMBERS PRESENT:

THE PRESIDENT

THE HONOURABLE MRS RITA FAN HSU LAI-TAI, G.B.S., J.P.

THE HONOURABLE KENNETH TING WOO-SHOU, J.P.

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

THE HONOURABLE DAVID CHU YU-LIN

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

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

THE HONOURABLE FRED LI WAH-MING, J.P.

DR THE HONOURABLE LUI MING-WAH, J.P.

THE HONOURABLE NG LEUNG-SING

PROF THE HONOURABLE NG CHING-FAI

THE HONOURABLE MARGARET NG

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE HUI CHEUNG-CHING

THE HONOURABLE CHAN KWOK-KEUNG

THE HONOURABLE CHAN YUEN-HAN

THE HONOURABLE BERNARD CHAN

THE HONOURABLE CHAN KAM-LAM

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

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE SIN CHUNG-KAI

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

DR THE HONOURABLE PHILIP WONG YU-HONG

THE HONOURABLE WONG YUNG-KAN

THE HONOURABLE JASPER TSANG YOK-SING, J.P.

THE HONOURABLE HOWARD YOUNG, J.P.

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE YEUNG YIU-CHUNG

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH

THE HONOURABLE LAU WONG-FAT, G.B.S., J.P.

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

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

THE HONOURABLE EMILY LAU WAI-HING, J.P.

THE HONOURABLE CHOY SO-YUK

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE SZETO WAH

THE HONOURABLE LAW CHI-KWONG, J.P.

THE HONOURABLE TAM YIU-CHUNG, G.B.S., J.P.

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

THE HONOURABLE ABRAHAM SHEK LAI-HIM, J.P.

THE HONOURABLE LI FUNG-YING, J.P.

THE HONOURABLE HENRY WU KING-CHEONG, B.B.S.

THE HONOURABLE TOMMY CHEUNG YU-YAN, J.P.

THE HONOURABLE MICHAEL MAK KWOK-FUNG

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE LEUNG FU-WAH, M.H., J.P.

DR THE HONOURABLE LO WING-LOK

THE HONOURABLE WONG SING-CHI

THE HONOURABLE FREDERICK FUNG KIN-KEE

THE HONOURABLE IP KWOK-HIM, J.P.

THE HONOURABLE LAU PING-CHEUNG

THE HONOURABLE AUDREY EU YUET-MEE, S.C., J.P.

**MEMBER ABSENT:**

THE HONOURABLE TIMOTHY FOK TSUN-TING, S.B.S., J.P.

**PUBLIC OFFICERS ATTENDING:**

THE HONOURABLE ANTONY LEUNG KAM-CHUNG, G.B.S., J.P.  
THE FINANCIAL SECRETARY

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

MR CHAU TAK-HAY, J.P.  
SECRETARY FOR COMMERCE AND INDUSTRY

MR GORDON SIU KWING-CHUE, J.P.  
SECRETARY FOR PLANNING AND LANDS

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

MISS DENISE YUE CHUNG-YEE, J.P.  
SECRETARY FOR THE TREASURY

DR YEOH ENG-KIONG, J.P.  
SECRETARY FOR HEALTH AND WELFARE

MRS REGINA IP LAU SUK-YEE, J.P.  
SECRETARY FOR SECURITY

MR LEE SHING-SEE, J.P.  
SECRETARY FOR WORKS

MRS CARRIE YAU TSANG KA-LAI, J.P.  
SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING

MRS FANNY LAW FAN CHIU-FUN, J.P.  
SECRETARY FOR EDUCATION AND MANPOWER

**CLERKS IN ATTENDANCE:**

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

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

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

## TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Specification of Public Office .....	93/2001
Protection of Children and Juveniles (Places of Refuge) (Amendment) Order 2001 .....	94/2001
Places of Detention (Juvenile Offenders) Appointment (Consolidation) (Amendment) Order 2001 .....	95/2001
Remand Home (Amendment) Rules 2001 .....	96/2001

## ORAL ANSWERS TO QUESTIONS

**PRESIDENT** (in Cantonese): Questions: First question.

### Conditional Tenancy for PRH or Subsidized Housing Households

1. **MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, at present, for couples living in public rental housing (PRH) or subsidized home ownership flats who are undergoing divorce proceedings, the party living with his or her children can apply to the Social Welfare Department (SWD) for a Conditional Tenancy (CT) so that the Housing Department may allocate another PRH flat to him or her as temporary accommodation. Upon conclusion of the divorce proceedings, the party having custody of the children is normally granted the tenancy of the original PRH flat, whereas the displaced party will not be allocated another PRH flat, unless he or she also has custody of some of the children. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of applications for CTs and approved cases in each of the past three financial years, and the average time required for vetting and approving each case; the respective*

*numbers of cases in which the party who moved out from the original flats after conclusion of divorce proceedings and had custody of children applied for and were allocated separate PRH flats in each of the past three financial years, and the average time required for vetting and approving each case;*

- (b) of the reasons for requiring that the party displaced from the original PRH flat after divorce has to have custody of some of the children if another PRH flat is to be allocated; and*
- (c) whether it will review the policy concerned and consider, for example, allocating separate PRH flats to displaced singletons or battered women, and expediting the allocation procedure?*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, information on the number of applications and approvals for CT and for allocation of separate PRH flats for divorced tenants with custody of children has been tabled.

The Housing Department (HD) accords priority to the processing of these applications. Normally, it takes about four weeks to allocate a flat to the affected party. Processing time will be lengthened if applicants have specific preferences for flat type or location. Urgent cases can be processed within one week.

As regards part (b) of the question, normally the original tenancy is given to the party awarded custody of children. A separate flat will only be allocated to a displaced party who has also been awarded custody of some of the children, or who will continue to live with other relatives who are authorized tenants of the original tenancy. In any case, both parties of the divorce must meet the income and asset criteria and the Domestic Property Test for PRH. These conditions aim to address the greater housing need of divorcees with children or relatives living with them.

Singleton divorcees displaced from original flats and who have urgent housing needs may apply for Interim Housing. They may also approach the SWD for consideration of public rental flats under the Compassionate Rehousing Scheme on medical or social ground if necessary. Singleton divorcees who do not have urgent housing needs should apply for PRH through the Single Person

Waiting List. A credit of waiting time equivalent to residence under the original tenancy, up to a maximum of three years, will be granted.

Battered women with children and undergoing divorce proceedings may be offered CT of public rental flats upon the SWD's recommendation. Women without children or not undergoing divorce proceedings are not eligible for CT, but the SWD may assist them in their accommodation needs.

The housing arrangements outlined above were reviewed and re-affirmed by the Housing Authority in January 2001.

Annex

A. CT

	<i>Applications with support of the SWD</i>	<i>Approvals</i>
1998-99	220	190
1999-2000	139	129
2000-01	104	87

B. Additional public rental flats for divorced persons with custody of children or living with relatives who are authorized tenants of the original tenancy.

	<i>Applications</i>	<i>Approvals</i>
1998-99	209	190
1999-2000	198	174
2000-01	214	205

**MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, the Secretary has failed to answer many parts of my main question. For example, in part (a) of my main question, I have asked the Secretary to inform this Council of the respective numbers of applications for CTs and the average time required for vetting and approving each case. However, I cannot find the relevant answers in the Annex provided by the Secretary, so, I hope that the Secretary will give me*



*an answer later. I have not asked a supplementary question for I have just pointed out that the Government has failed to answer my main question fully. I have also asked in my question how the Government handles the cases of singletons undergoing divorce proceedings or battered women but the Secretary has not given an answer. In the fifth paragraph of the main reply, the Secretary has only mentioned battered women with children and undergoing divorce proceedings, but I have also asked in my main question how the cases of battered women without children would be handled. Madam President, the Secretary has failed to answer all these questions.*

**SECRETARY FOR HOUSING** (in Cantonese): As regards the time for vetting and approval, Madam President, I have mentioned in the second paragraph of my main reply that normally, it takes about four weeks to complete the procedures. Having received an application, the HD will meet the applicant to understand the applicant's case and find out if he is eligible before allocating him a public rental flat. The procedures for allocating flats also take some time, but generally it should be around four weeks. The Honourable Member pointed out that I had failed to answer her question in the fifth paragraph of my main reply, I actually stated in the second part of the fifth paragraph that women without children or not undergoing divorce proceedings are not eligible for CT and the SWD would not recommend them to apply for CT. Yet, it does not mean that no government department can deal with their problems. As I have stated in my main reply, the SWD will assist battered women in solving their housing problems, for instance, making arrangements for admission to temporary refuge centres or assisting them in applying for Comprehensive Social Security Assistance so that they can rent private flats and solve their problems.

**MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, the Secretary said that he had answered my questions, for instance, the question concerning the time for vetting and approval. Truly, he has stated in the second paragraph of his main reply that it takes about four weeks. There are communications in the vetting and approving process and the Secretary has also agreed that as some applicants have specific preferences for flat type or location, the vetting and approval time may ultimately be longer. Can the Secretary provide more detailed information for my analysis?*

**PRESIDENT** (in Cantonese): Miss CHAN Yuen-han, have you asked the Secretary to give a written reply or do you want the Secretary to supplement the information during question time now?

**MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, please give a ruling.*

**PRESIDENT** (in Cantonese): As many Members are still waiting to ask questions, I suggest that the Secretary can give Miss CHAN Yuen-han a written reply if he has the information.

**SECRETARY FOR HOUSING** (in Cantonese): Fine. (Annex I)

**MR LAU CHIN-SHEK** (in Cantonese): *Madam President, it is stated in the fourth paragraph of the main reply that "singleton divorcees displaced from original flats and who have urgent housing needs may apply for Interim Housing". Can the Secretary explain the meaning of "urgent housing needs" and what are the criteria used to define such needs? Will the rents they pay for Interim Housing be the same as the rents payable by others?*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, the meaning of "urgent housing needs" can be taken literally in principle. The applicants will give reasons for their "urgent housing needs", for instance, they encounter difficulties in their search for housing, or their relatives and friends cannot help them solve their housing problems, the HD will then consider approving the applicants' application for Interim Housing. If the applicants are allocated Interim Housing, they have to observe the conditions and requirements in respect of Interim Housing. Therefore, the rents payable by the applicants are the same as the rents payable by ordinary residents of Interim Housing.

**PRESIDENT** (in Cantonese): Mr LAU Chin-shek, has your supplementary question not been answered?

**MR LAU CHIN-SHEK** (in Cantonese): *Madam President, may I ask the Secretary if low income a factor of consideration?*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, it depends on how low income is defined. If an applicant fails to find accommodation elsewhere because he has low income, it is a factor for consideration.

**MISS LI FUNG-YING** (in Cantonese): *Madam President, it is stated in the third paragraph of the main reply that normally the original tenancy is given to the party awarded custody of children. Has the Government considered that the existing policy may have violated the principle of equality under the Family Status Discrimination Ordinance?*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, we have not received any case or instruction indicating that this may violate another piece of legislation. In any case, one of the parties will continue to live in the original flat after all. If the other party meets the requirements, it will be allocated another flat or offered other housing arrangements. We certainly hope that the affected party, that is, the displaced party, will try its best to reach an agreement with the other party to determine which of them will continue to live in the original flat while another party moves to another flat or accepts other housing arrangements.

**DR YEUNG SUM** (in Cantonese): *Madam President, generally speaking, for a couple living in a public rental flat and undergoing divorce proceedings, the woman will normally be awarded custody of children while the man, who is the head of household, has to move to Interim Housing upon the request of the Government. However, Interim Housing is generally located in Tuen Mun, if the men work in the urban area such as on the Hong Kong Island, the heads of household are very often unwilling to move away from the original flats and the whole incident would therefore become a quagmire. This situation is rather common. How can the Secretary provide them with assistance?*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, the Housing Department will decide the allocation of the original flat to one of the parties according to certain criteria. In the example cite by Dr the Honourable YEUNG Sum, it appears the original flat should be allocated to the woman and her children while the head of household has to move out of the unit. If the head of household declines to do so, the HD will issue a notice of removal and force him to move. If the head of household still declines to do so upon expiry of the notice deadline, the HD can require the head of household to move out of the unit by way of other statutory procedures.

**MISS CYD HO** (in Cantonese): *Madam President, it is stated in the fifth paragraph of the main reply that battered women with children and undergoing divorce proceedings may be offered CT upon the SWD's recommendation. However, even given the SWD's recommendation, a lot of women have not been granted CT by the HD. A woman undergoing divorce proceedings became pregnant after being raped by her former spouse and she then gave birth to a child, but her former spouse and his second cohabiting girlfriend were also living in the public rental flat. Will the Secretary inform this Council of the working relationship between the SWD and the HD? Does it mean that the HD must not decline and it must grant CT upon the SWD's recommendation? If so, why are there still so many cases in which a couple undergoing divorce proceedings cannot be arranged to live in two separate flats?*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, the information provided by the HD shows that if the SWD considers an application satisfactory and acceptable after vetting, it will refer the case to the HD which will certainly accept the SWD's recommendation and arrange to allocate a flat to the people concerned. As regards the case mentioned by Miss HO, I am not sure if it was caused by delay in the allocation of flats, therefore, I cannot answer whether the case happened during that period. In any case, the HD will process the application as soon as possible. As I have stated in the second paragraph of the main reply, urgent cases can be processed within one week. If Miss HO knows of other similar cases, I hope she can refer them to the Director of Housing and I believe the Director will carry out an investigation and handle them as soon as possible.

**MR CHAN KAM-LAM** (in Cantonese): *Madam President, the HD is normally fairly rigid in allocating flats, as a result, the family members of a divorced couple often have to live together for a fairly long time. In some cases, the son of the head of household has divorced but the custody of the grandchildren of the head of household is awarded to the daughter-in-law of the head of household. It is generally impossible to handle such cases. Will the Secretary conduct a review again on the allocation of flats in such divorce cases?*

**SECRETARY FOR HOUSING** (in Cantonese): *Madam President, I have stated in my main reply that the HD conducted a review of this problem in January this year. The reply given by me today implies that the HD has re-affirmed this arrangement since January. Certainly, I can refer the cases mentioned by Members to the HD which conducted a review precisely because it had noted are such cases. I will try to tell the HD again that Members still have some opinions about this and hope that it can pay more attention to such cases.*

**MR HOWARD YOUNG** (in Cantonese): *Madam President, after a divorce, one of the parties has to move to the Interim Housing mentioned by the Secretary and they may apply for PRH if they are eligible. I believe we should avoid putting them through the second or third trauma after they have experienced the shock of a divorce.*

*The Secretary has stated in the second paragraph of the main reply that normally, it takes about four weeks to allocate a rental flat to the affected party. Can this processing time of four weeks avoid the following situation in which the displaced party of a couple that has formally concluded divorce proceedings must live in Interim Housing because the HD fails to allocate a new flat to him within four weeks?*

**SECRETARY FOR HOUSING** (in Cantonese): *Madam President, it is estimated that generally it will take about four weeks but if the case is urgent, the HD can process the case within one week. If the delay in processing a case causes other disputes in the household, the affected persons can immediately request the HD to assist in solving the problem.*

**MISS CHOY SO-YUK** (in Cantonese): *Madam President, a divorced woman awarded custody of children will normally be allocated the original rental flat but the former husband will very often return to the flat and harass the woman, therefore, these women will generally ask for a transfer. How long does it take the HD to handle a request for transfer and will it offer the affected applicant a special rental rate?*

**SECRETARY FOR HOUSING** (in Cantonese): Madam President, the HD is certainly not in a position interfere in other problems that emerged after a couple has divorced. But if the problem is related to the housing unit, the HD can consider the reasons given by the tenant concerned, including a request for transfer. The HD will try its best to allocate a suitable flat to the tenant as soon as possible to the satisfaction of the parties concerned. Besides, rents are normally collected according to our established rent policy.

**PRESIDENT** (in Cantonese): Members, although many Members are still waiting to ask questions, as we have spent more than 18 minutes on this question, Members are advised to follow up the matter through other channels.

Second question.

### **Assisting Professionals who Set up Offices in Mainland to Obtain Professional Accreditation and Business Licences**

2. **MR AMBROSE LAU** (in Cantonese): *Madam President, will the Government inform this Council of the measures in place to assist local professionals who intend to set up their offices in the Mainland or engage in joint ventures with their mainland counterparts in obtaining accreditation of their professional qualifications and business licences and so on from the relevant mainland authorities?*

**SECRETARY FOR COMMERCE AND INDUSTRY** (in Cantonese): Madam President, the Government has been providing the professional services sectors with information on economic and trade matters, regulatory laws and policies of the Mainland in order to assist them in exploring the mainland market. At the

same time, we actively liaise with relevant mainland authorities to obtain timely information, as well as reflect to them the difficulties faced by our professional services sectors in doing business in the Mainland, including accreditation of professional qualification, applying for business licence and other issues.

Since different professional services sectors have different operational and regulatory requirements, the concerned bureaux and departments are responsible for supporting individual professional sectors with which they are familiar. Indeed, relevant bureaux and departments have already established contact with various professional bodies and practitioners, providing support as appropriate. For instance, the Works Bureau regularly organizes seminars and visits to enhance communication between our professionals in infrastructure-related fields and their mainland counterparts as well as senior mainland government officials, with a view to establishing a basis for mutual co-operation. The Works Bureau has also started preliminary discussion with the mainland authorities over licence application, setting up practices or offices, and entering into joint ventures with mainland enterprises by our professionals.

As regards the legal sector, the Legal Practitioners' Liaison Committee chaired by the Secretary for Justice has formed a sub-committee to study together with the legal profession implementation details of the policy allowing Hong Kong lawyers to take the National Lawyers Examination as announced by the Ministry of Justice recently. To assist local lawyers to enter the mainland legal services market, the sub-committee will also study matters relating to setting up practices after a lawyer passes the National Lawyers Examination, and the impact of a new regulation to be released shortly with respect to foreign law firms providing legal services in the Mainland.

Promoting economic and trade co-operation between Hong Kong and the Mainland is one of the main tasks of the Office of the Government of the Hong Kong Special Administrative Region in Beijing (Beijing Office). The Beijing Office will continue to monitor closely the mainland market, including the progress of liberalization of the professional services sectors as well as new regulations and policies, and report swiftly the latest developments to relevant offices in the Government. Seminars will also be held to promote Hong Kong's professional services. In addition, the Beijing Office has established effective contact with various ministries and commissions of the Central People's Government and the municipal/provincial governments. From time to time, the Beijing Office reflects to the relevant authorities common problems faced by Hong Kong businessmen doing business in the Mainland.

**MR AMBROSE LAU** (in Cantonese): *Madam President, it is said in the fourth paragraph of the main reply that "promoting economic and trade co-operation between Hong Kong and the Mainland is one of the main tasks of the Office of the Government of the Hong Kong Special Administrative Region in Beijing (Beijing Office)", and it is also said that the Beijing Office "will monitor closely the mainland market, including the process of liberalization of the professional services sectors ..... and report swiftly the latest developments to relevant offices in the Government". May I ask whether there have been any specific reports on the various professional services sectors? The main reply mentions the infrastructure-related fields and the legal sector, but other professional sectors are not mentioned. Can the Secretary explain why?*

**PRESIDENT** (IN Cantonese): Which Secretary will answer this supplementary question? Secretary for Commerce and Industry.

**SECRETARY FOR COMMERCE AND INDUSTRY** (in Cantonese): Madam President, if the Honourable Member wishes to know some concrete cases, I will have to provide a written reply later. (Annex II)

**MR DAVID CHU** (in Cantonese): *Madam President, it is now four years into the reunification of Hong Kong with China. Has the Government ever received any inquiries from the local professional sectors about developing their business in the Mainland? If yes, how many?*

**SECRETARY FOR COMMERCE AND INDUSTRY** (in Cantonese): Madam President, the relevant Policy Bureaux of the SAR Government have naturally received the kind of inquiries mentioned by the Honourable Member over the past four years since the reunification. However, I do not think that they have maintained any records on the number of inquiries received. In fact, in the case of the major professional sectors, such as the legal sector and the engineering sector, the relevant Policy Bureaux — the Department of Justice and the Works Bureau, for example — have already conducted consultation among the sectors, and a lot of co-ordination work has already been done.



**MISS MARGARET NG** (in Cantonese): *Madam President, I wish to follow up the third paragraph of the main reply on the legal sector.*

*Madam President, time is precious. Following its ascension to the World Trade Organization (WTO), China will have to accord equal treatment to all. That is why our only hope is to make an earlier start to get ahead of others. Unfortunately, with respect to the particulars relating to Hong Kong lawyers sitting the National Lawyers Examination and other relevant requirements on legal practice in the Mainland, the progress has been extremely slow and punctuated with twists and turns. As far as I am aware, the legal sector has reflected these difficulties to the Government, but there still seems to be no progress so far. May I ask the Secretary whether he has tried to find out what problems the mainland authorities have been encountering? Besides, what has the Government done so far to speed up the whole process?*

**SECRETARY FOR COMMERCE AND INDUSTRY** (in Cantonese): Madam President, as I learn from the information provided to me by the Department of Justice, the Secretary for Justice herself is very concerned about this matter, and she has been maintaining close contacts with the Ministry of Justice of the Central Government. However, we must realize that while we in Hong Kong may always ask for a quicker pace, it is entirely up to the relevant departments in the Mainland to decide how and when to respond to our request.

The fact is the Department of Justice has done a lot of work in this respect, and I also hope that we can get the relevant information as soon as possible.

**PRESIDENT** (in Cantonese): Miss Margaret NG, has your supplementary question not been answered?

**MISS MARGARET NG** (in Cantonese): *Madam President, I am sorry to say that the Secretary has not answered my supplementary question. I asked the Government whether it had tried to find out what problems the mainland authorities had encountered, and I also asked what the Government had done so far. The Secretary replied that a lot of work had been done. So, what has actually been done to speed up the process?*

**SECRETARY FOR COMMERCE AND INDUSTRY** (in Cantonese): Madam President, I think this is a very complicated question.

The Mainland, that is, the justice authorities there, must naturally consider many factors. I do not think that we as outsiders here are in any position to tell the Honourable Member what internal problems they have encountered. But the fact is that the Secretary for Justice has really made a lot of efforts. She has always tried, through different channels, to keep tabs on the progress of the liberalization of the mainland legal services market, and she has also maintained close contacts with the Beijing Office with a view to obtaining the latest information. Besides, there are also frequent visits and exchanges between mainland officials and staff of the Department of Justice. During these activities, matters relating to the provision of legal services in the Mainland by Hong Kong lawyers are brought up for discussions. The Department of Justice also plans to set up a homepage in its website in the near future on the WTO and the legal profession. This homepage will contain information for reference of Hong Kong lawyers intending to enter the mainland legal services market, covering the latest information in respect of the liberalization of the mainland legal services market, updated laws and regulations, papers on WTO seminars and notices of various functions. Moreover, the Department of Justice also offers assistance to professional bodies of the legal sector in forging ties with mainland lawyers, the Ministry of Justice and the justice authorities in different provinces and cities. The Honourable Miss Margaret NG wishes to know what specific efforts the Secretary for Justice has made. The best I can do is to give her a reply based on the information provided by colleagues in the Department of Justice, because I am after all not the Secretary for Justice. That is why I am not in a position to answer Miss NG's supplementary question on the Secretary's behalf.

**MISS MARGARET NG** (in Cantonese): *Madam President, I can appreciate the Secretary's position. But can the Secretary liaise with the Department of Justice and offer me a written reply later?*

**SECRETARY FOR COMMERCE AND INDUSTRY** (in Cantonese): Madam President, I will ask the Secretary for Justice to provide a written reply. (Annex III)

**MR HUI CHEUNG-CHING** (in Cantonese): *Madam President, it is mentioned by the Secretary in the first paragraph of the main reply that the Government has reflected to "them (mainland authorities) on the difficulties faced by our professional services sectors in doing business in the Mainland, including accreditation of professional qualification, applying for business licence and other issues." May I ask the Secretary how the mainland authorities have reacted to the views reflected by the SAR Government?*

**SECRETARY FOR COMMERCE AND INDUSTRY** (in Cantonese): *Madam President, with regard to the difficulties encountered by Hong Kong businessmen doing business in the Mainland, the SAR Government has definitely raised many different issues with the relevant departments in the Mainland, and where possible, the mainland authorities have responded positively. One example, as the Honourable Member is also aware, is the issue of customs deposits for the processing trade, which can show precisely how the massive efforts of the SAR Government have managed to obtain the understanding of the mainland authorities and make them adjust their measures to relieve the burden of Hong Kong businessmen. As for many other problems we reflect to or raise with them, we have also received positive responses.*

**MR LAU PING-CHEUNG** (in Cantonese): *Madam President, what the Secretary has mentioned basically involves only the efforts of individual professions to approach the relevant Policy Bureaux and departments to promote the professional services they can offer in the Mainland. This is not enough. Will the Government consider the possibility of designating a particular bureau or group with the sole responsibility of promoting our professional services in the Mainland and open up the professional services market there? I understand that although the various professions in the Mainland are put under the responsibility of different ministries and authorities at different levels, there is still a bureau responsible for central co-ordination. One example is that because of policy constraints, the people of Hong Kong may not necessarily be regarded as Chinese citizens for the purpose of sitting some professional examinations in the Mainland. I hope that the Government can consider the possibility of setting up a Policy Bureau with the sole responsibility of promoting our professional services in the Mainland market.*

**PRESIDENT** (in Cantonese): Mr LAU, are you asking whether the Government will consider your proposal?

**MR LAU PING-CHEUNG** (in Cantonese): *Yes, Madam President, I wish to ask the Government whether it will consider my proposal.*

**SECRETARY FOR COMMERCE AND INDUSTRY** (in Cantonese): Madam President, my reply is that we will not consider this proposal.

At the meeting of the Legislative Council on 10 January, the Honourable LAU Ping-cheung also asked a question on this, and at that time, I already gave a very detailed reply, so I do not wish to repeat the relevant reasons here. But we do have very good reasons for not doing so, and if Members wish to know these reasons, they are advised to read the Official Record of Proceedings of the Legislative Council of 10 January.

**MR LAU PING-CHEUNG** (in Cantonese): *Madam President, but the Secretary did not give any reply at that time, which is precisely why I have to ask the same question now.*

**PRESIDENT** (in Cantonese): Mr LAU, please sit down first. Members may ask questions, but government officials may also choose how to answer them. Very often, Members may not be satisfied with the replies given by government officials. However, if a government official thinks that he has already answered a question, then the Member concerned will have to follow up the matter through other channels.

**DR RAYMOND HO** (in Cantonese): *Madam President, the Secretary referred especially to the efforts made by the Works Bureau, such as seminars, fact-finding tours, and so on. I personally appreciate these efforts very much. But is it true to say that at present, the Works Bureau has more or less assigned an officer with the sole responsibility of handling the work in this respect in the future? Will the Government consider the possibility of storing the relevant information, especially that on the engineering projects implemented by the*

*various departments of the State every year (such as BOT projects), either in a data bank or on the Internet?*

**SECRETARY FOR WORKS** (in Cantonese): Madam President, the Works Bureau in fact keeps a very keen interest in offering assistance to local construction professionals and building contractors, so that they can benefit from the commercial opportunities available in the Mainland.

We have several main objectives. First, we aim to enable the local construction industry to build up contacts with its mainland counterpart, especially contact with the mainland officials concerned, so that they can gain access to the latest information about the mainland market, in particular information about engineering projects. In this way, it is hoped that professionals and building contractors of Hong Kong can then decide what kinds of projects are suitable for their participation. Second, it is hoped that through these contacts, the local construction industry can gain a further understanding about the system and practices of the mainland construction industry and enhance its chances of doing business there.

**DR RAYMOND HO** (in Cantonese): *Madam President, my question is: Will the Secretary consider setting up a specialized data bank and storing the relevant information on the Internet?*

**PRESIDENT** (in Cantonese): Secretary, this is included in the supplementary question asked by Dr HO just now.

**SECRETARY FOR WORKS** (in Cantonese): Madam President, the information we have access to is after all not comprehensive. As far as I know, the Hong Kong Trade Development Council (TDC) has been uploading such information onto the Internet. We may as well discuss with the TDC to see what kinds of information, in particular what kinds of information about engineering projects, can be uploaded onto the Internet.

**PRESIDENT** (in Cantonese): Last supplementary question.

**MISS CHOY SO-YUK** (in Cantonese): *Madam President, it is mentioned by the Secretary in the second paragraph of the main reply that the relevant Policy Bureaux and departments have already established contacts with various professional bodies and practitioners, providing support as appropriate. May I ask the Secretary whether these contacts are conducted on a regular basis? How frequent are these contacts? Are there any specific and fixed timetable for these contacts? Or, are these contacts usually nothing but very general and brief discussions?*

**PRESIDENT** (in Cantonese): Which Secretary will answer this supplementary question? Secretary for Commerce and Industry.

**SECRETARY FOR COMMERCE AND INDUSTRY** (in Cantonese): Madam President, I wish to respond very briefly to the accusation made by Mr LAU Ping-cheung just now, because if I do not explain clearly, he may not be satisfied.

In fact, at the last meeting, I already gave a very thorough reply, explaining why we would not designate one single Policy Bureau or department to provide a one-stop service. As pointed out by the President, Mr LAU may not agree to or be satisfied with my conclusion or decision at that time. But that was our conclusion and decision. Even today, some three months later, we have not changed our conclusion and decision.

Regarding the Honourable Miss CHOY So-yuk's supplementary question, I have already pointed out in the third paragraph of my main reply that as far as the legal sector is concerned, the Department of Justice has set up a sub-committee. I am sure that their contacts must be very frequent. But when it comes to the actual frequency of these contacts, I am afraid that I do not have the information to hand. For contacts with the works profession, I have to defer to my colleague, the Secretary for Works.

**SECRETARY FOR WORKS** (in Cantonese): *Madam President, on the part of the Works Bureau, there are both irregular and regular contacts.*

**MISS CHOY SO-YUK** (in Cantonese): *My supplementary question is on the intervals of such contacts.*

**SECRETARY FOR WORKS** (in Cantonese): Madam President, basically, our regular contacts are at intervals of several months.

**PRESIDENT** (in Cantonese): Third question.

### **Handling of Dangerous Chemicals by Tertiary Institutions**

3. **MR WONG YUNG-KAN** (in Cantonese): *Madam President, on 6 March, a cylinder containing a chemical, picric acid, was found abandoned for years in the Marine Science Laboratory of the Chinese University of Hong Kong. The scene was cordoned off for instant detonation of the chemical which was highly explosive. With regard to the handling of dangerous chemicals by tertiary institutions, will the Government inform this Council:*

- (a) *of the respective numbers of accidents involving dangerous chemicals in tertiary institutions and the resultant casualties in the past three years;*
- (b) *whether it knows the amounts of various types of dangerous chemicals currently kept in different tertiary institutions and, among these chemicals, the amounts of those which are explosive; and*
- (c) *of the measures in place to monitor the handling of dangerous chemicals by tertiary institutions?*

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

- (a) In the past three years, the Fire Services Department recorded a total of nine accidents involving chemicals in tertiary institutions, in which five people were injured.

- (b) Storage of dangerous goods in excess of the exempted quantity stipulated in the Dangerous Goods Ordinance requires a proper licence. At present, the numbers of dangerous goods licences held by various tertiary institutions are as follows:

	<i>No. of licences</i>
Chinese University of Hong Kong	62
Hong Kong University of Science and Technology	43
University of Hong Kong	26
Hong Kong Polytechnic University	16
City University of Hong Kong	14
Hong Kong Institute of Education	10
Hong Kong Baptist University	2
Lingnan University	Nil
Open University of Hong Kong	Nil
Hong Kong Academy for Performing Arts	Nil

Only a few types of these dangerous goods licensed to be stored possess explosive properties. A breakdown of the categories of dangerous goods stored in territory institutions, including those which possess explosive properties, is at the Annex.

- (c) All tertiary institutions are statutory autonomous bodies which have the responsibility to ensure that their safety facilities are in compliance with the prevailing legislation. They also have to put in place and maintain appropriate measures and procedures as required by the law to protect the health and safety of all those in the institutions. Legislation governing dangerous goods and the safety of laboratories includes the Dangerous Goods Ordinance,



Occupational Safety and Health Ordinance, Gas Safety Ordinance, Waste Disposal Ordinance, and so on.

In this regard, the Dangerous Goods Ordinance stipulates about 400 types of dangerous goods which are classified into 10 categories according to their characteristics, for example, combustible substances, corrosive substances, substances liable to spontaneous combustion, substances which become dangerous by interaction with water, and so on. In addition to the classification, the Ordinance also provides for the control of these dangerous goods in other aspects, including the proper labelling and packaging, safety measures during manufacture, storage, use or conveyance of such goods on land, at sea and in the course of transshipment, and so on. The storage or conveyance of dangerous goods exceeding the statutory exempted quantity requires the issue of the appropriate licence and compliance with the conditions specified therein to ensure public safety.

The Occupational Safety and Health Ordinance stipulates that every employer must, so far as reasonably practicable, ensure the safety and health at work of all his employees. The employer's responsibility includes: (i) providing a system of work that is safe; (ii) making arrangements for ensuring safety in connection with the use and handling of plant and substances; and (iii) providing information, instruction and training to ensure safety at work. The Labour Department has published booklets to facilitate employers' compliance with the legislation on the safe handling and use of harmful substances, for example, "Guide to Chemical Safety in Laboratories" and "A Reference Note on Occupational Exposure Limits for Chemical Substances in the Work Environment".

In order to comply with the requirements of the legislation, every tertiary institution with laboratories has issued guidelines and codes of practice for their students and laboratory technicians to ensure that all dangerous goods are used, stored, conveyed and disposed of in a proper manner. Moreover, the institutions have appointed their own safety officers who will make recommendations on the environmental health and safety conditions of the laboratories, render assistance to different departments in implementing the safety

policy and ensure that the environmental setting of the laboratories and the relevant procedures are in compliance with the requirements of the legislation. These safety officers will regularly inform the staff and students of the relevant safety policy, requirements and procedures. In addition, the Tertiary Institutions Safety Advisory Group established in 1993 also provides a forum for eight institutions to share their experiences in laboratory safety management.

The enforcement authorities such as the Fire Services Department and the Labour Department maintain close liaison with the tertiary institutions to ensure compliance with the relevant legislation.

Annex

<i>Name of the Tertiary Institution</i>	<i>No. of dangerous goods licenses/Category* (Maximum quantity of dangerous goods allowed)</i>	<i>Chemical that possess explosive properties</i>
The Chinese University of Hong Kong	- 2/Category 2 (Total: 5 050 litres)	- Hydrogen (3 cylinders)
	- 10/Category 3 (Total: 4 320 litres)	
	- 14/Category 4 (Total: 7 020 litres)	Nil
	- 36/Category 5 (Total: 31 115 litres)	
The University of Hong Kong	- 4/Category 2 (Total: 68 cylinders and 5 000 litres)	- 58 cylinders of Hydrogen, Acetylene, Ethylene, Propylene, Methane
	- 3/Category 3 (Total: 6 975 litres and 4 700 kg)	
	- 3/Category 4 (Total: 4 050 kg and 3 750 litres)	
	- 14/Category 5 (Total: 62 150 litres)	Nil
	- 1/Category 6 (Total: 14 kg)	
	- 1/Category 7 (Total: 25 kg and 250 litres)	

<i>Name of the Tertiary Institution</i>	<i>No. of dangerous goods licenses/Category* (Maximum quantity of dangerous goods allowed)</i>	<i>Chemical that possess explosive properties</i>
Hong Kong Polytechnic University	<ul style="list-style-type: none"> <li>- 4/Category 2 (Total: 35 cylinders)</li> <li>- 3/Category 3 (Total: 355 kg and 1 990 litres)</li> <li>- 1/Category 4 (Total: 420 kg and 400 litres)</li> <li>- 8/Category 5 (Total: 202 882 litres)</li> </ul>	<ul style="list-style-type: none"> <li>- Acetylene (2 cylinders)</li> <li>- Methane (2 cylinders)</li> <li>- Hydrogen (2 cylinders)</li> </ul>
Hong Kong University of Science and Technology	<ul style="list-style-type: none"> <li>- 20/Category 2 (Total: 6 litres and 1 417 cylinders)</li> <li>- 4/Category 3 (Total: 6 900 litres)</li> <li>- 5/Category 4 (Total: 7 250 litres)</li> <li>- 10/Category 5 (Total: 20 300 litres)</li> <li>- 2/Category 6 (Total: 500 kg and 50 litres)</li> <li>- 2/Category 7 (Total: 2 300 litres)</li> </ul>	<ul style="list-style-type: none"> <li>- Hydrogen (51 cylinders)</li> <li>- Acetylene (30 cylinders)</li> <li>- Methane (20 cylinders)</li> <li>- Anhydrous Ammonia (32 cylinders)</li> <li>- Dichlorosilane (2 cylinders)</li> <li>- Silane (1 cylinder)</li> <li>- Germane (1 cylinder)</li> <li>- 50% Phosphine in Silane (1 cylinder)</li> <li>- 15% Arsine in Hydrogen (1 cylinder)</li> <li>- 15% Phosphine in Hydrogen (1 cylinder)</li> <li>- 10% Methane in Argon (20 cylinders)</li> </ul>
City University of Hong Kong	<ul style="list-style-type: none"> <li>- 3/Category 2 (Total: 15 cylinders)</li> </ul>	<ul style="list-style-type: none"> <li>- Hydrogen (2 cylinders)</li> <li>- Acetylene (3 cylinders)</li> </ul>

<i>Name of the Tertiary Institution</i>	<i>No. of dangerous goods licenses/Category* (Maximum quantity of dangerous goods allowed)</i>	<i>Chemical that possess explosive properties</i>
	- 2/Category 3 (Total: 501 kg and 820 litres)	
	- 3/Category 4 (Total: 40 kg and 1 730 litres)	
	- 3/Category 5 (Total: 3 540 litres)	Nil
	- 1/Category 6 (Total: 320 kg)	
	- 1/Category 7 (Total: 210 kg and 200 litres)	
	- 1/Category 8 (Total: 3 kg)	
Hong Kong Institute of Education	- 3/Category 2 (Total: 627.5 litres and 14 cylinders)	- Hydrogen (1 cylinder) - Methane (1 cylinder)
	- 2/Category 3 (Total: 11kg and 140 litres)	
	- 1/Category 4 (Total: 97.6 litres and 10 kg)	Nil
	- 4/Category 5 (Total: 3 865 litres)	
Baptist University of Hong Kong	- 1/Category 3 (Total: 500 litres)	Nil
	- 1/Category 5 (Total: 5 000 litres)	
The Open University of Hong Kong	Nil	N.A.
Lingnan University	Nil	N.A.
Hong Kong Academy for Performing Arts	Nil	N.A.
* Category 1	Explosives	
Category 2	Compressed Gases	
Category 3	Corrosive Substances	
Category 4	Poisonous Substances	
Category 5	Substances giving off inflammable vapour	
Category 6	Substances which become dangerous by interaction with water	
Category 7	Strong supporters of combustion	
Category 8	Readily combustible substances	
Category 9	Substances liable to spontaneous combustion	
Category 9A	Combustible goods exempted from sections 6 to 11 of the Dangerous Goods Ordinance	
Category 10	Other dangerous substances	

**MR WONG YUNG-KAN** (in Cantonese): *Madam President, though the Secretary has given us a very clear answer, with respect to monitoring, there is no mention of any monitoring measures other than the formulation of guidelines on safety. From the information given, we can see that two tertiary institutions store large quantities of dangerous goods. In this connection, would the Government step up inspection and monitoring efforts?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, as I have said earlier, these tertiary institutions are statutory autonomous bodies which have the responsibility of drafting their own guidelines under the relevant legislation such as the Dangerous Goods Ordinance, the Occupational Safety and Health Ordinance and the Gas Safety Ordinance, and so on. The institutions are also expected to monitor the dangerous goods in storage to ensure that they are free from any potential danger. All these are to be carried out by the institutions themselves. If required, relevant government departments such as the Fire Services Department (FSD) and the Government Laboratory will be glad to give advice to the tertiary institutions. In addition, the Tertiary Institutions Safety Advisory Group established in September 1993 also provides a forum for the tertiary institutions to share experiences in health and safety issues, and to promote standards in environmental health and safety in the tertiary institutions. Therefore, I think the tertiary institutions should make frequent inspections of their laboratories in accordance with the guidelines they have drafted. If assistance is required from the Government, the institutions may contact the FSD or other departments at any time, and we will be glad to offer assistance.

**MR CHAN KWOK-KEUNG** (in Cantonese): *Madam President, the Secretary said that in the past three years, the FSD had recorded a total of nine incidents involving chemicals in tertiary institutions, in which five people were injured. May I ask what kinds of chemicals led to the injuries and did the Government require the institutions concerned to improve their storage of these chemicals after the incidents?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, according to the information I have on hand, these nine incidents were all very minor ones. They included the spill of chemicals, gas leakage and minor explosion of chemicals, and so on. Only four out of these nine incidents led to injuries, but

the extent of injuries sustained was minor. To my knowledge, the institutions concerned made a review of the storage methods and procedures after the incidents.

**MR LAU KONG-WAH** (in Cantonese): *Madam President, the reply shows that different quantities of chemicals are stored in the tertiary institutions. Is the occurrence of the nine incidents over the past three years related in any way to the quantities of chemicals stored? Of the five persons injured in these incidents, were students involved and what were the causes of these incidents?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I do not have detailed information of the nine incidents on hand. However, with regard to the picric acid incident which happened on 6 March at the Chinese University of Hong Kong, it was actually not an accident. Nor was it a chemical explosion caused by negligence of any people. The water content of picric acid should be kept at 30% or more. It will be dangerous if the water content is lower than 30%, for an explosion may be caused. The picric acid in the incident used to have a high water content when it was first stored, but as many years have elapsed, the water content became very low. Having discovered the situation, the Chinese University contacted the Mines and Quarries Division of the Civil Engineering Department and later the FSD and the Police Force were asked to detonate the chemical in order to prevent accidents from happening in future. In this case, no students or staff were found to have neglected their duties.

**MR HENRY WU** (in Cantonese): *Madam President, the Honourable CHAN Kwok-keung has asked the supplementary question which I intended to ask.*

**MR HOWARD YOUNG** (in Cantonese): *Madam President, this supplementary question is premised on picric acid which is highly explosive. According to the Annex provided by the Secretary, Category 1 dangerous goods is explosives. I notice from the Annex that all the dangerous goods permitted to be stored in the universities do not belong to Category 1. Does this show that the universities are unlikely to be permitted or are not permitted to store explosives in order that incidents as mentioned in the oral question which involve chemicals with high potentials for explosion can be prevented?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, as a matter of fact, no tertiary institution has ever applied for a licence to store explosives. That is why the Mines and Quarries Division under the Civil Engineering Department has never issued a licence of this kind to any tertiary institution. In accordance with our existing policy, the Commissioner of Mines will not issue any licence for storage of explosives to any laboratory.

**PRESIDENT** (in Cantonese): Fourth question.

### **Risk Assessment on Overall Law and Order for Stored-value Mobile Phone Cards**

4. **MR IP KWOK-HIM** (in Cantonese): *Madam President, as customers who buy stored-value mobile phone cards are not required to provide their personal particulars, lawless elements take advantage of such cards to make calls without being tracked down by law enforcement agencies. In this connection, will the Government inform this Council whether:*

- (a) *it has conducted a risk assessment to ascertain if stored-value mobile phone cards will encourage illegal activities and the impacts of such cards on the overall law and order; if so, whether it will release the findings; if not, of the reasons for that; and*
- (b) *it plans to require shops to register the personal particulars of persons who buy stored-value mobile phone cards; if not, of the reasons for that?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, having consulted the Secretary for Information Technology and Broadcasting and the police, my reply is as follows:

- (a) Pre-paid mobile phone cards, or pre-paid Subscriber Identification Module (SIM) cards, were introduced to Hong Kong in the late 1990s. They offer an attractive choice to casual mobile phone users, in particular overseas visitors. They operate in exactly the same manner as other mobile phone accounts except that they have

an expiry date and there is no recording of the identity of the owner. There is no evidence to show that such cards encourage illegal activities or have adverse impact on the overall law and order situation. The experience of the police, however, shows that criminals may use any means which can help to hide their identities, including the use of pre-paid SIM cards, to contact their accomplices or victims when they engage in their illicit acts. The police are well aware of this possibility and have developed new investigation skills to deal with it. As a matter of fact, in the vast majority of cases, a crime must be committed physically by a criminal and this provides clues for crime detection. Other avenues are also available for the police to identify a suspect and to track him down.

- (b) There is at present no requirement of registration of personal data for the purchase of pre-paid SIM cards. As such cards as well as mobile phones using such cards are easily transferable from one person to another, requiring the registration of personal particulars of buyers of pre-paid SIM cards is not an effective way to identify the persons who have used the cards for criminal purposes. Any registration requirement will not only increase the operation cost of the mobile operators but also affect consumers. In view of the above and given that the registration requirement provides little or no added value to crime detection, we do not see a need to require registration of the personal particulars of purchasers of pre-paid SIM cards.

**MR IP KWOK-HIM** (in Cantonese): *Madam President, in part (a) of her main reply just now, the Secretary mentioned that the experience of the police shows that criminals may use any means which can help to hide their identities, including the use of pre-paid SIM cards, to contact their accomplices or victims when they engage in illicit acts. But then the Secretary said in the same part of the reply that there is no evidence showing that such cards encourage illegal activities. I think these remarks are contradictory. While the Secretary said that there is no such evidence, she said that there is such practice according to the experience of the police. What measures will the Secretary take to effectively combat criminal activities conducted with the use of such cards?*



**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the police do know about the use of pre-paid SIM cards by suspects to cover up their identities, and such cases do exist. But why would I say that this does not encourage illegal activities? The reason is that although criminals have committed crimes in this way, the police do have means to deal with it. We, therefore, do not think that the use of this new method by criminals will encourage crimes.

**MR JAMES TIEN** (in Cantonese): *Madam President, in part (b) of the main reply the Secretary said that any registration requirement will increase the operation cost of mobile operators and will also affect consumers. About her comment that consumers will be affected, does the Secretary consider that it will violate the Personal Data (Privacy) Ordinance? If not, I would think there is no major problem with such a requirement. Registration of the identity card numbers of purchasers of stored-value phone cards will provide clues for investigation in case anything happens in future. The Secretary said that consumers will be affected. Did she say so out of privacy concerns? If not, what are the reasons?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, from the law enforcement perspective, the police consider that requiring purchasers of such cards to register their personal data will not be very helpful to crime detection. It is because even if there is this requirement, criminals can still get around it very easily. All he needs to do is to ask someone to buy the card for him and then give it to someone else in order to conceal his identity. However, if every consumer is required to register his personal data, it will not only increase the costs of mobile operators, but also involve privacy problems. I believe the Honourable Member knows that insofar as privacy protection is concerned, a very important principle is that the collection of data must serve a genuine purpose. The data collected should be minimal and should not be excessive, and no data should be collected if it is not required genuinely. Furthermore, the police do not think that such data can facilitate crime detection.

**MR JAMES TO** (in Cantonese): *Madam President, in part (a) of the main reply, the Secretary said that the police have developed new investigation skills. Does the Secretary mean that the police have acquired new technology to overcome the difficulties? How much does it cost roughly?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the case is like this. The police are aware of the use of pre-paid SIM cards by criminals to conceal their identities and so, the police have developed new skills to overcome the difficulties involved in detecting their identities. As it involves police operations, I do not find it appropriate for me to throw light on the details here. If the technology used by the police in this connection is revealed to criminals, the consequence would be criminals taking counter measures to outsmart the police. For this reason, I cannot tell Members the relevant details.

**MR JAMES TO** (in Cantonese): *Madam President, I was asking about the costs, not the ways to track down and investigate the number.*

**PRESIDENT** (in Cantonese): Secretary, do you have anything to add?

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I do not have the information on the costs with me now.

**MR JAMES TO** (in Cantonese): *Madam President, can the Secretary provide a written reply?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I can make inquiries with the police. But I doubt if they have information on, say, the statistics relating to the costs, manpower and time required for investigation using these skills. I believe they do not have such information. Further, police investigation often requires massive resources. I can make such inquiries when I go back, but the police do not necessarily have such information. (Annex IV)

**MR JAMES TO** (in Cantonese): *Madam President, the Secretary may have misunderstood my supplementary question. I asked about the costs of the technology, not the costs of the specific method. For instance, does it cost \$1 billion or \$100 million to procure the equipment? This can help us evaluate the pros and cons.*

**MR SIN CHUNG-KAI** (in Cantonese): *Madam President, regarding part (b) of the Government's main reply, I certainly support it for I do not consider it necessary to require registration for any pre-paid service. Could it be that even a person buying a small knife at a supermarket should be required to have his or her data registered, for a small knife can also be used to commit crimes? The case here is the same. In my view, it stands to reason that registration is not required for purchase of pre-paid SIM cards, but users of general mobile phone services should be required to register their personal particulars. Under the Personal Data (Privacy) Ordinance, the data collected should not be excessive in relation to the purpose for which the data are collected. So, I think the registration requirement on mobile phone accounts is necessary to facilitate payment and for fee-charging purposes. My supplementary question is this: In obtaining these registered data, is it necessary for the police to go through certain procedures, such as making an application to the Court, or do they simply request such data from mobile operators directly?*

**PRESIDENT** (in Cantonese): Secretary for Security, the supplementary question asked by Mr SIN Chung-kai has slightly departed from the thrust of the main question. But if you have the information with you now, please answer the question.

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, perhaps I will answer it in brief. As far as I understand it, under the Personal Data (Privacy) Ordinance, there is an exemption for data released for the purpose of criminal investigation. Therefore, under this Ordinance, the police may request data from operators without having to apply to the Court. As for the detailed procedures, I will provide the Honourable Member with a written reply. (Annex V)

**MR JASPER TSANG** (in Cantonese): *Madam President, I believe Members will remember a case that shocked us all in Hong Kong. It was about a police officer brutally killed by criminals in the course of investigating a telephone complaint. Is this incident an example showing that criminals can make use of stored-value phone cards to deny the police clues for investigation?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, this incident is precisely proof of the fact that pre-paid SIM cards are used by criminals to commit crimes, as I have said earlier. In fact, this *modus operandi* has made crime detection more difficult. However, the police are aware of this *modus operandi* and have developed new skills to overcome the difficulties. Besides, I wish to thank the Honourable Member for his concern over this case. There are other reasons why the police have yet to crack this case. I do not think it appropriate to go into further details of the case here.

**MR HENRY WU** (in Cantonese): *Madam President, these pre-paid SIM cards are actually very common in foreign countries. Can the Secretary confirm that there is also similar situations in overseas countries, that is, purchasers of these phone cards are not required to register their personal data? The Secretary mentioned that the police have adopted new investigation skills. Have the police liaised with the law enforcement agencies in other countries to examine what kinds of advanced technology can be introduced to facilitate investigation?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, insofar as investigation is concerned, local police officers have frequent exchanges with overseas law enforcement agencies. I believe there is the trend of criminals using pre-paid SIM cards to commit crimes worldwide, and the Hong Kong Police Force have exchanged information with their overseas counterparts. As to how common this practice is in foreign countries, I do not have the information with me now.

**MR LAU KONG-WAH** (in Cantonese): *Madam President, in her reply to the Honourable Jasper TSANG's supplementary question just now about the difficulties in the investigation into the killing of a police officer, the Secretary said that the police have developed new skills to overcome the difficulties. Are these new skills effective, and what are the details? It appears the Secretary did not clearly explain them. Can the Secretary tell us whether the new skills can completely overcome the problem? If there are again cases where pre-paid SIM cards are used to commit crimes, are the police definitely capable of tracking down the caller?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the recent tragic incident in which a police constable was killed in the course of duty is not the first case where a pre-paid SIM card is used to commit crimes. The police were aware of this practice before this incident and had developed new skills. So, while the police consider that the use of such pre-paid SIM cards will complicate their investigation, they can still overcome the problem. This is also why I said it has not encouraged crimes. As to what methods the police have employed to overcome the problem, I am sorry that as they involve police operations, we must keep them confidential. We cannot reveal the methods used by the police to combat crimes committed by way of using such pre-paid SIM cards.

**MR LAU KONG-WAH** (in Cantonese): *Madam President, I did not ask about the specific methods employed by the police. I know that the police have used certain methods to deal with these cases. But I was asking the Secretary if she is confident about these methods. The Secretary used the word "overcome" and this simply cannot address our concern. Will the Secretary please tell us whether the new methods can certainly track down the caller?*

**PRESIDENT** (in Cantonese): Secretary, do you have anything to add?

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I can only reiterate that the police are confident in overcoming the difficulties. Of course, this does not mean that they can crack each and every case because many complications are often involved in each case. The use of pre-paid SIM cards by criminals is not the only factor that will complicate crime detection.

**PRESIDENT** (in Cantonese): Last supplementary question.

**MR HOWARD YOUNG** (in Cantonese): Madam President, it seems that the crux of the question lies in whether there are ways to identify the users of these phone cards. Can the Secretary confirm that these pre-paid SIM cards are common not only in Hong Kong, but also in overseas countries where they can be purchased anywhere, and that criminals who intend to conceal their identities

can buy these phone cards from overseas countries and subsequently use them in Hong Kong by accessing the roaming service, in which case the police will not be able to track them down? Will the Secretary tell us if this is the case?

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the answer is in the affirmative. I believe these pre-paid SIM cards are also very common in foreign countries. Even if purchasers of these cards are required to register their personal particulars, criminals who commit crimes will not provide their data for registration. Instead, the cards purchased are very often transferred for use by other people.

**PRESIDENT** (in Cantonese): Fifth question.

### **Infrastructural Projects Pledged by Government**

5. **DR RAYMOND HO** (in Cantonese): *Madam President, the Government has pledged to invest \$235 billion in infrastructural projects within the five years from 1997 to 2001. In this connection, will the Government inform this Council:*

- (a) *of the description, the latest estimated expenditure, the committed expenditure and the current progress of each infrastructural project under the above programme;*
- (b) *whether it has considered using the savings in estimated project expenditure arising from the reduction in the costs of infrastructural projects in the past few years for investing in new infrastructural projects; and*
- (c) *as the MTR Corporation Limited (MTRCL) can now raise funds by issuing shares, thereby reducing the Government's financial commitment in railway projects, whether it has considered using the resultant savings in estimated project expenditure for investing in new infrastructural projects?*

**SECRETARY FOR WORKS** (in Cantonese): Madam President,

- (a) In 1997 we estimated that some \$235 billion would be spent on infrastructure projects during the five-year period from 1997-98 to 2001-02 to lay the foundation for the long-term development of Hong Kong. This comprised some \$135 billion for capital works projects funded by the Government and about \$100 billion for the completion of rail projects by the railway corporations. The \$135 billion on government works was intended to cover major roads, land formation projects as well as numerous education, environment, security and housing related projects. The \$100 billion was to be invested by the Government and the railway corporations in projects identified at the time, including the KCR West Rail (Phase I), Ma On Shan to Tai Wai Rail Link, Hung Hom to Tsim Sha Tsui Extension, and the MTR Tseung Kwan O Extension.

As for capital works expenditure, the Government has spent some \$107 billion during the period 1997-98 to 2000-01. As we expect to spend some \$24.5 billion on government works for the year 2001-02, the total expenditure on capital works projects for the five years 1997-98 to 2001-02 should be around \$131.5 billion, which is some \$3.5 billion less than the original estimate, a difference of only 2.6%. All in all, there are some 1 500 projects currently in the capital works programme. Some are under construction, others are still under planning. Details of the progress of major projects under construction are reported to this Council on a quarterly basis.

As for the railway projects, the KCR West Rail (Phase I), MTR Tseung Kwan O Extension, KCR Ma On Shan to Tai Wai Rail Link and Hung Hom to Tsim Sha Tsui Extension are currently under construction. Mainly because of lower tender prices, lower inflation, lower financing costs and savings by modifications to design and train operations, the latest projected costs of these railway projects is now around \$85 billion.

- (b) I will now turn to the second part of the question which asks how the Government deals with potential savings under the capital works programme from lower tender prices. Each year we determine according to economic growth projections, the total amount of

money likely to be available for ongoing projects and new projects ready to start in the coming five years. Within this global figure, we exercise control over the funding of individual projects through the Government's annual resource allocation system, under which we take account of the planned programme and the projected annual cash flows on each project for the five-year planning window. This applies to projects which are under construction, are about to go to tender or are still under planning and development. Where a project is about to start construction and the tender price is significantly lower than the approved project estimate, we adjust the amount of funding under the resource allocation system for the project in question. This frees up additional funds for allocation to new projects not yet funded or to cover increases in scope or estimated costs of projects still under planning. We carry out such adjustments on a continuous basis so that savings of this kind are always ploughed back for reallocation where necessary.

- (c) In the context of the partial privatization of the MTRCL in October last year, the Government has undertaken to provide equity capital to the MTRCL pro rata to its shareholding, where the Government considers it appropriate. Thus, we will need to invest less in future MTRCL projects as a result of the Government's smaller shareholding. The MTRCL is however currently building the Tseung Kwun O Extension through its own financing activities and has not indicated any requirement for equity for future projects. Hence, there are no "commitments" to be "saved". That said, the Government is always prepared to consider equity investments into suitable infrastructural projects.

To sum up, I wish to reiterate that the Government has maintained significant spending on infrastructural projects. Members will appreciate that the capital works programme is a rolling five-year programme and the scope and costs of individual projects are subject to constant change. Nevertheless, I can give Members my assurance that the Government will continue to invest heavily, both directly and indirectly, in essential infrastructure projects to meet the needs of the community and to support Hong Kong's continued development.



**DR RAYMOND HO** (in Cantonese): *Madam President, the effect of the Government investing resources in railway projects is not the same as that resulted from the Government's spending on other infrastructural projects. In the context of railway projects, given the handsome return on MTRCL projects since its listing, I trust that the forthcoming privatization of the Kowloon-Canton Railway Corporation could also bring attractive returns. The newly appointed Financial Secretary should understand that very well, as he was formerly a member of the business circle. I therefore hold that the Government should not include those \$100 billion earmarked for railway projects as part of the \$235 billion funding for infrastructural projects to be carried out during the said five-year period. In this connection, could the Secretary inform this Council whether the Government would consider separating its investment in railway projects from its spending on other infrastructural projects?*

**SECRETARY FOR WORKS** (in Cantonese): *Madam President, in making the pledge in 1997 to invest in the various infrastructural projects, the Government already made it clear that the estimate of \$235 billion would be spent on two items; namely, capital works funded by the Government and railway projects. Since the total spending on these two items amount to some \$235 billion, the report I made just now covered the progress of projects under these two items.*

**MR HUI CHEUNG-CHING** (in Cantonese): *Madam President, according to part (a) of the Secretary's main reply, there are some 1 500 projects currently in the capital works programme; some are under construction, others are under planning. May I ask the Secretary how many of these projects are Major Cross-Border Infrastructure (ICC) projects and how much does the total cost for these ICC projects amount to?*

**SECRETARY FOR WORKS** (in Cantonese): *Madam President, I am not sure what ICC projects the Honourable Member is talking about, and I guess he may be referring to the cross-boundary link projects. As far as I know, the \$135 billion on capital works is intended to cover the costs of local infrastructural projects within Hong Kong. I am afraid I do not have any information about the costs of ICC projects at hand.*

**MR ABRAHAM SHEK:** *Madam President, I would like to ask the Secretary whether the \$135 billion is also committed for the school improvement programme; if it is, how many contracts have been awarded and what is the amount?*

**SECRETARY FOR WORKS** (in Cantonese): Madam President, as I said earlier, the \$135 billion on government works was intended to cover major roads, land formation projects as well as numerous education, environment, security and housing related projects. Hence, school construction projects are also included. As regards the number of contracts awarded, I am afraid I do not have such information on hand. But since the relevant information is easily accessible, if the Honourable Member is interested, I will be glad to furnish him with the relevant information.

**MR ABRAHAM SHEK** (in Cantonese): *Madam President, may I raise a follow-up question?*

**PRESIDENT** (in Cantonese): Please rise to speak, Mr SHEK. You can only raise a follow-up question on the part of your supplementary question which has not been answered by the Secretary.

**MR ABRAHAM SHEK** (in Cantonese): *I should like to ask for more information.*

**PRESIDENT** (in Cantonese): Mr SHEK, you can only raise a follow-up question on the part of your supplementary question which has not been answered by the Secretary. If you wish to raise another supplementary question, you have to wait for another turn.

**MR ABRAHAM SHEK** (in Cantonese): *Just now the Secretary has not given me a clear enough answer. If he does not have the relevant information on hand, I hope he can furnish me with the information concerned in a written reply.*

**SECRETARY FOR WORKS** (in Cantonese): Yes. (Annex VI)

**MR LAU PING-CHEUNG** (in Cantonese): *Madam President, so that sum of \$235 billion comprises \$100 billion for railway projects and \$135 billion for capital works. As Members all know, railway projects are very different from other infrastructural projects in that they will not create many employment opportunities for the construction industry in Hong Kong. This is because most of the expenditure will be on procurement of train compartments, rolling stock, and so on from overseas. In this connection, could the Secretary inform this Council whether the Government has in place any mechanism to ensure that those projects costing a total of \$235 billion will enable the employees of Hong Kong-based companies, including companies providing professional or project works services, can enjoy the best employment opportunities as far as practicable?*

**SECRETARY FOR WORKS** (in Cantonese): Madam President, the contracts for capital works in Hong Kong are awarded by way of open public tender, and all the relevant local professionals and contractors in Hong Kong are welcomed to bid for the contracts. As such, they should have many chances to be awarded contracts for those projects. According to my understanding, even if the contracts were awarded to overseas companies, in carrying out the actual work the overseas companies concerned would hire many local professionals and agencies to share some of the works items under the projects concerned. This is because overseas companies would be subject to a number of constraints in such aspects as importation of labour, and so on. For this reason, I believe the projects concerned can cater for the employment needs of the local workforce.

**PRESIDENT** (in Cantonese): Mr LAU Ping-cheung, has your supplementary question not been answered?

**MR LAU PING-CHEUNG** (in Cantonese): *Madam President, I think the Secretary has not answered my supplementary question. We have here some examples, as members of the Joint Professional Coalition .....*

**PRESIDENT** (in Cantonese): Mr LAU Ping-cheung, please follow up the part of your supplementary question which has not been answered just now.

**MR LAU PING-CHEUNG** (in Cantonese): *With regard to the promotion of professional services, we have been held up to ridicule in the Mainland because the new airport was not made in Hong Kong, while the Tsing Ma Bridge .....*

**PRESIDENT** (in Cantonese): Mr LAU Ping-cheung, which part of your supplementary question has not been answered? Please come to your follow-up direct.

**MR LAU PING-CHEUNG** (in Cantonese): *Even though the projects were large in scale, they were not divided into .....*

**PRESIDENT** (in Cantonese): Mr LAU Ping-cheung, according to the Rules of Procedure, you may only follow up the part of your supplementary question that has not been answered.

**MR LAU PING-CHEUNG** (in Cantonese): *Madam President, the Secretary has not answered the part of my supplementary asking what measures the Government has in place to ensure that the employment opportunities of the local workforce could be maximized as far as practicable. Just now the Secretary said many overseas companies would enlist the help of local firms in Hong Kong upon winning the contracts. In reality, however, because the projects were so large in scale that many overseas companies would subcontract part of the work under the awarded contracts concerned to local firms at a lower price .....*

**PRESIDENT** (in Cantonese): Mr LAU, I think it is not that the Secretary has not answered your supplementary question, but that you are trying to answer the question you have just raised.

**MR LAU PING-CHEUNG** (in Cantonese): *The Secretary has not answered my supplementary question.*

**PRESIDENT** (in Cantonese): Mr LAU Ping-cheung, please take your seat first and let the Secretary answer your supplementary question. Secretary, do you have anything to add?

**SECRETARY FOR WORKS** (in Cantonese): Madam President, actually, I have already answered the Honourable Member's question. As I said before, the contracts for works projects in Hong Kong are awarded by way of open tender. We understand that even if the contracts were awarded to overseas companies, the overseas companies concerned would in most cases hire many local people to work for them, and that is why I consider that the employment needs of the local workforce have been catered for.

**PRESIDENT** (in Cantonese): Secretary, just now I asked whether you had anything to add? If you do not have anything to add, just say "no" and that will do.

**MR LAU KONG-WAH** (in Cantonese): *Madam President, compared with neighbouring regions, it seems that the planning and construction of infrastructural projects in Hong Kong takes a much longer time to complete. Certainly, I understand that this may be partly be attributable to some provisions in law; but then, could the Secretary still consider shortening the time taken to carry out some of the procedures or details, so as to enable the early commencement of the projects?*

**SECRETARY FOR WORKS** (in Cantonese): Madam President, as a matter of fact, this issue has been bothering us all along. In order to satisfy the various needs concerned, we have to make a lot of research, assessment and consultation efforts in such areas as environmental protection, traffic arrangement, and so on. In some cases, we also need to apply for funding. As such, we would need a longer time to complete the various procedures. Having said that, we are also planning to look into the feasibility of shortening the overall construction time of

the various projects. We would certainly do so if the study results should be in the affirmative.

**PRESIDENT** (in Cantonese): Last supplementary question.

**MR ABRAHAM SHEK:** *Madam President, the construction industry is suffering from a lack of work at the moment and a lot of people are unemployed. I wonder whether the Secretary may, with the excess amount of money available, facilitate the number of infrastructural projects and the number of contracts that are going to be offered in the coming 12 months?*

**SECRETARY FOR WORKS** (in Cantonese): Madam President, the implementation of any infrastructural projects must be justified by practical needs. According to the information I have here, the amount of government spending on capital works has remained rather constant over the years. In 1997-98, for example, the Government's commitment to capital works was \$26.7 billion. The figures for the years 1998-99 and 1999-2000 are \$27.6 billion and \$26.1 billion respectively. In 2000-2001, the Government's commitment in this respect is \$27.6 billion. So, the annual expenditure on capital works is maintained at a rather constant level between \$26 billion and \$27 billion.

**PRESIDENT** (in Cantonese): Sixth question.

### **Progress of Planning Work for New Development Areas**

6. **MR LAU PING-CHEUNG** (in Cantonese): *Madam President, the population of Hong Kong is estimated to rise from 6.87 million at the end of last year to 8.3 million by the year 2011, representing an increase of 1.43 million. To cope with the housing demand arising from the population growth, planning and development studies on the North East and North West New Territories as well as other areas were initiated a few years ago. In this connection, will the Government inform this Council:*

- (a) *apart from Hung Shui Kiu, Kwu Tung North and Fanling North, which were selected in 1999 for priority development to accommodate a population of 340 000, of the estimated population capacity of each of the other proposed new development areas in 2011;*
- (b) *of the progress of and the timetable for the planning work and the provision of major ancillary facilities for each proposed new development area; and*
- (c) *whether it has assessed if the current planning progress can tie in with the territory's population growth; if the assessment result is in the affirmative, of the basis of the assessment?*

**SECRETARY FOR PLANNING AND LANDS** (in Cantonese): Madam President, I would reply to part (c) of the question first. The question mentions that the population of Hong Kong will increase to 8.3 million by 2011. This was a forecast made by the Planning Department in 1998 based on the 1996 by-census conducted by the Census and Statistics Department (C&SD). According to the C&SD's latest revised population forecast made in end 2000, the estimated population of Hong Kong will rise to about 7.6 million by 2011, instead of 8.3 million. In other words, from the end of 2000 to 2011, the increase in the population of Hong Kong will be about 800 000, instead of 1.43 million as forecast in 1998. A more accurate population forecast will be made early next year when the results of the census being conducted by the C&SD will be available.

I now reply to part (a) and part (b) of the question. The major New Development Areas (NDAs) proposed by the Government include West Kowloon Reclamation, South East Kowloon, Tseung Kwan O, Tung Chung and Tai Ho in Lantau, Hung Shui Kiu, Kwu Tung North and Fanling North. According to the present planning progress, we estimate that the additional population capacity of each of the major NDAs by 2011 will be as follows:

<i>NDA</i> s	<i>Capacity for Additional Population by 2011</i>
West Kowloon Reclamation	140 000
South East Kowloon	90 000
Tseung Kwan O	240 000
Tung Chung and Tai Ho	180 000
Hung Shui Kiu	100 000
Fanling North	50 000
Kwu Tung North	80 000
Total:	880 000

Overall speaking, the various planning projects should be able to tie in with the increase in population by 2011.

The planning and works progress of the various major NDAs are set out below:

#### *West Kowloon Reclamation*

327 hectares of land have been reclaimed. Reclamation of the remaining 13 hectares of land and construction of infrastructure are underway. The reclamation works will be completed in mid-2002.

#### *South East Kowloon*

The Government has conducted an extensive round of public consultation for the South East Kowloon Development last year. We will soon finalize the revised development layout plan and seek funding from the Legislative Council by the end of this year for detailed design of the project. It is expected that the reclamation and infrastructural works which include the formation of land and the provision of road and drainage facilities, and so on will commence in 2003 for phased completion between 2005 and 2016.

#### *Tseung Kwan O*

Reclamation works of the final phase, being carried out in accordance with the Tseung Kwan O Outline Zoning Plan, are scheduled for completion in 2003. Infrastructure including local roads and drainage facilities will be completed by phases between 2007 and 2011.



*Tung Chung and Tai Ho*

The first phase development of Tung Chung and Tai Ho was completed in 1997. With the completion of the second phase development by the end of 2002, Tung Chung will provide housing capacity for a population of about 90 000. Phases 3 and 4 development consist of reclamation and land formation at east Tung Chung and at Tai Ho, as well as related road and drainage works. The Government is reviewing the relevant development plan in the light of the views received during the public consultation on Phases 3 and 4 development conducted last year. Upon completion of the review, we will consult the public on the revised layout plan. Construction works for Phases 3 and 4 development are expected to commence at the earliest in 2003 and 2004 respectively.

*Hung Shui Kiu, Kwu Tung North and Fanling North*

Last year, we consulted the public widely on the preliminary concept plans of these three NDAs. Many views and ideas were received. Members of the public in general supported the environmentally-friendly concept of the NDAs, but differed on how to carry out the development and the details of implementation. We are now carefully considering the public views and conducting impact assessments with a view to formulating an implementation plan for the NDAs. It is expected that the related major works, including site formation, trunk roads, community facilities, amenities and drainage works, will start in 2007 at the earliest for completion in phases between 2008 and 2013.

**MR LAU PING-CHEUNG** (in Cantonese): *Madam President, will the Secretary inform this Council of the benchmarks adopted by the Government for identifying NDAs, the actual lead time required for conceptualization, site selection, planning and implementation, the time required for completing infrastructure and whether it is possible for these procedures to be speeded up to expedite the development of NDAs?*

**SECRETARY FOR PLANNING AND LANDS** (in Cantonese): *Madam President, NDAs refer to sparsely-populated places or places where large infrastructure projects will be carried out, such as villages along railway alignments or uninhabited areas. These places are very suitable for the development of new towns of a sizable population (say more than 100 000).*

We consider these places NDAs. The whole process, from site selection, planning, collecting views through planning procedures, commencement of works to completion, often takes more than 10 years. Depending on the sizes of NDAs, the time needed will be even longer if the construction works are carried out in phases.

In the course of planning and construction, how to minimize the wastage of time is definitely our prime task. Nevertheless, Madam President, I believe you will understand that it is very important for us to listen to the views of residents who are likely to be affected and people interested in the project in the course of planning and design. Furthermore, all assessments, such as environmental and traffic assessments, must be carried out in a professional manner to avoid producing serious impact on future residents of NDAs. Subject to the prerequisite that the facilities of the NDAs will not be compromised, we will try our best to save time. However, it is most important for us to consider the impact on residents who will be living in NDAs for a few decades.

**MR LAU PING-CHEUNG** (in Cantonese): *Madam President, to put it simply, .....*

**PRESIDENT** (in Cantonese): Mr LAU, is your supplementary question not yet answered by the Secretary? Please do not "put it simply" any longer.

**MR LAU PING-CHEUNG** (in Cantonese): *Madam President, the Secretary has not answered which aspect can be speeded up. For instance, consultation, design, conceptualization and planning all involve a number of procedures. Even the Government has a lot of work procedures internally. Will the Secretary inform this Council of the procedures that can be speeded up or eliminated?*

**PRESIDENT** (in Cantonese): Secretary, do you have anything to add?

**SECRETARY FOR PLANNING AND LANDS** (in Cantonese): Madam President, I think we can speed up the consideration and consolidation of views

by the Government. However, we cannot eliminate statutory procedures because the law has specified the time required. Similarly, there is a specified timeframe for the conduct of professional assessment. It is impossible for time to be saved in this aspect. The future residents will have to bear the consequences if we omit any work. We may speed up the process of coordinating views and we will pay attention to this area.

**MR ALBERT CHAN** (in Cantonese): *Madam President, the Secretary indicated in the first paragraph of the main reply that the population of Hong Kong is estimated to reduce from 8.3 million as originally forecast to 7.6 million, representing a gap of 700 000. Earlier on, the Government's confusing housing policies attracted severe criticisms and there were doubts as to, for instance, whether the figure of 85 000 or other figures did really exist. The change in population forecast will affect the projection and planning of the overall land planning significantly. Will the Secretary inform this Council of the benchmark adopted for making such population forecasts? Why did the Government need to make such a major revision in just two years from 1998 to 2000? What can the Government do to minimize such mistakes or similar situations so as to prevent a repeat of such problems? If this forecast is really wrong, what measures will the Government take to ensure that the actual supply of land in future will not be affected by the wrong population forecast and that the actual need of the market can be satisfied?*

**SECRETARY FOR PLANNING AND LANDS** (in Cantonese): Madam President, the C&SD actually announced the reasons for the adjustment of its projected figures at the end of 2000. Nevertheless, I do not have the press release published at that time on hand. Therefore, I cannot speak on behalf of the C&SD. Furthermore, this is a professional subject. As far as I remember, one of the reasons is that we have to separate the mobile population from the overall population. Madam President, with your permission, I will analyse this issue in panel meetings in future. I believe it would be a better arrangement.

I agree with the Honourable Member's view because population forecast is of paramount importance to the overall planning of Hong Kong and infrastructure development. Inaccurate forecast will lead to either wastage of resources or under-provision of facilities. The forecast will be based on the latest projected figures. Therefore, Members will note that the Government

will conduct a by-census in addition to the census carried out once every five years. The C&SD and the Planning Department will work closely together to make a new projection on the then population forecast. Fortunately, the Government has a mechanism in place for assessing collected information at regular intervals. For instance, the Government is prepared to carrying out development in seven districts. In the event that our population changes dramatically, whether rises or falls, the possibility of making mistakes will be slim for we have more than 10 years to assess the priority of development.

**PRESIDENT** (in Cantonese): Mr CHAN, which part of your supplementary question has not been answered?

**MR ALBERT CHAN** (in Cantonese): *Madam President, the Secretary has not answered the last part of my question. If the projection is wrong, how can the Government ensure the future supply of land can satisfy the need of the market?*

**SECRETARY FOR PLANNING AND LANDS** (in Cantonese): Madam President, I have already answered it. The Government will made assessment at regular intervals.

**MR WONG SING-CHI** (in Cantonese): *Madam President, the Secretary mentioned in the last paragraph of the main reply that the Government has consulted the public last year extensively on the preliminary idea of developing the three NDAs, namely Hung Shui Kiu, Kwu Tung North and Fanling North. But as far as I understand it, the consultation was completed in mid-October 1999, more than one and a half years ago. So far, the Government has not done anything. The residents of the three NDAs are very worried about their future. We note that it is very difficult and complicated for the Government to resume land for similar development in the past. Moreover, confrontation between police and civilians has taken place in Shek Wu Sun Tsuen before. For the purpose of carrying out government development projects, will the Government consider making certain arrangements for affected residents beforehand, such as holding discussions with the Housing Department to see whether it is possible for arrangements to be made to provide housing to the residents as soon as possible, or negotiating with owners of private land expeditiously to fix an acceptable land price in order to resolve problems*

*pertaining to land resumption to facilitate the commencement of development projects? Will the Government consider doing all this?*

**SECRETARY FOR PLANNING AND LANDS** (in Cantonese): Madam President, the Honourable Member is right. We note from the previous consultation that a number of new problems might not be solved under the current policies. These problems include those pointed out by him. For instance, a village is neither an indigenous village nor a *de facto* village. Yet some people have actually been living there for decades. The Government is now studying carefully such options as relocation or other arrangements in order to satisfy their needs.

**PRESIDENT** (in Cantonese): Members, we have spent precisely 15 minutes on this question. Members should be aware that only three supplementary questions have actually been raised. It is because more than one minute has been spent on raising each question though Members could have raised each supplementary question in just a few seconds. If Members hope their colleagues can also have an opportunity to raise their supplementary questions, please exercise restraint when raising questions. I will try my best to allow more Members to raise their questions. Yet I believe some Members will definitely be unable to raise their supplementary questions today.

**MR LEUNG YIU-CHUNG** (in Cantonese): *Madam President, in the last paragraph of the main reply, the Secretary stated that the general community of Hung Shui Kiu supported the environmentally-friendly concept of the NDAs. But the truth is that a large number of residents, particularly those of Hung Shui Kiu, objected strongly and indicated clearly that this concept had existed in name only and would "exterminate their village and clan". The Secretary stated at that time that the second round of consultation would be conducted in July 2000. So why did the Secretary only mention in the main reply that the Government would explore how to develop the NDAs and the details of implementation without mentioning consulting or informing the residents of the latest development?*

**PRESIDENT** (in Cantonese): Mr LEUNG, you have spent more than one minute on your question. Secretary, please reply. *(Laughter)*

**SECRETARY FOR PLANNING AND LANDS** (in Cantonese): Madam President, I shall give a quicker answer! *(Laughter)*

In answering the question raised by the Honourable WONG Sing-Chi, I pointed out that the problems we face in developing Kwu Tung North and Hung Shui Kiu are unprecedented. The residents living there support the environmentally-friendly concept. They are not against it. The crux of the problem rather lies in what the Government should do in handling the matter when the local residents are affected. This is a very complicated issue. Moreover, it involves the policy review of several Policy Bureaux. We are working in this area.

**MR NG LEUNG-SING** (in Cantonese): *Madam President, I will make my question shorter. Insofar as the seven NDAs are concerned, it is mentioned in the main reply that the additional population capacity of Tseung Kwan O is 240 000 by 2001. What is the total figure when the additional population capacity is added to the original population?*

**SECRETARY FOR PLANNING AND LANDS** (in Cantonese): Madam President, the total population of Tseung Kwan O should reach approximately 490 000 when the last phase of development completes. The population of this new town will then be more or less the same as the existing population of Sha Tin and Tuen Mun.

**PRESIDENT** (in Cantonese): Last supplementary question.

**MISS EMILY LAU** (in Cantonese): *Madam President, the Secretary stated that the C&SD is now carrying out the census. Nevertheless, the questionnaires of the census do not contain any questions asking whether the public wish to take up residence in the Mainland. Members should be aware that many people have already moved their homes to Shenzhen and other parts of China. More people will do so should the border open round the clock in future. Will the Secretary inform this Council how the Government can ensure the census can obtain the relevant information accurately?*

**SECRETARY FOR PLANNING AND LANDS** (in Cantonese): Madam President, I am afraid this question is outside the purview of my bureau. Nevertheless, I will discuss this issue with the Commissioner for Census and Statistics.

**PRESIDENT** (in Cantonese): Members, I know that many Members are interested in this question. For instance, Mr LEUNG Yiu-chung has indicated that part of his supplementary question has not been answered and he would like to raise a follow-up question. However, I cannot allow him to do so. As Members have such a keen interest in this question, I would suggest them to follow up this issue through other channels such as the panels.

Question time ends here.

## WRITTEN ANSWERS TO QUESTIONS

### Overcrowding at Lo Wu Control Point

7. **MRS SELINA CHOW** (in Chinese): *Madam President, as there are always a lot of people queuing at the Lo Wu Terminal and the adjacent Lo Wu Bridge for immigration clearance, which makes the two places extremely crowded, hot and stuffy, will the Government inform this Council:*

- (a) *whether it has examined the possibility of using, apart from the existing Arrival and Departure Halls of the Terminal, other areas in the Terminal for queuing and immigration clearance during peak periods; if it has not, of the reasons for that; and*
- (b) *of the progress in implementing the plan to install air-conditioning systems at the Lo Wu Bridge?*

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

- (a) During peak periods, apart from deploying additional staff to speed up the clearance of passengers, the Immigration Department will, if necessary, invoke the contra-flow arrangement, which means that some of the arrival counters will be opened for departure clearance and *vice versa*, so as to cope with the heavy passenger flow.

Generally speaking, it takes less than 30 minutes for most passengers to go through immigration clearance. We also note that during festivals or long holidays, many passengers tend to cross the boundary at more or less the same time, causing great congestion at the Terminal building. In view of this, the Administration is now examining with various operators at the control point, including the relevant government departments and the Kowloon-Canton Railway Corporation, the possibility of relocating certain offices in order to make room for the expansion of the passageway or the queuing areas. We aim to better utilize the space of the Terminal building to ease congestion during peak periods.

- (b) Operators at the Lo Wu Terminal building and the Shenzhen Port Administration Office are constantly taking measures to improve the boundary-crossing facilities, including the Lo Wu Footbridge.

We agree that air-conditioning the Footbridge will bring additional comfort to travellers, particularly during summer. All parties concerned are actively studying the feasibility of installing air-conditioning systems at the Footbridge.

The current design for natural ventilation of the Footbridge is not suitable for installing air-conditioning systems. If we proceed with installation, the bridge deck must be enclosed which will entail a wind effect beyond the loading that the bridge deck and its foundations can currently sustain. We are conducting a detailed assessment of the overall structure of the bridge deck and its foundations, as well as the feasibility of providing independent structures on both sides of the Footbridge to support the curtain walls required for installing the air-conditioning systems. When the assessment has been completed, we will further examine viable options and follow up the matter with the mainland authorities concerned.

### **Activities of Smuggling Mainlanders to Foreign Countries via Hong Kong**

8. **MR DAVID CHU** (in Chinese): *Madam President, regarding efforts to combat lawless elements' activities in smuggling mainlanders to foreign countries via Hong Kong, will the Government inform this Council of:*



- (a) *the number of such migrant smugglers arrested, as well as the number of mainlanders intercepted on their way to sneak into foreign countries, in each of the past three years; and*
- (b) *the measures in place to prevent such smugglers from using Hong Kong as a place for laundering the profits they reap from such unlawful activities?*

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

- (a) Illegal immigrants from the Mainland mostly make use of air passage and forged travel documents to sneak into overseas countries via Hong Kong. In the past three years, the Government has arrested 177 persons for arranging or assisting mainlanders holding forged travel documents to obtain passage to foreign countries through Hong Kong. 3 898 mainlanders who used forged travel documents to go to foreign countries were also intercepted or investigated. Details are as follows:

<i>Year</i>	<i>Persons arrested for arranging/assisting mainlanders holding forged travel documents to obtain passage to foreign countries through Hong Kong</i>	<i>Persons intercepted or Investigated for using Forged travel documents to Go to foreign countries Through Hong Kong</i>
1998	64	1 291
1999	79	1 632
2000	34	975
Total	177	3 898

Moreover, some criminals also made use of containers to smuggle mainlanders. In 2000, the law enforcement departments intercepted for the first time 41 mainlanders who used containers to sneak into overseas countries via Hong Kong, and 35 offenders were arrested for arranging smuggling of mainlanders in containers.

- (b) Hong Kong has in place effective legal and financial systems to counter money laundering. Under the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) and the Organized and Serious Crimes Ordinance (Cap. 455), a person commits an offence if, knowing or having reasonable grounds to believe that any property represents any person's proceeds of drug trafficking or indictable offence, he still deals with the property. The maximum penalty for this offence is 14 years' imprisonment and \$5 million fine. In addition, under the two Ordinances, all persons are required to disclose transactions that are known or suspected to be used in connection with drug trafficking or indictable offence. Persons who fail to comply will be liable to the maximum penalty of three months' imprisonment and \$50,000 fine.

Following a legislative amendment to the Organized and Serious Crimes Ordinance in 2000, money changers and remittance agents are required to keep transaction records and identify customers for any transactions at or above \$20,000. The Administration is currently proposing further amendments to enhance Hong Kong's anti-money laundering laws.

Apart from legislation, Hong Kong has put in place a range of administrative measures to tackle money laundering. Financial regulators such as the Hong Kong Monetary Authority have issued dedicated anti-money laundering guidelines to financial institutions. The police have also issued similar guidelines to money changers and remittance agents.

Money laundering activity in relation to human smuggling is one of the major issues handled by the Financial Investigation Unit of the Organized Crime and Triad Bureau. This Unit tackles the activity by the following four tactics:

- Using the special powers under the Organized and Serious Crimes Ordinance;
- Gathering intelligence and working closely with the human smuggling investigators;

- Exchanging intelligence with overseas law enforcement agencies; and
- Enhancing the awareness of employees in the financial sector on money laundering activity with a view to providing good quality suspicious transaction reports.

In March 2001, the Financial Investigation Unit of the Organized Crime and Triad Bureau neutralized a Hong Kong syndicate which laundered criminal proceeds derived from human smuggling activity by collecting remittances from Chinese illegal immigrants in Australia, Britain and Japan. The syndicate received the proceeds of crime into their Hong Kong bank accounts and then arranged the remittance of the funds to snakeheads in Fujian, China, who arranged the passage of the illegal immigrants to those countries. A total of 24 people were arrested and five of them have been charged with "Money Laundering". Assets and properties valued at about \$12.6 million belonging to the arrested persons have also been restrained. The detection of this case occurred as a result of the joint efforts of law enforcement agencies in the United Kingdom, Australia and Hong Kong.

### **Waiting Time for Allocation of PRH Units**

9. **MR ALBERT HO** (in Chinese): *Madam President, will the Government inform this Council of the average waiting time currently for the allocation of public rental housing (PRH) units to each of the four categories of households listed below:*

- (a) *singletons aged below 60;*
- (b) *households comprising only elderly persons aged 60 or above;*
- (c) *households comprising elderly and non-elderly persons; and*
- (d) *households comprising two or more non-elderly persons,*

*together with a breakdown of these figures by the geographical districts for allocation of PRH units?*

**SECRETARY FOR HOUSING** (in Chinese): Madam President, the average waiting time from 1 April 2000 to 31 March 2001 for the following four categories of applicants for PRH is as follows:

	<i>Average waiting time</i>
(a) singletons aged below 60	5 years
(b) households comprising only elderly persons aged 60 or above	2.9 years
(c) households with elderly and non-elderly members	4 years
(d) households without elderly member	4.7 years

The Housing Department does not compute separately the average waiting time for these categories by district. An indication based on some cases is given below:

	<i>Urban area</i>	<i>Extended urban area</i>	<i>New Territories</i>
(a) singletons aged below 60	6.7 years	4.5 years	3 years
(b) households comprising only elderly persons aged 60 or above (two-person households)	2.7 years	2.3 years	2.6 years
(c) households with elderly and non-elderly members (three-person households)	4.4 years	4.1 years	2.6 years
(d) households without elderly (three-person households)	6.5 years	5 years	3 years

**Provision of Rat-free Environment at Tourist Spots**

10. **DR RAYMOND HO** (in Chinese): *Madam President, the Hong Kong Tourism Board is holding a tourism promotional campaign on the theme of "City of Life: Hong Kong is it!" to promote Hong Kong's cultural, sports and local festive events overseas. However, recently there has been wide media coverage on the infestation of rats in Kowloon City where many restaurants are located. In this connection, will the Government inform this Council:*

- (a) *of the number and average frequency of anti-rat operations carried out by the Food and Environmental Hygiene Department (FEHD) to prevent rat infestation in the district over the past three years;*
- (b) *of the support given to restaurants within the district in the eradication of rats; and*
- (c) *whether various tourist spots are inspected regularly to ensure a rat-free environment?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Chinese):  
Madam President,

- (a) Since the establishment of the FEHD on 1 January 2000 until the end of March 2001, the Kowloon City Pest Control Team of the Department has carried out a number of anti-rat operations. Details are as follows:
  - (i) Number of rat cages and clips being laid down: 1 040
  - (ii) Number of rat poison baiting: 17 784
  - (iii) Number of rat holes being blocked: 493
  - (iv) Number of dead rats being collected: 1 655
  - (v) Number of rats being caught: 95

Besides, the FEHD launches anti-rat campaign in each district once every six months. The aim is to raise public awareness of the prevention and control of rats, and to reduce the number of rats as well as minimize the risk of diseases being transmitted by rats. Over the past three years, six large-scale anti-rat campaigns were carried out in the Kowloon City District.

- (b) It is the restaurant operators' responsibility to keep their premises clean, and this is by far the most effective way to minimize the infestation of rats. During inspections by Health Inspectors of the FEHD, they will remind restaurant operators to pay special attention to the hygiene conditions and give out leaflets about anti-rat measures. In the case of the Kowloon City District, a meeting was also held on 31 March 2001 between the FEHD and the restaurant operators during which advice on prevention and eradication of rats is provided. Besides, departmental staff will also step up inspection and cleaning up rear lanes near restaurants.
  
- (c) Pest Control Teams have been set up in all District Offices and these teams are responsible for the prevention and eradication of rats. Inspection of public places, including tourist spots, is carried out according to a programme once every week. If any trail of rats is found, where appropriate, poisonous rat-baits or cage will be immediately laid, or rat holes will be blocked at the area of movement of rats. The frequency of inspection will also be increased to once a day to once a week. For private places, inspection is carried out when there is reported case or if trail of rats is found in the nearby area. If the inspection result indicates that trail of rats is found, similar action will be taken to eradicate rats.

### **Advance Polling Arrangements for Legislative Council General Election**

11. **MR ERIC LI** (in Chinese): *Madam President, when presenting the Legislative Council (Amendment) Bill 1999 to this Council, the Administration put forward a proposal to introduce "advance polling" arrangements, which was subsequently withdrawn. In this connection, will the Government inform this Council:*

- (a) *whether it plans to introduce advance polling arrangements in the next Legislative Council general election; and*
- (b) *of the feasible proposals for advance polling being considered and the timing for presenting them to this Council?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Chinese): Madam President, as pointed out in the question, we proposed to introduce advance polling for the 2000 Legislative Council election in the Legislative Council (Amendment) Bill 1999. The proposal was to specify a date for holding an advance poll before the general polling day so that electors may apply for voting on the advance polling day if they wish to do so. This proposal was subsequently withdrawn in view of the concerns of Members during the scrutiny of the Bill that the release of results of exit polls conducted on the advance polling day might influence electors' choice on the general polling day. Therefore, the advance polling day proposal was not implemented in the 2000 Legislative Council election.

The election of the third term Legislative Council will be held in 2004. Before we proceed to organize this election, we will consider what improvement measures to our electoral arrangements should be introduced. Advance polling day is one of the many improvement measures we will consider. Any new measures proposed by the Administration will be submitted to the Legislative Council for Members' consideration. The relevant amendments to the Legislative Council Ordinance will have to be passed by the Legislative Council in mid-2003 before they can be implemented in the 2004 Legislative Council election.

### **Absence of a Standard Pool in Tin Shui Wai Swimming Pool**

12. **MR TAM YIU-CHUNG** (in Chinese): *Madam President, some members of the public have complained to me about the absence of a standard pool in Tin Shui Wai Swimming Pool and that, due to the large number of users, they often have to wait for a long time before they can be admitted to the Pool. Also, as the opening hours of the venue are divided into sessions, swimmers usually have*

*less than an hour to swim after queuing up for admission for a long time. In this connection, will the Government inform this Council:*

- (a) of the Pool's capacity for swimmers at any one time;*
- (b) of the average daily attendance of the Pool in the previous swimming season;*
- (c) whether it has worked out the average waiting time for admission to the Pool; if it has, of the data for the previous swimming season;*
- (d) of the reasons for not providing a standard pool there; and*
- (e) whether it will consider providing a standard pool there or in the Yuen Long District, and reducing the number of sessions; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR HOME AFFAIRS** (in Chinese): Madam President,

- (a) The Tin Shui Wai Swimming Pool can accommodate a maximum of 710 swimmers at any one time.
- (b) The Tin Shui Wai Swimming Pool recorded an average daily attendance of 1 083 persons in the previous swimming season.
- (c) The Leisure and Cultural Services Department (LCSD) has not officially maintained statistics on the average waiting time for admission to the Pool. However, based on the observation of its staff, the waiting time is normally less than 20 minutes. Some swimmers may have to wait for more than 20 minutes during peak hours on public holidays in summer.
- (d) The Tin Shui Wai Swimming Pool was opened in 1994. At the planning stage, there was already a standard pool in the Yuen Long District (that is, the Yuen Long Public Swimming Pool). It was therefore decided that a leisure pool should be built in Tin Shui Wai. The provision of different types of pools could offer diversified



swimming facilities for the enjoyment of residents of the entire Yuen Long District.

- (e) Given the site constraints, it is not possible to provide a standard pool within the Tin Shui Wai Swimming Pool complex. However, in view of the growing population in Yuen Long District, the LCSD is considering the building of a standard pool on a piece of land reserved as open space in Tin Shui Wai Area 107. The scope of the facilities to be provided is still at the planning stage. When the LCSD has formulated a more definite plan, it will seek government funding in accordance with procedures for Public Works Programmes. As regards the number of sessions, it is an established practice for public swimming pools in the New Territories to have three sessions. Such an arrangement has been widely accepted by the public. Recently, we have conducted a review and considered that it is appropriate to maintain the existing arrangement. The main reasons are to facilitate cleansing, to maintain the pool water quality up to the required standard, and to enable swimming associations and teams to train during the sessional breaks.

### **Felling of Rare Big Old Date Palm in Tsim Sha Tsui**

13. **MISS CHOY SO-YUK** (in Chinese): *Madam President, regarding the incident in which a rare big old date palm near the former Marine Police Headquarters in Tsim Sha Tsui was felled recently, will the Government inform this Council:*

- (a) *of the department and the rank of the official who made the decision to fell the tree, as well as the justifications for doing so and the process leading to the decision; and*
- (b) *if the tree was felled not on the instruction of any government department, whether it will conduct an investigation into the incident and take appropriate measures to prevent the recurrence of such incidents?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Chinese):

Madam President,

- (a) The date palm situated at the former Marine Police Headquarters in Tsim Sha Tsui was not felled by any department. Its tree crown was snapped down by exceptionally strong wind when Tropical Cyclone Signal No. 10 was hoisted on 16 September 1999 and resulted in permanent damage to the date palm that was beyond recovery. A Chief Property Manager of the Government Property Agency, being responsible for the management of the site in question, authorized the arrangement for the tree crown and upper trunk to be lopped and cleared for safety reasons.
- (b) While there is little the Government can do to prevent sudden collapse of trees due to natural causes such as lightning and typhoon, the Government has in place a set of administrative and legislative measures for preventing trees from unnecessary felling.

General Regulation 740 and Works Bureau Technical Circular No. 24/94, which are available on the Internet, clearly stipulate that it is the responsibility of all government officers to ensure that no trees are unnecessarily lopped or felled. Prior approval must be obtained for felling trees but no permission to lop or cut down trees will be granted unless good cause is shown. The Technical Circular emphasizes the need to make every effort to preserve trees in the planning, design and construction of development projects. It reminds project proponents to take into account the need to preserve trees in planning and designing their projects and give full consideration to alternative designs for maximizing the number of trees that can be preserved. Care should also be taken to minimize the extent of works area such that the trees to be preserved can be maximized. Section D-12 of the Lands Administration Office Instruction further spells out the different authorities for approving tree-felling applications and the procedure for applications to fell trees. It also sets out detailed criteria for assessing tree-felling applications such as rarity of species, size of the trees and public safety. Where possible and appropriate, approval to tree felling will be subject to a compensatory landscaping or replanting scheme.

Apart from the above administrative measures, there are legislation which prohibit unauthorized tree felling and provide for sanctions

against such unlawful act. They include the Forests and Countryside Ordinance (Cap. 96), the Country Parks Ordinance (Cap. 208), the Public Health and Municipal Services Ordinance (Cap. 132), the Crimes Ordinance (Cap. 200) and the Theft Ordinance (Cap. 210).

### **Mechanism of Public Hospitals in Determining Medical Expenses Borne by Patients**

14. **MR LAW CHI-KWONG** (in Chinese): *Madam President, at present, public hospitals require patients to purchase expensive drugs, surgical implants and prostheses, as well as medical equipment and supplies such as consumables for home use, while patients with financial difficulties can apply for assistance from the Samaritan Fund (the Fund). In this connection, will the Government inform this Council whether it knows:*

- (a) the mechanism and criteria adopted by public hospitals in determining the medical expenses that should be borne by patients;*
- (b) the respective numbers of patients who had to purchase for themselves cardiac pacemakers and intraocular lenses last year and, among these patients, the respective numbers of those who applied for and those who received financial assistance from the Fund; whether the relevant authorities will consider providing these two surgical implants for patients; if not, the reasons for that; and*
- (c) the list of drugs that have to be purchased by patients themselves at present and the diseases that these drugs are used for treatment; the names of the drugs that have been added to and deleted from the list respectively over the past three years, and the factors that the authorities take into account in deciding to add a particular type of drug to the list?*

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

- (a) In the provision of health care service, the Hospital Authority (HA) would direct the limited public resources to areas of greatest needs with a view to maximizing the benefits to the community. Patients

receiving treatment at public hospitals are required to pay at their own expense the cost of certain medical items or services which are not covered by daily hospital inpatient and outpatient maintenance charges. Patients who cannot afford to pay at their own expense the cost of medical items or services can apply for financial assistance from charitable sources, such as the Fund. To enhance the standards of patient care and facilitate patients' access to innovative treatments, the HA has, with the support of charitable trusts, developed a pilot scheme to expedite the introduction of medical items of new technology or technology-based new services into mainstream HA service. These new medical items or services have limited experience in local application or have as yet to be fully tested with regard to cost-effectiveness. Patients who cannot afford to pay for such new medical items or services would be offered financial assistance. In addition, doctors in public hospitals may, at the request of the patients, prescribe items which have limited available scientific evidence to show their cost-effectiveness, offer minimal additional medical benefit to patients over available alternatives, or may not be considered as essential for the patients' medical treatment. These items of "patients' choice" will also have to be purchased by patients at their own expense.

- (b) Information on the respective number of patients who purchased pacemakers and intraocular lens in 1999-2000 is as follows:

	<i>Pacemakers</i>	<i>Intraocular Lens</i>
Total number of patients	759	15 542
of which:		
with medical expenses funded by the Fund	196	299*

- \* Since the cost of intraocular lens was in the region of \$1350, most patients were able to pay for the lens and hence the relatively low number of applications for financial assistance.

The figures for 2000-01 are not yet available.

Patients with financial difficulties to pay for pacemakers and intraocular lens can seek financial assistance from the Fund. The guiding principle is that the limited public resources should be directed to areas of greatest needs for the community. The HA currently has no plan to fund these medical items as part of the HA's standard services.

- (c) At present, drugs which have to be purchased by patients at their own expense include:
- (i) interferon for treating selective cases of chronic hepatitis, chronic myeloid leukaemia and multiple sclerosis;
  - (ii) growth hormone for treating children with growth retardation due to growth hormone deficiency, and treating various diseases resulting in growth failure such as Turner Syndrome;
  - (iii) drugs prescribed under the pilot scheme for introduction of new medical items or services referred to in (a) above, including taxane, letrozole and anastrozole for treating patients with breast cancer, basiliximab and daclizumab for use as an adjunct immunosuppressant induction therapy for patients with cadaveric renal transplants, and colony stimulating factors for treating certain cancer patients receiving anti-cancer chemotherapy; and
  - (iv) drugs of "patients' choice".

Over the past three years, item (iii) has been added to the list of medical items which have to be purchased by patients at their own expense. In deciding whether certain new drugs should be added to such a list, the HA will take into account the factors and principles as mentioned in (a) above.

## **Choice of Banks for Providing Services to Government Bureaux and Departments**

15. **MR CHEUNG MAN-KWONG** (in Chinese): *Madam President, regarding the choice of banks for providing services to government bureaux and departments, will the Government inform this Council:*

- (a) *of the banks currently providing services to various Policy Bureaux and departments and the services provided; the reasons for choosing them; and the commencement dates of the existing service agreements, if any;*
- (b) *whether the departments conduct regular reviews on whether the services provided by those banks are satisfactory and the fees charged are good value for money; if they have, of the details; if not, the reasons for that; and*
- (c) *as certain services are provided by only one or a few banks at present, will the Government consider allowing more banks to provide services, for securing more diversified services at more competitive prices; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR THE TREASURY** (in Chinese): Madam President, the answers to the three-part question are as follows:

- (a) At present, Hongkong and Shanghai Banking Corporation provides payment and collection account, autopay and direct credit services to the Government through the Treasury and some other departments such as the Social Welfare Department and the Student Financial Assistance Agency. In addition, the Treasury and various other departments maintain accounts with 60 licensed banks in Hong Kong for a variety of banking transactions, including office petty cash disbursements, mandatory provident fund payments for non-civil service staff and deposit of surplus funds. These banking services are agreed over time when necessary on a case-by-case basis and hence are not covered by an all-encompassing service agreement.

In general, banks are chosen on the basis of their reliability, capability, level of charges, interest rates offered, quality of service and operational efficiency.

In addition to bank accounts, the Government also uses the two Automatic Teller Machine (ATM) networks provided by banks in Hong Kong for the collection of rates, taxes, water charges and other revenue. The relevant service agreements commenced in August 1998 and January 1999 respectively.

- (b) The Treasury reviews the autopay and direct credit services every year and the ATM services every three years. Other user departments as customers are expected to monitor and review the quality of service provided and the level of fees charged from time to time.
- (c) The Treasury is currently examining the scope and arrangements for tender of banking services for the Government, so as to allow more banks to provide services and for securing more diversified services at more competitive prices. We aim to decide on the way forward in the latter part of 2001.

### **Support Services to Persons Suffering from Inherited Retinal Degenerative Diseases**

16. **MISS CYD HO** (in Chinese): *Madam President, regarding the provision of medical and other support services to persons suffering from inherited retinal degenerative diseases, will the Government inform this Council:*

- (a) *whether it has compiled statistics on the number of persons currently suffering from these eye diseases; if it has, of the number of such persons; if not, whether it will compile such statistics as soon as possible; if it will not, of the reasons for that;*
- (b) *of the details of the services currently provided by public medical institutions for such patients, including identification of defective genes, and rehabilitative and counselling services;*

- (c) (i) *of the annual expenditures on the relevant medical services;*
- (ii) *of the details of the subsidies and assistance it has made available to organizations which provide patients' mutual-help services; and*
- (iii) *of the details of its efforts in public education and dissemination of information on these eye diseases;*
- in the past three and this financial year; and*
- (d) *whether it will include such patients as a target group in the next Travel Characteristics Survey, so as to identify their special public transport needs?*

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

- (a) We do not maintain comprehensive statistics on the number of persons suffering from Retinitis Pigmentosa or inherited retinal degenerative diseases. The present data collection system based on hospital discharge statistics and the coding system based on International Statistical Classification of Diseases does not capture these particular eye diseases separately.

However, the Central Registry for Rehabilitation (CRR) collects and compiles relevant information on people with disabilities. Although the CRR does not provide separate breakdown of the number of persons suffering from inherited retinal degenerative diseases, such persons are included in the register, under the "visual impairment" category, for the purposes of planning and delivery of rehabilitation services as well as research.

- (b) Patients suffering from inherited retinal degenerative diseases may attend ophthalmic specialist out-patient clinics of the Hospital Authority (HA) for treatment. The HA also provides treatment to patients if their diseases are associated with other ocular disorders such as early onset cataract or glaucoma. For patients with



significant functional blindness, the HA would be working with other health care and social welfare organizations in providing rehabilitation and social support services, including assistance with low-vision aids. The Clinical Genetic Service of the Department of Health (DH) provides services including genetic diagnosis, counselling and genetic investigations for patients and their families, and genealogy analysis.

- (c) (i) Medical services for patients with inherited retinal degenerative diseases are organized by specialties. We do not keep a breakdown of the expenditure on services provided specifically for these diseases.
- (ii) We support the development of patient self-help groups. The Social Welfare Department (SWD) assists these self-help groups to apply for premises in public housing estates to set up offices. The Department may also subsidize the related rent and rates, and so on. In 2000-01, the amount of rent and rates subsidies granted by the SWD to non-subsided organizations including self-help groups was \$8,440,000.

The Hong Kong Retinitis Pigmentosa Society, which was formed by a group of people suffering from inherited retinal degenerative diseases and other volunteers, may apply to the SWD for a rent and rates subsidy for its premises provided certain criteria are met.

Through the provision of grants from Funds under the management of the Health and Welfare Bureau (HWB), financial assistance has been provided to the Society to organize various programmes. In 1999 and 2000, \$130,000 was granted to the Society from the SK Yee Fund for the Disabled.

- (iii) The Clinical Genetic Service of the DH and the Eye Units of the HA work closely with concerned patients groups to disseminate information on eye diseases. Health talks are

also organized to disseminate information on genetic diseases, including inherited retinal degenerative diseases, to members of the public and health care organizations in order to enhance public awareness of the diseases.

In addition, as part of the public education drive under the rehabilitation programme, the Hong Kong Retinitis Pigmentosa Society received \$120,000 to run promotional activities in 1999 and 2000. In the current financial year, the HWB will provide \$75,000 to the Society to continue its publicity activities.

- (d) The Travel Characteristics Survey 2002 will collect, *inter alia*, trip-making characteristics data of people with disabilities with a view to identifying their demand for public transport. People with visual impairment (but not specifically people suffering from inherited retinal degenerative diseases) will be included in the sample of people with disabilities to be surveyed.

### **Cooked Food Bazaars Managed by FEHD**

17. **MR ALBERT CHAN** (in Chinese): *Madam President, regarding the cooked food bazaars managed by the Food and Environmental Hygiene Department (FEHD), will the Government inform this Council:*

- (a) *of the respective numbers of hawkers and stallholders in the cooked food bazaars at present;*
- (b) *of the current monthly income of the FEHD from hawker licence fees and the rentals paid by stallholders respectively in the cooked food bazaars, as well as the respective monthly expenditures on the management and maintenance of these cooked food bazaars;*
- (c) *whether it will consider terminating the operation of the cooked food bazaars; and*

- (d) *whether it has estimated the annual savings in expenditure after buying back the licences from all hawkers and the right to operate from stallholders in the cooked food bazaars?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Chinese):

Madam President,

- (a) As of 31 March 2001, there were 15 cooked food bazaars under the management of the FEHD with 137 licensed fixed pitch hawkers (cooked food/light refreshment). Besides, the FEHD managed 25 stand-alone cooked food markets and 35 cooked food centres in municipal complexes with 401 and 499 stallholders respectively.
- (b) The monthly revenue and expenses of the above cooked food bazaars, markets and centres for the FEHD are as follows:

	<i>monthly licence fees/ rentals collected</i> (\$)	<i>estimated monthly management and maintenance expenses</i> (\$)
cooked food bazaars	327,000	about 600,000
cooked food markets	1,683,000	about 2,526,000
cooked food centres	15,652,000	about 21,286,000

- (c) The former Urban Council introduced an ex-gratia payment scheme in 1983 to buy back fixed pitch hawker (cooked food/light refreshment) licences in the urban area with a view to reducing the number of such operations. Under the scheme, a holder of a fixed pitch hawker (cooked food/light refreshment) licence in the urban area who voluntarily surrenders his licence can receive an ex-gratia payment of \$60,000. Since the establishment of the FEHD on 1 January 2000, the department continues to adopt the scheme in the urban area.

The former Regional Council did not have a similar scheme for hawkers in the New Territories, nor were there a similar scheme by the former two Provisional Municipal Councils for stallholders operating in cooked food markets and centres. The Environment and Food Bureau and the FEHD are reviewing the matter to see if such a scheme should be extended to the New Territories and to cooked food markets and centres.

- (d) Assuming that we would extend the ex-gratia payment scheme to the New Territories on the same basis as that in the urban area, the FEHD estimates that closing down all the 15 cooked food bazaars may result in an annual saving of about \$3 million. It is premature to estimate the amount of savings from closing down the cooked food markets and centers as we do not yet have any plan for phasing out these facilities for the time being.

### **Teaching Posts in Government and Aided Primary Schools**

18. **MISS EMILY LAU:** *Madam President, regarding teaching posts in government and aided primary schools, will the Administration inform this Council:*

- (a) *of the total number of graduate teacher (GT) posts and its percentage in the overall teaching staff establishment of all government and aided primary schools in the school year 2000-01; and the number and percentage of such posts now substantively filled;*
- (b) *of the current number of schools with GT posts not filled or not substantively filled; the reasons for these posts not being filled; as well as the plans to fill all vacant GT posts expeditiously;*
- (c) *of the number of serving Certificated Masters/Mistresses (CM) who possess a recognized first degree or equivalent qualifications; and*
- (d) *whether there are plans to convert all CM posts to GT posts?*

**SECRETARY FOR EDUCATION AND MANPOWER:** Madam President,

- (a) Since the 1994-95 school year, the Government has provided GT posts in primary schools. The original target was to upgrade 35% of all primary teacher posts from non-graduate to graduate posts by the 2007-08 school year. In 1997, this target was advanced to the 2001-02 school year.

The distribution of GT posts, as agreed with teacher unions and associations, school councils and sponsors, following extensive consultations, is as follows:

- all headship and deputy headship posts would be regraded to GT posts in the 1999-2000 school year;
- 35% of the senior teacher posts would be regraded to GT posts by the 2001-02 school year; and
- the remaining GT posts would be allocated to the basic rank teacher level.

The purpose is to first upgrade all headship and deputy headship posts which carry instructional and managerial leadership responsibilities, followed by a fair share of the graduate posts between senior teachers and teachers at the basic rank. Aided schools are allowed the flexibility to adjust the percentage of GT posts to be upgraded in the senior teacher rank and the basic rank, as long as the overall entitlement of GT posts is not exceeded, and the distribution is agreed with the teaching staff following consultation.

Up to the 2000-01 school year, resources have been provided for creating 5 675 GT posts, amounting to 26.7% of the total teaching staff establishment in government and aided primary schools. The Administration will provide another 1 640 primary GT posts in the 2001-02 school year, bringing the total number of such posts to 7 315, thus meeting the 35% target.

- (b) As at February 2001, 3 947 GT posts were filled, amounting to about 70% of the total GT posts available.

Altogether 1 728 GT posts in 671 government and aided primary schools remained unfilled. The major reasons are:

- at the headship and deputy headship levels, not all incumbents in government and aided schools presently have a degree to fill the GT posts; and
- some aided schools have decided not to fill some of the GT posts because some teachers with a degree are not considered suitable for regrading due to other factors such as aptitude, character, potentials and experience. In other cases, teachers identified as suitable for upgrading are presently pursuing a degree course. The School Management Committee has the discretion to decide, having regard to the overall interests of the school, whether to withhold filling a GT post pending the completion of a degree course by an identified teacher, or to directly appoint degree holders with teacher training in primary education to fill the post.

Starting from the 2000-01 school year, if aided schools directly appoint school heads and deputy heads from new recruits, the appointees are required to possess a recognized degree and relevant teacher training qualifications. The Education Department regularly encourages non-graduate heads, deputy heads, and teachers to pursue degree courses. In addition, aided schools are encouraged to fill their graduate posts as quickly as possible, through regrading of suitable degree holders who are occupying non-GT posts or through employing new teachers with a recognized degree and teacher training in primary education.

- (c) According to the Teacher Survey 2000, as at October 2000, 5 356 teachers holding degrees were employed as non-GTs in government and aided primary schools, of whom 4 593 were occupying CM posts, and 763 were occupying Assistant Master/Mistress posts. Since then, some of these teachers have moved on to fill GT posts. However, as the Teacher Survey is conducted annually, we do not have the exact figures at this point in time.

- (d) We shall evaluate the impact of the policy on the quality of primary education and then decide whether to increase the proportion of GT posts further.

### **Law Enforcement Officers of Mainland and Hong Kong Carrying out Cross-border Duties**

19. **MR LAU KONG-WAH** (in Chinese): *Madam President, regarding law enforcement officers of the Mainland and of Hong Kong carrying out cross-border duties, will the Government inform this Council of:*

- (a) *the number of officers dispatched to Hong Kong by mainland law enforcement units to investigate cases in the past three years, together with a breakdown, by law enforcement units, of the respective numbers of officers dispatched to Hong Kong and the average duration of their stay;*
- (b) *the assistance provided by the Administration to the mainland law enforcement officers performing duties in Hong Kong in respect of such cases; and*
- (c) *the number of officers dispatched to the Mainland by law enforcement agencies in Hong Kong to investigate cases in the past three years, as well as the number and types of the cases involved?*

**SECRETARY FOR SECURITY** (in Chinese): Madam President, the Hong Kong Special Administrative Region (SAR) Government's law enforcement departments, including the police, Customs and Excise Department and Immigration Department have been maintaining close liaison with the relevant law enforcement agencies in the Mainland, and there are established channels for exchange of intelligence on criminal activities, in the combat against cross-boundary crimes. The law enforcement departments of Hong Kong provide appropriate assistance to the law enforcement officers dispatched from the Mainland in their investigation work in Hong Kong where necessary.

- (a) According to information provided by the law enforcement departments concerned, over the past three years (from 1998 to

2000), a total of 1 380 officers (411 delegations) were dispatched to Hong Kong by public security units and other law enforcement agencies of various provinces and municipalities of the Mainland to seek assistance from the SAR Government. The duration of their stay in Hong Kong was normally about three to five days. Appended below is a breakdown of the number of officers dispatched to Hong Kong in each year and their respective units:

<i>Year</i>	<i>Officers dispatched from the Mainland to Hong Kong (Number of officers/delegations)</i>
1998	337 officers/96 delegations
1999	394 officers/106 delegations
2000	649 officers/206 delegations
Total	1 380 officers/411 delegations

The officers dispatched from the Mainland mainly came from the public security units and customs departments of various provinces and municipalities and Interpol. The law enforcement departments of Hong Kong do not keep any further breakdown on individual mainland officers' units and agencies.

- (b) At present, law enforcement co-operation between the Mainland and Hong Kong involves the investigation of criminal cases only. The scope of assistance provided by law enforcement departments of SAR to mainland officers dispatched to Hong Kong mainly covers the gathering of background information of cases, obtaining of physical evidence and making arrangement for and accompanying mainland law enforcement officers to interview witnesses and parties concerned who have given their consent to assist in the investigation.
- (c) In the past three years, the law enforcement departments of SAR dispatched a total of 582 officers (243 delegations) to the Mainland for crime investigation. A breakdown of the number of officers and delegations in each year is as follows:



<i>Year</i>	<i>Number of officers/delegations dispatched to the Mainland by the Hong Kong Police Force</i>
1998	120 officers/53 delegations
1999	202 officers/83 delegations
2000	260 officers/107 delegations
Total	582 officers/243 delegations

The number of cases for investigation is roughly the same as the number of delegations dispatched to the Mainland by the SAR law enforcement departments. The cases involve smuggling, commercial crimes, trafficking and transaction of dangerous drugs, as well as organized and serious crimes.

### **Government Cleansing Contractors Stripping Employees of Statutory Rights and Benefits**

20. **MR AMBROSE LAU** (in Chinese): *Madam President, it has been reported that some cleansing contractors engaged by the Food and Environmental Hygiene Department (FEHD) were found to have stripped their employees of statutory rights and benefits and illegally employed mainlanders who came to Hong Kong on Two-way Exit Permits (TWPs). In this regard, will the Government inform this Council of:*

- (a) the respective numbers of complaints received by the authorities in the past three years against government cleansing contractors who had stripped their employees of statutory rights and benefits and employed TWP holders and, among these complaints, the number of substantiated cases as well as the respective numbers of cases in which the contractors were prosecuted and penalized in accordance with the conditions in the service contracts; and*
- (b) the measures in place to prevent these contractors from stripping their employees of statutory rights and benefits and employing illegal workers?*

**SECRETARY FOR THE ENVIRONMENT AND FOOD** (in Chinese):  
Madam President,

- (a) From January 1998 to March 2001, the Labour Department (LD) received four complaints against three cleansing contractors of the former Municipal Services Departments (MSDs) and the FEHD for breach of statutory holiday provisions under the Employment Ordinance (Cap. 57). The LD found that all the complaints were substantiated and had issued 28 summonses against the relevant contractors and all were convicted. The average fine for each contractor was \$14,100 with one of them being fined \$24,000. The FEHD has issued warning letters to the contractors concerned to require them to immediately rectify the irregularity or otherwise, the department will initiate necessary contract enforcement action.

Besides following up on the complaints received, the LD, with the assistance of the FEHD, also mounted blitz operations during February and March this year targeting on the cleansing contractors of about 150 public toilets. The LD is taking prosecution actions where evidence of breaches of the Employment Ordinance has been gathered.

Apart from the LD and the FEHD, the Immigration Department has also received reports relating to employment of illegal workers. However, it does not maintain separate statistics on the number of complaints received about illegal employment of TWP holders by cleansing contractors of the former MSDs and the FEHD.

- (b) To ensure that the employees enjoy their statutory rights and benefits and that contractors would not employ illegal workers, all cleansing contracts under the FEHD clearly stipulate that the contractors must abide by the Employment Ordinance and other relevant legislation relating to staff employment. The FEHD reserves the right to terminate a contract should the contractor be found violating the terms of the contract. The FEHD is liaising closely with the LD to gather information on conviction records of its contractors to facilitate considerations of appropriate action being taken against the contractors. Besides, the FEHD will also gather relevant information from the Immigration Department for consideration of follow-up action to be taken.

Besides, the LD and the FEHD have enhanced co-operation to exchange the latest information on their contractors to facilitate the stepping up of enforcement of the Employment Ordinance.

Apart from taking proactive enforcement action, the LD and the Immigration Department have also launched complaint hotlines and publicity against violations of labour legislation and illegal employment. The law, policies and regulations are widely promulgated through the mass media, Internet websites and leaflets.

The Government is also reviewing the existing tender arrangements for service contracts that rely heavily on the deployment of non-skilled workers in order to bind tenderers to their own tender offers on wages, working hours and other employment conditions for staff and take these offers into account as part of the tender evaluation.

## **BILL**

### **First Reading of Bill**

**PRESIDENT** (in Cantonese): Bill: First Reading.

### **BOILERS AND PRESSURE VESSELS (AMENDMENT) BILL 2001**

**CLERK** (in Cantonese): Boilers and Pressure Vessels (Amendment) Bill 2001.

*Bill 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 Bill**

**PRESIDENT** (in Cantonese): Bill: Second Reading.

**BOILERS AND PRESSURE VESSELS (AMENDMENT) BILL 2001**

**SECRETARY FOR EDUCATION AND MANPOWER:** Madam President, I move the Second Reading of the Boilers and Pressure Vessels (Amendment) Bill 2001.

The Bill aims to remove the ambiguities under the Boilers and Pressure Vessels Ordinance and the Boilers and Pressure Vessels Regulations and make other technical amendments.

The Boilers and Pressure Vessels Ordinance controls the use and operation of boilers and pressure vessels and provides for the holding of inquiries in case of accidents. It requires boilers and steam receivers within its coverage to be operated under the direct supervision of a "competent person" who should possess a certificate of competency issued by the Boilers and Pressure Vessels Authority (the Authority), who at present is the Commissioner for Labour. The Authority is empowered to collect fees to cover the cost in respect of certificates of competency.

In 1997, when proposals on review of fees and charges were examined by the then Legislative Council, ambiguities were identified in the provisions relating to the charging of fees under the Ordinance. The Administration undertook to review and clarify the relevant provisions in the Ordinance and the Regulations.

We now propose to introduce legislative amendments to clarify various fee charging and refund arrangements. In particular, the Bill expressly provides that the Authority may charge fees for conducting examinations, endorsement of an existing certificate, and general recovery of expenditure without being limited to the costs incurred in respect of each application. It also specifies the circumstances under which a certificate may be issued, endorsed or revoked and fees refunded. The issue or endorsement of a certificate will require the production of evidence or the passing of an examination to satisfy the Authority that the applicant is a fit and proper person with substantial experience, skill and knowledge in the operation of the classes and types of boilers and pressure vessels concerned. In line with other provisions of the Ordinance, the Bill also provides access to the Administrative Appeals Board for persons who may be

aggrieved by administrative decisions in relation to the issue, endorsement or revocation of certificates under the Ordinance.

The proposed amendments are largely technical in nature and will not affect the existing control over the use and operation of boilers and pressure vessels. I recommend the Bill to Honourable Members.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Boilers and Pressure Vessels (Amendment) Bill 2001 be read the Second time.

In accordance with the Rules of Procedure, the debate is now adjourned and the Bill referred to the House Committee.

## **MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Members' motions. Two motions with no legislative effect. I have accepted the recommendations of the House Committee as to the time limits on speeches for the motion debates, but I shall not repeat these recommendations here. I only wish to remind Members that I am obliged to direct any Member speaking in excess of the specified time to discontinue.

First motion: Mechanism for handling complaints concerning medical incidents.

## **MECHANISM FOR HANDLING COMPLAINTS CONCERNING MEDICAL INCIDENTS**

**MR ANDREW CHENG** (in Cantonese): Madam President, I move that the motion as printed on the Agenda be passed.

Madam President, Hong Kong's medical complaints mechanism has been criticized for years. One conclusion reached by Prof William HSIAO of

Harvard University after his review of the Hong Kong health care system in 1999 is that the local medical profession enjoys a superior status but lacks any external checks and balances, with the result that medical practitioners will try to protect one another whenever they are subject to outside criticisms. He therefore recommended the establishment of an independent medical complaints office, and his recommendation is supported by patients' organizations and the general public. A survey conducted by the Democratic Party last week shows that 85% of the respondents support the idea of establishing the office of an independent medical complaints commissioner. In fact, in the United Kingdom, Ireland and Australia, similar medical complaints mechanisms have already been put in place. The advantage of such a system is that they can act as a central body for receiving and investigating medical complaints. Besides, they can also act as an arbitrator and assist both sides in their negotiations over the issue of compensation, thus saving patients' trouble to file their claims to the Courts.

The issue of establishing the office of an independent medical complaints commissioner was already discussed in the Legislative Council last year. Most of the Members who expressed reservations about the proposal at that time mainly had the following worries. First, they were worried that such a commissioner may interfere with professional autonomy. But this worry is founded on a misunderstanding. In foreign countries, the duties of independent medical complaints commissioners are mainly connected with investigation and mediation. All matters falling within the autonomy of the profession, such as arbitration and penalties, will be referred to the relevant professional bodies after the completion of investigation. Second, they were afraid that the proposal might lead to a situation of laymen regulating the professionals. The solution to this is indeed very simple; the appointment of an adequate number of health care professionals to conduct investigation will suffice. Third, they thought that there might be a problem of structural redundancy. But it must be pointed out that an independent medical complaints commissioner will in fact only streamline the existing duplicated investigation procedures. The Honourable Albert HO of the Democratic Party will speak more on the issue of an independent medical complaints commissioner a moment later.

Madam President, the recent "mobile telephone doctor" incident was only the fuse that set off the explosion of public discontent with the medical complaints mechanism. Members of the public, patients' organizations and representatives of public opinions have voiced their discontent, demanding reforms. The Medical Council of Hong Kong (MCHK) and even the entire

medical complaints mechanism have lost their credibility, and the entire medical profession is now put under pressure from all sides. Following the incident, Dr LAI Kang-yiu, Chairman of the Hong Kong Public Doctors' Association, reminded doctors openly on the Internet that "they should treat all patients as potential complainants and keep them at arm's length", and that "they should not establish any relationship with their patients so very easily, the case of Dr TUNG being a good example to show why". From this open advice to doctors on the Internet, it can be seen that both doctors and patients alike lack a sense of security and mutual trust. If this continues, the quality of health care services will definitely be affected, and there is thus an obvious need to improve the existing complaints mechanism.

Madam President, after the discussions going on in the past few weeks, society has come to the consensus that the MCHK must be reformed. The aim of the motion today is not to ask Members to comment on individual incidents or criticize the MCHK. I hope that the discussions today can instead give Members an opportunity to voice their views for the reference of the Government, the MCHK and the relevant panel of the Legislative Council during their future discussions.

Madam President, regarding the reform of the MCHK, we maintain that the number of lay members sitting on it must be increased, while that of the representatives elected from among doctors should be reduced. The practice of having only one lay member on a medical complaints hearing committee should also be reviewed. The MCHK should consider the possibility of inviting outsiders to serve as members of its hearing committee, and the number of lay members should be increased. Mr LAW Chi-kwong of the Democratic Party will discuss in greater detail the reform of the MCHK.

Madam President, the "mobile telephone doctor incident" shows that there are indeed many problems with vesting professional bodies like the MCHK with the power to handle medical complaints. We know that under the existing legislation, the handling of medical complaints is simply not the main duty of the MCHK. Nor is it the main duty of the MCHK to seek redress for the party having suffered damages following its investigation into a case. Rather, its main duty is simply to maintain the professional standards of doctors. That being the case, even if the allegation of "doctors protecting doctors" is not founded, patients may not necessarily receive fair treatment in the complaint process because many members of the MCHK are elected from among doctors.

This makes us especially worried about their bias towards their own peers in the profession.

Madam President, when it comes to the Honourable Howard YOUNG's amendment, the point which I look at with enormous reservations is the deletion of the proposal on setting up an independent medical complaints mechanism. Actually, the proposal was already put forward by the Harvard Team after its "diagnosis" of Hong Kong's health care system, and the community has since expressed a strong demand for the establishment of such a mechanism. If Mr Howard YOUNG's amendment is based on the worry that an independent medical complaints commissioner may interfere with the professional autonomy, then I think the overseas experience mentioned by me earlier can serve to convince him that this worry is unfounded.

For the above reasons, Madam President, we very much hope to see the establishment of an independent body with the sole responsibility of dealing with medical complaints, because only by so doing can we deal with medical blunders in a fair and impartial manner. I hope that the Liberal Party and all those colleagues who opposed the establishment of such a mechanism last time can now reconsider their position. It is hoped that they can realize the need for such a mechanism in Hong Kong and support the motion moved by us today.

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

**Mr Andrew CHENG moved the following motion: (Translation)**

"That, as the credibility of the existing mechanism for handling complaints concerning medical incidents is being questioned by various sectors of the community, and the public have no confidence in the ability of the mechanism to handle complaints in a fair and independent manner, this Council urges the Government to immediately take measures to improve the existing mechanism, including reforming the Medical Council of Hong Kong's composition, operation and procedures for handling complaints; this Council also urges the Government to set up an independent mechanism for handling complaints concerning medical incidents."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Andrew CHENG be passed.



**PRESIDENT** (in Cantonese): Mr Howard YOUNG will move an amendment to this motion, as printed on the Agenda. The motion and the amendment will now be debated together in a joint debate.

I now call upon Mr Howard YOUNG to speak and move his amendment.

**MR HOWARD YOUNG** (in Cantonese): Madam President, I move that Mr Andrew CHENG's motion be amended, as set out on the Agenda.

In the debate held in this Council in June 2000, the Liberal Party expressed reservations about the setting up of an independent medical complaints mechanism. However, the ruling given by the MCHK with respect to the "mobile phone doctor" incident has triggered off a public outcry and exposed the serious problems with its complaints system. We therefore consider it imperative for the mechanism to be reviewed expeditiously. The Liberal Party agrees with the original motion that the Government should immediately take measures to improve the existing mechanism, including the MCHK's composition, operation and procedures for handling complaints. We are going to move an amendment not because we object to the setting up of an independent mechanism for handling complaints. I must stress that I have moved the amendment not because I object to the setting up of such a mechanism. It is mainly because I think it is not necessary for us to draw a pre-emptive conclusion with respect to the setting up of an independent mechanism for handling complaints at this stage. Instead, we should discuss various feasible solutions with a more open-minded attitude for the purpose of making improvement.

This incident can be likened to a heavy bomb dropped on the medical profession. The ruling made by the MCHK has not only attracted extensive criticisms from various sectors of the community. Even experienced professionals from the medical sector have expressed diverse views one after another. Examples are Dr Arthur K C LI from The Chinese University of Hong Kong, Dr LEONG Che-hung, a former representative of the medical constituency of this Council, and so on. Dr the Honourable LO Wing-lok, a colleague of this Council, has also stressed repeatedly that it is not appropriate for doctors to use mobile phones when performing operations. It can be said that the ruling made by the MCHK and its repeated "explanations" subsequently have made the matter even worse.

As today's discussion is triggered off by the "mobile phone doctor" incident and the ruling made by the MCHK, we should concentrate on discussing how similar incidents can be prevented from recurring and how reform can be carried out to the complaints system of the MCHK. It seems there is no final decision yet as to whether an independent system for handling complaints should be set up as proposed in the original motion, or whether the same objective can be achieved through making improvement to the existing mechanism. As the Government and the MCHK are reviewing the matter and this Council has also set up a working group to follow up the relevant issues, we are of the view that it is not necessary to draw a conclusion at the present stage. Insofar as this issue is concerned, the Liberal Party would like to make a few points of comment.

I shall begin with the complaints mechanism of the MCHK. At present, the MCHK has the power of instituting prosecution, conducting investigation and making ruling simultaneously. The MCHK is like playing the roles of a detective, prosecutor and a judge at the same time. Yet these roles might have potential conflicts. Although these three duties are not carried out by the same group of members, there is inadequate regulation of the whole process. The MCHK should indeed consider separating these powers. Furthermore, in handling complaints or launching investigations, the MCHK may exercise discretion and invite overseas medical experts from overseas to attend its hearings. In doing so, it will improve the image of the existing complaints mechanism that impresses others as "doctors protecting doctors". The medical council in Britain has recently planned to raise the ratio of layman representatives from one fourth to one half. The MCHK should indeed follow this wise example by increasing the number of layman representatives so as to boost transparency and accountability.

At present, if members of the public are not satisfied with the rulings of the MCHK and wish to lodge an appeal, they can only petition the Court for a judicial review. However, the costs involved will impose a heavy burden to the public in general. The Government should take this problem into consideration as well.

A number of people have criticized that the existing complaint channels are exceedingly scattered and the procedures complicated. In the Consultation Document on Health Care Reform published earlier, the Government proposed that a Complaints Office should be set up in the Department of Health for the purpose of providing patients with "one-stop" support services and rendering

assistance in reconciliation, investigation and referral to the relevant regulatory bodies. Can this proposal strike a balance between professional autonomy and the independent handling of complaints? I believe the Secretary for Health and Welfare, Dr YEOH Eng-kiong, will give us an explanation in connection with the progress of this idea later.

Of course, it is undeniable that the setting up of a mechanism for handling medical complaints involves a lot of expertise. In the course of conducting the review, extensive audience must be given to the views of people inside and outside the profession and efforts made to seek collective wisdom before the review can gain support from both the medical profession and the public.

Lastly, I hope to emphasize again that there is basically no major conflict between the amendment moved by the Liberal Party and the original motion moved by the Honourable Andrew CHENG. We hope the Government can make improvement expeditiously for members of the public are greatly disappointed with the existing mechanism for handling medical complaints as a result of the "mobile phone doctor" incident. The only difference between the amendment and the original motion actually lies in that the original motion asserts that an independent mechanism for handling complaints is the only avenue whereas we adopt an open attitude towards this proposal. We do not oppose it. The Government should reform the complaints mechanism expeditiously. In the course of review, it should also discuss other options, including the setting up of an independent mechanism for handling complaints and the feasibility of improving the existing mechanism, before drawing a conclusion.

Let me make an analogy by likening the existing complaints mechanism of the MCHK to a computer. The original motion considers that the computer is "incurable" and proposes to trash it and replace it with a new one. In our view, it is not necessarily "incurable" at this stage. Therefore, we have proposed considering reinstalling all the softwares and upgrading certain hardwares. Of course, if there is nothing we can do at the end, we might really need to replace the computer with a new one. I am just trying to make an analogy by using an example of information technology. We hope the review can be conducted in a broader and more liberal manner. Therefore, we still have reservations about the original motion. We hope Honourable colleges can support the amendment.

Madam President, I so submit.

**Mr Howard YOUNG moved the following amendment: (Translation)**

"To add "in the wake of the 'mobile phone doctor' incident" after "various sectors of the community"; and to delete "set up an independent" after "this Council also urges the Government to" and substitute with "expeditiously complete the work on reforming the"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Howard YOUNG to Mr Andrew CHENG's motion, be passed.

**MISS MARGARET NG:** Madam President, when a person's negligence has caused loss and injury to another person, he is liable under the law to that person. This applies equally to doctors and lawyers. If they were careless in treating their patients or handling their clients' affairs, their patients and clients are entitled to make them pay for it.

But disciplinary action is about something more than that. Society expects members of a profession to meet a much higher standard, so that if they fall below this high standard, they would be punished, even if no loss or injury is thereby caused to another person. This is the fundamental consensus in the community, and between the community and the professions.

Madam President, this implicit understanding about maintaining a higher standard of professional conduct is necessary. It is crucial for the trust between a doctor and his patient, between a lawyer and his client. Members of the public entrust their lives and property, their safety and welfare, to the professionals that they engage. The consent of each member of the profession to meet the high standards of conduct, and the duty of the profession as a whole to maintain them at pains of punishment, up to the expulsion from the profession, are also the basis of our privilege to practise in that profession.

Therefore, whatever other remedies may exist to protect the rights and interests of the public, there has to be a strong and healthy system for professional discipline, for internal regulation and, if necessary, internal policing to achieve that purpose. Where the maintenance of high, professional conduct is concerned, the principle of self-regulation has always applied. This is the most appropriate and most effective way.

Madam President, the motion of the Honourable Andrew CHENG calls this principle into question. It suggests that complaints about professional misconduct of doctors could no longer be a matter to be scrutinized and dealt with by the Medical Council of Hong Kong (Medical Council), but by some other body or some other as yet unspecified "mechanism".

Although the original motion does not say so explicitly, the amendment proposed by the Honourable Howard YOUNG has specified that the call for change arose from the recent scandal of the so-called "mobile phone doctor".

One has to face the facts. The fact is that public confidence in the Medical Council has been deeply affected. The fact is that members of the Medical Council have defended the indefensible conduct of a doctor taking his mobile phone with him into the operating theatre, who appeared to be prepared to answer, and did answer an outside call in the course of an operation on a patient. Whatever the disciplinary charge, and whether or not that charge was proved against the doctor, this conduct must fall short of the standard which the patient has the right to expect of his doctor. Since the incident, doctors of my personal acquaintance have strongly voiced their dismay to me that such conduct should have been seen to be endorsed.

It is time the Medical Council did some soul-searching, listening to the views of their own members.

However, Madam President, does the solution lie in taking away the medical profession's power of self-regulation, and imposing in its place an external regulator? Or, is the external regulator an additional complaints channel and tribunal? If it is additional, is it supposed to work in parallel with the Medical Council, and which of them is supposed to have the superior authority? Where is the justification for this radical change which is bound to create great uncertainty?

If self-regulation is taken away from the medical profession, the presumption must be that other professions will be treated equally. Madam President, its application to the legal profession will be disastrous to the rule of law, because it will fundamentally destroy the existence of an independent legal profession.

It is the day-to-day job of legal practitioners to defend clients against criminal charges, to represent members of the public to sue the Government in

civil suits and in judicial review, challenging the lawfulness of the action of executive authorities in court, advising clients what action that they can take to protect their rights against maladministration. Would the public have any faith in their lawyers to represent them fearlessly and without regard to consequence to themselves, if ultimately the power to discipline and regular lawyers lies in the hands of the Government and the Secretary for Justice or his/her appointees?

Apart from representing clients, the legal profession has spoken out strongly in the past against the Government, out of its duty to defend the rule of law. We have not hesitated just because Beijing may be displeased. Whatever the reality, what will the public perception be in the future? In the Mainland's efforts to move towards the rule of law, one of the most important goals that they try to achieve is to make the legal profession independent from the Ministry of Justice. Is Hong Kong to go in the opposite direction?

Madam President, a threat to its independence will also be most unfair to the legal profession. Barristers and solicitors are subject to the most vigorous discipline by the Hong Kong Bar Association and the Law Society of Hong Kong respectively.

Under the Legal Practitioners Ordinance, any member of the public can complain to the appropriate professional body for the misconduct of a lawyer. Every complaint will be studied by a committee for the profession.

The "track record" proves that the professional bodies mean business. In the three years from 1998 to 2000, for the Bar, eight Disciplinary Tribunals have been set up. Six barristers had been suspended and five of them ordered to pay all or part of the cost, while seven were admonished or advised.

On the part of solicitors, 64 Disciplinary Tribunals have been set up. Six solicitors were struck off, another six were suspended from practice, two were prohibited from practising as a partner or sole proprietor, 53 were censured and 54 were fined. The highest amount fined was \$310,000.

Madam President, our disciplinary procedure is not perfect. But we can search towards perfection.

It will not only be unwarranted to undermine the professions' self-regulation, Madam President. It will be tragic.

**MR LAU PING-CHEUNG** (in Cantonese): Madam President, I am not a member of the medical profession. Nevertheless, the architectural, surveying and planning constituency represented by me has been beleaguered by the Housing Department's substandard piling incidents over the last few years. This is why I deeply share the motion moved by Mr Andrew CHENG today, particularly his demand on the Government to establish an independent mechanism to monitor professional conduct.

I was chairman of the Hong Kong Institute of Surveyors in 1996-97. As a former chairman or core member of a professional body, I would like to talk about how I felt when the professional body to which I belong was subject to public questioning.

Professionals have been able to command considerable trust and respect from the general community for quite some time. Yet such trust and respect are not inborn. Nor can they be taken for granted. It has indeed taken a long time before colleagues in the profession were finally able to command trust from the public by virtue of their expertise and work performance. Both my friends in the constituency and I cherish this honour very much. Once problems are identified, we will do our utmost to clarify the matter and make corrections if such problems really exist and give encouragement if no problems are found. We will definitely not injure the reputation of the entire profession by defending the conduct of individuals in the profession. Faced with public allegations against individual members of the profession, we will, based on objective facts, examine whether the allegations are true or not to determine whether the relevant allegations are caused by misunderstanding. I believe Dr LO Wing-lok will adopt the same attitude towards the "mobile phone doctor" incident too.

As a core member of a professional institute, I sometimes find myself in a helpless position as a result of certain public allegations and misunderstanding. As it is difficult for outsiders to understand our feelings, we can only try our best to explain to the public.

Let me cite the "mobile phone doctor" incident as an example. Public criticisms have overwhelmingly considered that the doctor in question had erred and it was unacceptable for a doctor to take phone calls when performing operations. I definitely agree that it is unacceptable for a doctor to lose his concentration, talking with friends on the phone, and engage in casual conversations during operations. Such acts amount to great disrespect to his patients too.

Of course, from the angle of the ordinary public, it is easy to "rule" that this doctor has violated the "laws of God in heaven" (the so-called professional misconduct). However, as core members of a professional body, we must handle this case with care and caution, particularly because the ruling might affect whether this member can continue his practice in future. Such a serious allegation can only be made beyond all doubts.

Sometimes, we must admit that even the code of practice of a professional body is not necessarily flawless. For instance, the doctor brought a telephone into the operation theatre in this incident. Can we thus rule that he has made an unforgivable mistake? As far as I know, staff of the Correctional Services Department are prohibited from bringing anything into prisons. However, a divergent ruling was passed in a recent precedent. I have cited this example to illustrate that there are bound to be grey areas however detailed a code of practice is set out. The crux of the problem rather lies in whether the relevant body can make remedies with a responsible attitude upon the exposure of a problem.

The MCHK has already set up a task force to examine ways to plug the loopholes. In my personal opinion, this move does indicate that the MCHK is being responsible and is willing to further enhance its transparency. Members should wait patiently to see what proposals the reform group of the MCHK will come up with. Regarding Mr Andrew CHENG's proposal of setting up another independent complaints mechanism, I see that there is no difference between this mechanism and the MCHK. Will the proposed mechanism deal with medical complaints jointly with the MCHK or a committee comprising mainly non-professional members will be formed to handle complaints against professional conduct?

As regards whether it will be feasible and professional for a committee comprising mainly non-professional members to formulate the code of practice for medical practitioners, I have great reservations. Even if the terms of reference of this committee are confined to handling complaints and conducting investigation, will the committee be able to make decision appropriately? Will the situation of non-professionals making decisions for professionals arise?

Madam President, I would like to cite a scar-literature movie, "To Live", as an example to facilitate discussions. This movie was set in the Cultural Revolution. As Members are all aware, intellectuals suffered terribly and were



subject to severe criticisms from the masses during the revolution. But when the protagonist's daughter was soon to be born, he realized that those inexperienced and incompetent students would only make things worse if they were to help with the delivery. As a result, he immediately went to seek help from an old professor of a medical school. I hope Honourable Members will not err like what people did during the Cultural Revolution just because of a single incident, particularly when the MCHK has already indicated its determination to carry out reform. I so submit.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam President, the status of medical personnel is built not on their expertise. It is more important that they are trusted by patients. However, the public has started to lose faith in them because of the medical incidents taken place over the past few years. If we are to "suit the medicine to the disease", the right direction is to set up an independent mechanism for handling complaints concerning medical incidents, as proposed in the original motion, and to perfect the existing system. Honourable colleagues in this Council might doubt whether we can really "suit the medicine to the disease" by perfecting the complaints mechanism. Moreover, they might doubt whether the setting up of an independent mechanism for handling complaints would lead to overdose and make things even worse, so that the professional autonomy of medical personnel will be jeopardized. Madam President, the objective of setting up such a mechanism is to eliminate the undesirable elements and eradicate misconduct and incorrect culture in the medical sector. At the same time, the opportunity will be taken to identify the crux of the problem with a view to improving the existing health care system to promote the healthy development of the system and help the public rebuild their confidence in medical personnel and the system.

The allusion to the so-called "mobile phone doctor" incident in the amendment has given people a wrong impression that it was only after the incident that we started to fight for the setting up of an independent complaints system. Actually, it has been our long-standing goal to fight for an independent complaints mechanism. In fact, this Council has discussed this issue numerous times before. Unfortunately, the Government has so far failed to give us a positive response. It seems that unless something like the "mobile phone doctor" incident has happened and attracted wide attention will the Government's heightened attention be aroused. If the Government were willing to accept the recommendations made by the community right at the beginning, the "mobile

phone doctor" incident might not have happened. I referred to a case concerning a "baby remaining in a vegetative state" in some previous debates for this case had exposed a number of problems. For instance, the neutrality of the inquiry panel was questionable since it was made up of medical practitioners entirely. Moreover, no one was held responsible for the incident at the end. This gives people an impression that the system itself is, to a great extent, conducive to "doctors protecting doctors" whereas the aggrieved would not find any redress ultimately. The setting up of an independent system that can offer help to complainants in various areas is therefore very important. Actually, members of the public have all along been demanding that an independent system for handling medical complaints be set up. One of their demands is to set up an independent committee and an ombudsman office to provide independent administrative support. The duties of the committee and the office shall include receiving complaints, carrying out investigation, playing a monitoring role, compiling reports, making recommendations, and so on. In the event that legal proceedings are involved, the ombudsman may give the complainant legal support too. Its office will function like the existing Equal Opportunities Commission.

Some Honourable colleagues might question whether the setting up of another independent mechanism for handling complaints will lead to redundancy for different channels of complaint are already available (a point raised by a Member earlier). In my opinion, the setting up of an additional mechanism for handling complaints will not lead to any conflict. Furthermore, this mechanism is targeted at investigating complaints and providing complainants with further assistance, particularly legal assistance. It is therefore different from various professional medical bodies for they are mainly responsible for making rulings on the conduct and behaviour of registered practitioners. There is simply no conflict between them. This is why I think it is justifiable for me to demand an independent mechanism for handling complaints and, at the same time, a perfecting of the existing mechanism. The focus of discussions held recently is on the reform of the MCHK. Regrettably, the medical profession has been displaying an intransigent attitude by using "self-regulation" as its shield. I see that non-governmental bodies have never intended to deprive any organizations of their right to self-regulation. Just as pointed out by the Secretary, Dr YEOH Eng-kiong, in a motion debate last year, "We should not take self-regulatory right as granted. The foremost prerequisite for exercising such right is that various professions are trusted by people in the community and, in exercising such right, they should assume a social responsibility with the safeguard of

public interest as its prime concern". Nevertheless, a number of rulings made by the MCHK in the past, particularly the one made in connection with the "mobile phone doctor" incident, have left us the impression that members of the MCHK have put the interests of the medical profession before public interest. Moreover, they have tried to cover up misconduct by using "self-regulation" as an excuse and abused the public trust in them. As pointed out by Secretary YEOH last year, when there is an imbalance between "self-regulation" and public confidence, it is only right to conduct a review of the existing system to put it back on the right track. I really cannot understand why the medical profession is still putting up strong resistance.

Social trust forms the basis of a profession, whereas trust stems from the performance of the profession. We demand the establishment of an independent mechanism for handling complaints and a perfecting of the existing system because we want to ensure the quality of medical care and boost public confidence. I hope the medical profession can refrain from adopting a resistant attitude. I also hope it can constantly upgrade its standard of service and, in particular, boost public confidence.

Under the prerequisite that this independent mechanism will comprise both professionals and non-professionals, how can one say that the opinions of the medical profession and medical expertise are completely neglected?

Subject to this prerequisite, I will support the original motion.

Madam President, I so submit.

**MR ALBERT HO** (in Cantonese): Madam President, it is not the first time the contents of Mr Andrew CHENG's motion were discussed in this Council. We have raised this subject again — the proposal for setting up an independent mechanism for handling complaints concerning medical incidents, not because of the "mobile phone doctor" incident, nor because of any grudge against any group, including the MCHK or its Public Complaints Committee. Rather, I feel that as there are indeed some intrinsic problems with the mechanism for handling complaints under the existing health care system, a full-scale review must be conducted. In our opinion, setting up an independent mechanism for handling complaints should be one of the possible solutions to resolve the matter.

As we have said repeatedly before, the present mechanism for handling complaints against medical incidents is very much decentralized. The bodies and agencies involved include the respective committees of inquiry of hospitals under the Hospital Authority, as well as committees for enforcing codes on professional practice and maintaining professional standards in hospitals. Apart from that, the Department of Health also has its own investigation mechanism, while the MCHK is familiar to all as the statutory body responsible for investigating into complaints. Every investigation mechanism has its own terms of reference. For example, the investigation mechanism in a hospital may proceed further than determining whether the doctor against whom a complaint has been lodged is guilty of dereliction of duty. It may also review issues such as the systems of the hospital, its overall allocation of human resources, and so on. Hence, the functions of the different investigative bodies and that of the agency responsible for final arbitration are just not the same.

Let us look at the matter from another angle. If unfortunately a patient encounters a medical incident, he certainly suffers great pain. In most cases, these members of the public may not be able to obtain support from professionals, such as doctors or lawyers. Nor do they know which mechanism to turn to or who can help them gather the information needed before complaining, so that they can have the truth of their cases. For these reasons, we must consider the need to improve the system in order to help people who are unfortunate enough to have to face a medical incident. We must let them know, firstly, facts of the case; secondly, what effective complaint channels are there and thirdly, the possibility of arbitration through one or more credible professional bodies. In the Consultation Document on Health Care Reform, the Government proposes to set up an independent complaints office for all complaints. The office will conduct investigations into the complaints and forward the findings to the relevant regulatory bodies. But one must bear in mind that if the office is set up as a government agency, public participation may not be possible and the credibility of the office will be open to question.

The independent mechanism for handling complaints concerning medical incidents we have in mind should not only find out the facts but also help the patient through the provision of mediation services, so that patients need not undergo expensive and time-consuming legal proceedings to redress their grievances. The independent organization for handling complaints concerning medical incidents may also provide all forms of assistance to the complainant to

find out the truth. In addition to medical personnel, this organization should also comprise members from other sectors capable of offering assistance to patients who have lodged their complaints. Nevertheless, I must admit that since we have not explained to Members clearly the present concept, some Honourable colleagues may have mistaken our ideas. I feel very sorry about that.

I wish to take this opportunity to describe once again our ideas. We have made reference to some advanced countries, including Britain, Ireland and Australia, where independent medical complaints systems are in place. In some countries, the system is even known as the system of medical ombudsman. Actually, the establishment of such a system has not and will not interfere with the independence and autonomy of the profession. This is because the primary responsibility of the mechanism is to provide assistance in collecting evidence, so that the whole truth of the case can be revealed. Within the complaints organization, there will be many experts providing opinions on the information collected as to its relevance and then making judgements or recommendations. After finishing its report, the complaints organization may forward it to the various committees responsible for supervising the professional conduct of members of the profession, (the committee responsible for supervising the professional conduct of doctors, for example, may retain its present responsibilities). Then it will deal with the case basing on the report compiled with the information collected. Certainly, the committee may, as one of its ways to handle complaints, consider whether there is any need for a hearing, or draw a conclusion on the basis of the information presented in the report. As regards professional standards, we feel that they should be determined ultimately by the relevant professional bodies. However, the most important responsibility of the medical complaints mechanism we have in mind is to provide assistance to helpless patients to collect the all-important information, as well as to utilize the professional expertise of its members to compile a full report with the information collected to enable the patients to know all the facts.

The complaints mechanism will not lead to a situation where professionals are being led by non-professionals. This is because we trust that the mechanism or the ombudsman will be working under the leadership of a medical professional. Moreover, the mechanism should comprise members from the

medical profession and other professions related to the medical sector, who will facilitate the discharge of duties by the mechanism.

Lastly, I wish to stress that the mechanism will never replace the functions of some existing professional bodies. We certainly agree to a reform of the MCHK, if it so decides, but the medical complaints mechanism to be set up in the future will not replace the work of the MCHK. Thank you, Madam President.

**MISS LI FUNG-YING** (in Cantonese): Madam President, members of the public have often questioned and expressed dissatisfaction with the mechanism for handling complaints concerning medical incidents over the years. In particular, the MCHK, which is responsible for instituting prosecution, investigating into complaints and arbitration, has become an object of public castigation. Indeed, the performance of the MCHK in its recent hearing and ruling in respect of the "mobile phone incident" has served to give people the impression of poor transparency, "doctors protecting doctors" and "health care professionals defending health care professionals". Given that the credibility of the MCHK is on the verge of bankruptcy, it is not surprising that the voices calling for the establishment of an independent mechanism for handling complaints concerning medical incidents have become louder and louder.

Madam President, since I am not a member of the health care profession, I will only expound my personal views on the matter from a consumer's point of view or that of the grass-roots sector. As society is progressing continuously, the health care sector also needs to accept new challenges and monitoring by the public. I have no objection to the principle of professional autonomy. But then again, since the precious lives of patients are directly affected by the professional conduct of health care professionals, particularly doctors, I consider it understandable and reasonable of patients and their families to have high expectations of doctors in terms of their service quality and professional conduct. Given that doctors are highly respected by the public, they should adopt an open and positive attitude towards the complaints lodged by patients or their families. In addition to bravely squaring up to the problem and accepting monitoring by the public, they should also make their best efforts to provide the public with quality health care services. There is indeed no need for them to adopt an opposing or antagonistic attitude, and then presume that the establishment of an

independent mechanism for handling complaints concerning medical incidents will certainly be to the disbenefit of the health care profession. I hope the following two live examples can address some of the worries of the profession and shed light on the matter for Members.

A friend of mine in his early thirties was recommended to take a minor endoscopic surgery because of the gastroxia he was suffering from. The doctor told him that it was only a minor operation, and that he would need to be hospitalized for two days at most. However, as a result of a medical blunder, my friend never resumed consciousness after the surgery and remained in a coma for almost half a year. During that period, many friends and relatives suggested his wife lodging a complaint against the hospital. But she refused to do so on the grounds that so long as her husband was alive, she would still trust the doctors and hope that they would save her husband one day. Eventually, my friend died, leaving behind his elderly parents and three small children, the eldest among whom was but nine years old. Nevertheless, his surviving wife has not lodged any complaints as advised by others. In her deep sorrow she said, "Nothing is more precious than the life of my husband. Now that he is dead, could lodging a complaint help to change this fact or do any good?" Another friend of mine almost lost one of her legs after undergoing cardiac catheterization because the doctor had caused her leg to suffer from thrombocytosis in the process of stopping the surgical wound from bleeding. Likewise, her friends and relatives also suggested her complaining against the doctor concerned. However, she persuaded them not to lodge any complaint because she did not wish to affect the prospect of the doctor responsible for the surgery, who was an intern.

Indeed, on top of high expectations, the general public also has much love and tolerance for the health care profession. But do members of the profession really hold fast to their professional conduct and treat patients like their beloved children? Recently, I read in the newspaper an article written by a barrister (who is also a medical doctor) which said something to the following effect: "The MCHK is legally vested with the power only to exercise control over the conduct of medical practitioners, it does not have any power to file claims for compensation on behalf of patients, nor does it have any lawful authority to help patients seek redress for their grievances .....". Given the intrinsic limitations of the MCHK in striking a proper balance between the interests of doctors and patients, I really cannot see any reason why a comprehensive review should not be conducted to rectify the problem.

In debating the motion on the Consultation Document on Health Care Reform, I put forward a proposal for setting up an effective complaints mechanism to dispel the people's concern that government departments and professionals are defending the interests of each other. I also suggested introducing representatives from patients' rights groups and grass-roots groups into the mechanism to reflect directly the view of the public. Yet, please do not mistake my suggestions for requests for replacing the position of the health care sector and the relevant professionals and their members in the mechanism. As facts have proven clearly to us, improvement must be made to the MCHK in terms of its composition, operation and procedure for handling complaints. We should not wishfully think that the MCHK would slowly but steadily improve itself any more. The relevant departments should heed the public consensus and make an effort to facilitate the healthy development of the health care system and set up an independent mechanism for handling complaints concerning medical incidents. It is only in this way can the principle of impartiality, openness and balanced participation be adhered to, thereby making it more convenient for patients to lodge complaints and enhancing the credibility of the complaints mechanism.

I so submit and support the original motion. Thank you, Madam President.

**MS AUDREY EU** (in Cantonese): Madam President, the ruling of the MCHK in respect of the "mobile phone doctor" incident has aroused much resentment among the public. Actually, this is not the first time the public sees similar rulings. Over the years, we have heard voices criticizing the MCHK for its unfair rulings and denouncing it as "doctors protecting doctors". This time, not only the public and the Legislative Council share this idea, even the Government has found it necessary to review the existing mechanism for handling complaints concerning medical incidents. The mechanism seems to have reached such a stage that improvement must be made to it without delay. The MCHK has undertaken to reform the mechanism and established a task force on reform for this purpose.

Recently, many people are talking about restructuring the composition of the MCHK, increasing the number of layman members in the Committee, as well as enhancing the transparency of its disciplinary hearings. But then, to be fair, does any professional body conduct its hearings in public? What more can the



MCHK do to achieve a high transparency? Is it necessary for the MCHK to conduct its internal meetings or executive committee meetings in public? If the answers to these questions should be in the affirmative, the consequences would be very serious. In addition to affecting the independence of the medical professional, I believe opening the meetings to the public would only serve to reduce such meetings to a superficial level not capable of carrying out any concrete discussions. With regard to the ratio of layman members to professional members, I do not think the ratio is particularly lower in the MCHK in comparison to other professional bodies. At present, among the 28 members of the MCHK, four are laypersons; besides, there are plans to increase the number to six in the future. Could the credibility of the MCHK really be enhanced by substantially increasing its number of layman members? I am afraid not. As a matter of fact, the public is now losing confidence in the medical sector simply because of the sector's traditional protectionist way of thinking and culture, as well as its practice of stressing "professionalism" to the neglect of the interests of the public.

Very often we can read in the newspapers that in the event of the public criticizing the MCHK for its unfair ruling, the Committee would invariably make such responses as "the blunder or mistake of negligence made by the doctor concerned is not unforgivably serious", "the MCHK can hardly respond to the charges made because without any direct contact with the patient concerned it is not possible for the MCHK to apprehend how complicated his condition is", and so on. I have met patients who wished to sue a certain doctor for professional negligence but could not do so because no doctors were willing to testify for them. One of the complainants told me that he had once asked the doctor who gave him treatment to prove that the previous doctor was guilty of professional negligence, but the doctor refused and even warned that he would rather stop giving the complainant treatment if he should keep pleading with him.

This is exactly what I mean by the traditional conservatism of the medical sector. For their parts, many doctors believe that they are good doctors so long as they can heal patients of their illness, and that they are "being bad to their medical fraternity" and doing harm to others' professional reputation if they should testify against other doctors. This idea of caring about only the interests of the profession to the neglect of the feelings of the public is totally unacceptable. It is the responsibility of every professional to safeguard the profession to which he or she belongs and to report the misconduct of any member of the profession, regardless of whether the misconduct is a major one or a minor one. So doing

is by no means "being bad to the fraternity". On the contrary, it takes bravery to report the case concerned so that the mistakes can be rectified. This is conducive to the development of the profession and is a necessary social responsibility.

Indeed, professional interests can never be separated from the interests of the public because "independence" is of the utmost importance to any profession. The self-regulation a profession is founded on the trust of the public and their respect for the profession concerned. Once the credibility of the profession drops as a result of various reasons and incidents, it can hardly convince the public by self-regulation and self-supervision.

Madam President, I agree that there is much room for improvement in the existing mechanism for handling complaints concerning medical incidents. Improvement can be made to the mechanism in many ways, including:

- (a) establishing an efficient mechanism vested with the necessary power to investigate into medical complaints or incidents;
- (b) providing the MCHK with more legal support, especially in such aspects as instituting prosecution, supporting judgement with legal argument, and so on;
- (c) regulating the composition and number of members of every arbitration board formed to conduct hearings; and
- (d) enhancing public education in this respect.

Nevertheless, Madam President, we should remain flexible for a mechanism is rigid. If we are to enhance public confidence in the mechanism for handling complaints concerning medical incident, it is imperative that the medical sector is willing to initiate a change of its existing way of thinking and culture, both of which are so traditionally conservative. That is why I support Mr Howard YOUNG's amendment. As regards the original motion moved by Mr Andrew CHENG, I have reservations because of the proposal to set up an independent complaints mechanism. At the present stage, I am afraid misunderstanding would easily be caused if the original motion should be carried. Besides, the normal development of professional autonomy would also be stifled seriously, thereby affecting not only the medical sector but also the independence

of other professions as well. This is by no means the direction in which Hong Kong should develop. Since the Honourable Miss Margaret NG has already explained this point in her speech, I do not wish to repeat it here.

Even though I have some reservations about the proposal put forward by Mr Andrew CHENG for setting up an independent mechanism at this stage, it does not follow that I can agree to or tolerate the "mobile phone" incident. Rather, I firmly believe that within the medical sector there are still many doctors who are willing to shoulder their social responsibility and take part in helping and facilitating the reform of the MCHK. I very much hope that they will not let us down but will promptly come up with proposals to rebuild the confidence of the community in the medical sector. Madam President, I so submit.

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

**MR MICHAEL MAK** (in Cantonese): Madam President, since the "mobile phone doctor" incident that aroused a lot of heated debates in the community, the MCHK has failed to take any disciplinary action against the doctor in question. Furthermore, its members even unanimously agreed that doctors might use mobile phones during operations under justified circumstances. Such a professional opinion inevitably results in the public questioning the MCHK for having considered the matter out of sectoral interests. Unfortunately, the irrational ruling made by the MCHK not only proves once again that doctors' rights override the interests of the public but also reduces the confidence of patients in the doctor-patient relationship. The credibility of this self-censoring mechanism has been brought to the verge of bankruptcy.

Up to this moment, none of the members who have taken part in dealing with the "mobile phone" incident have been courages enough to come forth to admit their fault in front of the public. I am disappointed. Are professionals people who never admit their fault?

As professionals, they should enjoy the autonomy conferred by the Basic Law, and non-professionals should not direct them in matters within the ambit of their respective professions. However, because the "mobile phone" incident involves the life and limbs of a patient, the Government has to take action to

pacify the angry public. Some doctors may be disgruntled because the authorities have interfered with their professional autonomy. I must hereby explain to the public and colleagues that the essence of professional autonomy lies in the formulation of standards for professional practice and conduct, not in self-deceit or sophistry. It is precisely because the MCHK has failed in self-discipline that some outside help is needed. The Government and we Members have a duty to protect the interest of the people. How can the MCHK refuse to listen to criticisms and suggestions from other people on the pretext of professional autonomy?

I am nevertheless pleased to see some people with conscience, such as Prof Felice LIEH MAK of the Working Group on Reform of the Medical Council, who admitted for the first time last week that a mistake had been committed by the MCHK in the "mobile phone doctor" incident. Without mentioning names, she criticized the Chairman of the MCHK for being hostile towards patients and being furious as he explained the event to the public. A former member of the MCHK, who is the Vice-Chancellor of the Chinese University of Hong Kong, Dr Arthur LI, even bluntly accused some doctors for ignoring medical ethics. Dr LI went on to advise doctors in Hong Kong to have regard for the feelings of their patients.

In fact, in the past three years, the MCHK has received as many as over 200 cases of complaints. Among them, 100 cases reported each year involved doctors who had allegedly failed to demonstrate professional responsibility towards patients. However, very few doctors were found guilty and penalized. I wish to point out that if not for the present incident, which led to a public outcry, the Secretary for Health and Welfare would not have declared reform for the MCHK and requested that it make changes to the complaints system to dispel public worries.

I think that before the Working Group on Reform of the Medical Council comes up with any formal reform proposals, the MCHK should immediately allow more laymen to take part in their disciplinary inquiries. It would be most desirable if half of its members can be drawn from among laymen as soon as possible. Some may think the quality of rulings would be affected if more lay members sat on the MCHK. This view may be the result of professionals having an unduly inflated ego. If doctors think their views are justified, they may try all means to make the general public understand their views and convince them so that they are satisfied with the rulings. This may help improve the negative image of "doctors protecting doctors".

After the "mobile phone doctor" incident, the MCHK should learn its lesson and conduct some in-depth self-analysis. It should carry out a strategic reform as soon as possible to restore public confidence in the medical complaints mechanism. I hope the reform may live up to the expectations of the public rather than retelling the story of "The Emperor's Clothes" in ANDERSEN's *Tales, told for Children*, in which only the clever can see the emperor's clothes when in fact there were none. The relevant members of the MCHK should refrain from deceiving themselves and others.

The repercussions caused by the incident have brought out an important message: There is an urgent need for the Government to set up an impartial, transparent and independent medical complaints mechanism. The mechanism should be vested with functions of not only investigating and handling complaints and arbitration, but also providing legal support for patients. I suggest that retired Judges be invited to be members of the mechanism. They should monitor and supervise the operation of the mechanism and brief the public about their work on a regular basis. In this way, the confidence of the public may be enhanced. The mechanism should resemble the Equal Opportunities Commission, which deals with complaints in an independent, fair and impartial manner. Under the mechanism, the Government may be sued if it is found to have made a mistake.

The medicine may be bitter but it will do good. To restore the credibility of the MCHK, it should accommodate dissenting views, follow the valuable advice from other sectors of the community and carry out a thorough reform to remove the authoritarian and self-protectionist image it has cast in the past.

Lastly, I wish to share with colleagues an unpleasant experience. I was nearly deprived of the chance to speak some time ago, when I was invited to a forum hosted by the American Chamber of Commerce. As I was speaking about the separation of medicine and dispensing practices, I mentioned the MCHK, which unfortunately seemed to have prompted a certain Legislative Council Member to lose control, snatch the microphone from me and try three times to stop me from speaking. The host of the forum had to intervene politely so that I could continue. Could the particular Member listen to the views of the public when the Member could not even tolerate the views of a colleague? The unpleasant experience worries many of my constituents as to whether my views would continue to be suppressed in future. I am fortunate enough to be able to enjoy my freedom of speech in this Council without having my microphone snatched when I voice my views.

Since I have lost my confidence completely in individual members of the MCHK, I would not believe they would exercise any self-discipline with foresight. Hence, I wish an independent complaints committee can be set up. Honourable Members, in public interest, please vote with conscience by supporting the proposal for setting up an independent mechanism for handling complaints concerning medical incidents.

**MR AMBROSE LAU** (in Cantonese): Madam President, in the wake of the "mobile phone doctor" incident, the issue of improving the existing mechanism for handling complaints concerning medical incidents has become something that cannot be evaded. The Hong Kong Progressive Alliance agrees that the Government should be urged to take immediate measures to improve the existing mechanism for handling complaints concerning medical incidents. We also think that the major directions of reform should be: first, the enhancement of public participation and monitoring; second, the maintaining of the professional autonomy of the medical profession and that the MCHK should continue to handle issues on professional conduct and competency. As for the proposals and concepts on reforming the MCHK, public consultation should be conducted and advice from the medical profession sought to facilitate study of the details and to strike a sensible balance between the interest of the profession and that of the public.

Any kind of disregard of the interests of patients and disrespect to the medical profession will not only damage public interest but also the interest of the profession as well. The "mobile phone incident" shows that the interest of the profession cannot be separated from the fundamental interest of patients. If the two are made to separate or put in confrontation, it will cause direct damage to the reputation and interest of the profession. The lesson to be learned is a very serious one.

Madam President, the reform to be made to the MCHK should seek not to set up a new system or to undermine the professional status and authority of the MCHK. It should focus on improving the mechanism for handling complaints concerning medical incidents. That can be divided into the following two parts:

First, when handling complaints concerning medical incidents, the MCHK should aim at making a review of the ambiguous and grey areas with a view to reducing them. Therefore, the proper thing to do is to lay down requirements

on the use of mobile phone during an operation and specify the circumstances under which use is permitted or prohibited. With such kind of express requirements, there will be some kind of criteria for the MCHK to follow in handling complaints. The urgent task for the MCHK now is to make a speedy review of the grey areas concerning complaints in respect of medical incidents from a professional perspective and in response to public demand.

Second, public participation and monitoring should be enhanced. The proportion of lay members on the MCHK should be increased as appropriate so as to embrace more views and positions from the public and the patients when handling complaints. This will help allay public concerns and reduce the bias of the MCHK in merely considering the case from the point of view of the medical profession and its interest.

Madam President, this Council should not just urge the Government to adopt immediate measures to improve the existing mechanism for handling complaints concerning medical incidents, it should also urge the Government to give due respect to the autonomy of the medical profession. The Government should not make unilateral decisions on reforming the MCHK's composition, operation and procedures for handling complaints. It should decide on the specific reform measures to be adopted after listening to the mainstream views of the public and the profession.

Madam President, the best point of balance between the autonomy of the medical profession and the interest of the public is to call for mutual trust on the part of doctors and that of patients, and to eliminate the misunderstanding and lack of trust between both parties as a result of professional misconduct or other reasons. In this regard, the MCHK certainly has a lot of work to do. First of all, it should encourage doctors to respect the dignity, health and life of patients and to promote greater professional ethics among doctors. When handling complaints, the MCHK should not merely insist on the autonomy of the medical profession, it should give more consideration to the views and interest of the public and patients. It should know that the interests of the profession are linked with the well-being of patients. If the profession fails to command the trust of the public and patients, the dignity and interests of the profession as a whole will be injured.

Madam President, I so submit.

**MISS CHAN YUEN-HAN** (in Cantonese): Madam President, the focus of today's debate is naturally on the controversies arising from the ruling of the MCHK on the "mobile phone incident". First of all, I wish to say that the MCHK is only one of the links of the mechanism for handling complaints concerning medical incidents. The handling of complaints concerning medical incidents is fairly complicated as opposed to complaints concerning other professions. Complaints against the services of public hospitals are handled by the Public Complaint Committee under the Hospital Authority (HA) while complaints against public out-patients services and private hospitals are handled by the Department of Health. Basically, there is no channel for complaints against private out-patient services and various professional medical bodies will handle matters related to the breach of professional conduct by members. The public can also lodge civil claims with the Court. The whole mechanism for handling complaints therefore involves four organizations and three different procedures. I believe this structure alone will scare away many victims. The credibility and transparency of the complaints organizations are also insufficient. If the HA as a provider of public hospital services concurrently handles complaints, its identity will be confused. The Department of Health that monitors private hospitals is again a merely "toothless tiger". Concerning the performance of the MCHK after the "mobile phone incident", the outsiders think that it is an organization in which "doctors protecting doctors". Therefore, people who lodge complaints really have to go through an ordeal and they must be persistent and dauntless.

I would discuss the complicated complaint process first.

Madam President, the community appeals for a reform of the mechanism for handling complaints concerning medical incidents and the Democratic Alliance for Betterment of Hong Kong (DAB) thinks that the objective of the reform must be to unify numerous channels of complaint and to increase the transparency of the handling of complaints by professional bodies and their accountability to the public. Besides the DAB, the community has also asked for the establishment of an independent mechanism for handling complaints concerning medical incidents. We think that a mechanism for handling complaints not only receives complaints against various medical services but also plays a mediator's role. It is because many complaints concerning medical incidents are caused by the lack of communication between health care professionals and patients. Therefore, independent mediation can naturally reduce the number of complaints and defused the tensed relationship between health care professionals and complainants.



Naturally, investigations should be conducted into serious cases that can hardly be resolved by mediation. If the functions of accepting, investigating and ruling on complaints are centred on a professional body, we believe this is an excessive centralization of powers that will call the body's credibility into question. It is hoped that this problem can be solved step by step. In our view, the future independent mechanism for handling complaints should be responsible for preliminary investigations and submitting reports to professional bodies which will then perform its statutory functions of conducting hearings and making rulings. Thus, the powers of accepting, investigating and ruling on complaints will be separated. Adding an appeal mechanism to the disciplinary hearing procedures will enable a conclusion to be made and enhanced credibility of the mechanism.

Madam President, we think that there is a serious imbalance in the composition of the MCHK. There is a 6:1 ratio of professionals to laymen and the ratio is 7:1 for disciplinary hearings. We always doubt if the views of non-professionals are taken seriously. We think that the composition of the MCHK and that for disciplinary hearings should comprise 60% of professionals and 40% of laymen. In my view, this ratio meets the quests of the community at present. As to representatives who are not from the medical sector, apart from other professionals such as judges and lawyers, there should also be representatives of patient bodies. The composition of the MCHK will then be more representative and it will have higher credibility.

Madam President, the "mobile phone doctor" incident brings out an issue that warrants examination. At present, the MCHK conducts disciplinary hearings on the basis of the professional guidelines and the criminal standard of proof. From the professional accountability perspective, the ruling of the MCHK may not be professionally improper but, from the perspective of the public, the ruling obviously falls short of their expectation. Regardless of the divergent views of the medical profession on the ruling of the MCHK or the defensive attitude of the MCHK in respect of its ruling initially, still we can see that they are very rigid and oblivious to the feelings of the public, and they have a strong sense of resistance against outsiders. I wish to say that doctors are life-saving professionals but not self-defending warriors. The establishment of professional conduct not only protects doctors from interference in their work but also protects the interests of patients to a larger extent. Thus, doctors should ultimately be accountable to the public but not to the fossilized provisions of the guidelines.

Madam President, nobody wants to be an enemy to doctors, and I believe I already emphasized this point during the last discussion with the relevant body. We hope to establish a reciprocal relationship and we hope that the reform will foster a solution of the existing problems one by one, and ultimately do justice to the medical sector.

I have just elaborated our ideas without a break. It is actually problematic for one organization to handle both the complaint and arbitration processes. Therefore, we suggest that a mechanism for handling complaints be set up. For example, we can establish an independent mechanism to replace the numerous channels of complaint. The mechanism for handling complaints should gather and sort out the complaints and handle different complaints differently. Mediation is conducted in the course of sorting out the complaints and cases in which mediation does not work will be referred for arbitration or handling by such organizations as the MCHK. As to the composition of this organization, as I said, a 6:4 ratio is very important.

I think that reorganization of the complaints mechanism is needed but I would like to stress again that we do not wish to challenge any professional body, we only wish to enhance the credibility of the mechanism by way of this reorganization. We hope that all doctors and health care professionals will not regard the reform as a challenge.

In fact, a lot of my friends in the medical sector also think that the existing structure requires reorganization. I hope that our debate today will allow us to accommodate different views in the course of this overall social reform.

Thank you, Madam President.

**DR RAYMOND HO** (in Cantonese): Madam President, the incident of the "mobile phone doctor" is a hot topic for discussion in town. It has aroused public concern for the mechanism for handling complaints concerning medical incidents. The MCHK is playing a role of vital importance in this incident. It is responsible for prosecution, investigation and making ruling. The ruling in respect of the "mobile phone doctor" case in itself has caused a public outcry, for it is known to everyone that the use of mobile phones in the operating theatre would affect the equipment there. The fact that an explanation of forgetting to

switch off the mobile phone was offered as an excuse for the 13-minute chat on private business is certainly not what a doctor would normally be expected to do. When the MCHK has put on three hats in this case, the outcome of the ruling is bound to cause great doubts among the public.

Madam President, there is a so-called separation of powers in law, that is, the separation of the executive, legislative and judicial functions for the purpose of mutual monitoring and regulation. However, the MCHK has amassed the three powers of prosecution, investigation and judgement in itself. It is a contravention of this idea of separation of powers. It is therefore understandable that the public is suspicious of the ruling made by the MCHK. In view of this, I think the MCHK should make a review of its existing mechanism to examine if there is a need to improve the mechanism for the handling of complaints, or to increase the number of lay members or to enhance the transparency in certain areas to serve the purpose of monitoring and restoring public confidence in the MCHK.

Doctors are a profession and their professional expertise should be respected. That is why their professional autonomy should be safeguarded as well. During the period from 1985 to 1990 when the Basic Law was being drafted, the various professional bodies all strove for assurance that their autonomy would be free from government intervention. That is the story of the huge amount of efforts put which led to the existence of Article 142 of the Basic Law. I have great hopes for the ability of the medical profession to maintain self-discipline, for in all professions, self-discipline is of essential value.

Finally, I would like to talk about the mechanism for complaints in the entire health care system. Apart from the MCHK which should make view its existing complaints mechanism, the Government should likewise do the same. It is reported in the newspapers that each public hospital has set up its own public relations department to receive complaints. However, we still read in the newspapers that people write to the newspapers to complain against hospitals. Does this show that the public is unaware of the existence of a public relations department in the hospitals or that they think lodging a complaint with it is useless? I think the Government should pay more attention to this state of affairs and to keep itself abreast of the latest developments.

As no one can ever keep himself away from diseases, and so health care services are of vital importance to everyone. I hope that the "mobile phone doctor" incident can prompt the Government to make a review of the existing health care services.

Madam President, I so submit. Thank you.

**MR LAW CHI-KWONG** (in Cantonese): Madam President, in today's debate, Mr Andrew CHENG has already expressed some of our views on the reform in general. I think I have to raise a more specific question brought out by today's debate, that is, the issue of professional autonomy.

The speeches made by Mr Andrew CHENG and the Honourable Albert HO have already clarified our position earlier. We have no intention to intervene professional autonomy. However, I would like to make some additional explanations. Some people consider that the Democratic Party should not do anything to undermine the rights of professional bodies, which are conferred by the Basic Law. I find this argument extremely strange. According to Article 142 of the Basic Law, the Government of the Hong Kong Special Administrative Region (SAR) shall continue to recognize the professions and the professional bodies recognized prior to the establishment of the SAR, and these recognized professional bodies may, on their own, assess and confer professional qualifications.

I wish to say that, firstly, the Democratic Party has no intention to undermine the autonomy of professional bodies; secondly, the incident in question has nothing to do with the issue of the assessment of qualifications for practice in the various professions prescribed by the Basic Law. Of course, it is obvious that the issue of professional autonomy this time is related to the issue of self-discipline in the professions. The Democratic Party fully agrees that the issue of professional conduct generally involves complicated professional knowledge and experience, therefore, the issue of professional conduct should be dealt with by the professionals, and this is not controversial at all.

Madam President, however, I still wish to remind representatives of professional functional constituencies in this Council of two issues. Firstly, self-discipline in the professions is not a form of legal power which is taken for granted; the existence of such power is a result of a process of legislation and the

conferring of a mandate by the public, as certain statutory professional bodies are empowered to exercise such statutory power. In other words, this power of self-discipline for professionals originates from the public, which has nothing to do with Article 142 of the Basic Law. Secondly, I find it most unfortunate that part of the debate has become a kind of self-defensive response made by many representatives of professional functional constituencies in this Council. Such kind of defensive behaviour of the professional sector which resembles conditioned reflex is rather unfortunate.

Representatives of professional functional constituencies in this Council should function as representatives of their professions, they should serve the community by serving the legislature, instead of fighting for the interests of their respective professions. As a result, I urge everyone not to adopt the attitude of defending his or her own profession in the course of considering the "mobile phone doctor" incident. Instead, they should think about what experience we can gain from this incident, and examine the composition of their respective professional bodies, the procedures of dealing with alleged breach of professional code of conduct, as well as the composition of the relevant committees.

Mr Andrew CHENG has already mentioned certain views of the Democratic Party on the reform of the MCHK, therefore, I just wish to add a few words. The purpose of including lay members in a statutory professional body is to enhance its transparency and credibility; it is a common practice adopted by many professional bodies, though not every professional body has adopted the same practice. Accordingly, whenever the MCHK deals with various important issues, the law requires that participation of lay members is necessary. In the last amendment of the Medical Registration Ordinance, the relevant Bills Committee reached a consensus that the proportion of lay members should not be less than 20%. At that time, the reference proportion was 25%. As a result, one lay member seat in the MCHK was added on top of the three lay member seats, making a total of four. Subsequently, the number of seats for other representatives went up since then, from the 20 seats initially to 28 seats in the end. According to this computation, the 28-member committee only had four lay members, thus the Bills Committee consensus reached during the deliberation was thus defeated. When the Bill was read the Second and the Third times, we also expressed our dissatisfaction with the approach of "scrambling for seats".

The composition of the disciplinary committee or the disciplinary hearing committee is also one of the issues we should consider in making the review. The MCHK has many representatives from the community nowadays, but the number of directly-elected members only accounts for one fourth of the total 28 members, that is, only seven members are directly elected. Of course, another seven members are representatives of the Hong Kong Medical Association who are returned by election. Then seven candidates are selected to be members of the MCHK, so they are elected through indirect election. As a result, only seven members are directly elected, and they account for only 25% of the total number of members. In that profession, people always cast doubts on the content of democracy. However, I believe other professions are also facing the same problem.

I am also aware of the fact that every professional body, such as the MCHK, will have representatives from different sectors. For example, the MCHK has representatives from universities and other groups, each of them is really playing an active role. However, in view of the current trend in society, I really hope that the content of democracy in professions can be increased. Why should I raise this issue? It is because increasing democratic representation is one thing, the emergence of some other problems is another, especially in the hearings.

Pardon me, Madam President, I have to cite the previous elections of the functional constituencies as an example. At that time, during the functional constituency elections, including those of the medical profession, every candidate was asked a question, that is, which side would they stand up when there were contradictions between interests of the profession and interests of the public. I had never heard an answer different from the one below, as all of them gave the same answer, that is, interests of the profession should prevail. If we take the MCHK as an example, they have elected a group of representatives through election. If they give first priority to the interests of their profession, then, how can they observe the mandate of the public in relation to self-discipline and to protect the interests of the public? The balance between the two is one consideration we shall make. One of the ways to deal with the problem is that, although members of the MCHK are mainly returned by democratic election, we can use another method to form the disciplinary hearing committee or the disciplinary committee, such as by appointing certain people with credibility and authorizing them to form a panel, for example, a five-member panel, to conduct the disciplinary hearing. The panel may include lay

members such as retired judges or members from patients' organizations. All of these proposals can increase the panel's transparency and credibility. I believe we can conduct a review of these respects.

Mr Albert HO has mentioned earlier that the Government once made certain proposals on the setting up of an independent mechanism within the Department of Health to handle complaints. The only difference of the demand of the Democratic Party is that the mechanism should be independent of the Government. Other than this, our demand is not much different from the Government's proposal.

Madam President, I so submit.

**MISS CYD HO** (in Cantonese): Madam President, I will let Dr LO Wing-lok be the last speaker, though I know he has been longing for his turn to speak, I do not mind speaking before him.

Madam President, there were really lots of medical incidents in the past, and every time they followed the same pattern: blunders made and reported, "trial" by the mass media and criticisms by the public, and worst of all, business as usual in the end, as if nothing had happened. After each of these incidents, public confidence in the health care sector would decrease, and so would the mutual trust between health care professionals and patients. This has in fact done more harm than good to the whole community. Actually, the whole community has to pay a price for the lack of mutual trust between patients and health care professionals. As Mr Andrew CHENG said earlier, some doctors have now adopted a defensive approach in their treatment of patients. They will conduct all sort of tests, blood tests and scanning, and so on, even when someone is just suffering from nothing but headache or fever. This will not only lead to unnecessary public expenditure but will not do any good to the patient either. Too many X-ray examinations may produce harmful effects on the body. Moreover, since we have heard about the alleged involvement of health care personnel in sexual harassment complaints, the presence of a third party in the course of treatment is therefore necessitated. So the Hospital Authority (HA) may have to spend huge sums of money on employing additional manpower to meet such requirement, because the presence of a third party is of particular significance in proving whether or not a certain allegation of sexual harassment really stands. From this, we can see that when people do not have any

confidence in the complaints mechanism, medical personnel may resort to a defensive approach. This may give rise to unnecessary public spending. When this happens, some may well say that since the costs of medical services have gone up, it is necessary to explore other means of financing. All this is really unnecessary.

Madam President, when it comes to mutual trust, I think that to a large extent, the problem is caused by a lack of communication; many patients may have the feeling that health care personnel have not made any efforts to communicate with them. The possible reasons are: firstly, in the past, professionals might all have a kind of superiority complex; they assumed that the public would not understand what they were told, and thus decided not to say anything; secondly, this may be due to problems with the health care system. We have received many complaints, especially complaints involving the public health care system. Some of these complaints show that some doctors have to work extremely long hours, up to 80 or 90 hours a week, with practically no leave over a period of three whole months. Since the working hours of doctors are already so long, how can they find time to communicate with their patients? How can they afford the time to explain the treatment to be given to patients? I very much agree to a point raised by Dr LAI Kang-yiu in a newspaper article today. He agrees that there are human errors, but he thinks there are also deficiencies in the system, and these deficiencies have made it easier for human errors to occur. Therefore, I hope that while the Government suggests that reforms should be introduced for the MCHK and the medical profession, it can also bear in mind that it must bring in its own measures to back up the reforms. The Government should provide medical professionals with a suitable working environment, so that human errors in the course of their work, whether intentional or unintentional, can be avoided.

Madam President, there is bound to be a time when a patient can no longer be cured, otherwise our world will have a serious population problem. That said, I must add that if our complaints mechanism cannot command public confidence, then if anything happens to a patient, his family members will only become even more suspicious of the health care personnel concerned. There will be no end to this sort of complaints. Therefore, I do hope that the related matters can be handled expeditiously, for they warrant our prompt attention. Moreover, I am also very worried about one point and that is: that our past discussions on this subject have not been open or tolerant enough, and the MCHK has really done a very poor public relations job. It often fails to inform



the public of those issues that must be made known, and is often too slow in responding. It is hardly surprising that it has been criticized by the media and people; and, it even has to be patiently coaxed before it releases the information required. For example, it has failed to tell us that it is actually very important for the health care personnel in an operation theatre to maintain contact with the outside, and that it is sometimes really necessary for doctors to use a telephone. Following further inquiries with the HA on this matter, we discover that some operation theatres are equipped with public announcement systems, but some are not, so it is really necessary for doctors in the latter kind of operation theatres to keep in touch with the outside either by means of fixed network phones or mobile phones. The use of telephone is, therefore, really essential in maintaining contact with the outside. Moreover, both the hearing proceedings and authority of the MCHK are actually governed and regulated by law, but the MCHK did not know that it should keep the public informed of this. It was only after it had been criticized for one whole week that it finally saw the need to clarify this point with the public.

In fact, we should really take this opportunity to conduct a thorough review on the various existing complaints mechanisms. As pointed out by some Members, the Legislative Council, the Department of Health, the HA and the patients' rights organizations can all receive complaints now. We should now review the various complaints mechanisms to see whether the public can really understand their operation and whether any members of the public have lodged their complaints with the wrong bodies. In the latter case, if a person is asked to lodge his complaint elsewhere, he will immediately become very suspicious and upset, thinking that "doctors are protecting doctors". But then, it may just be that he has lodged his complaint with the wrong authority due to certain administrative errors. Therefore, it is necessary to establish an independent secretariat — I dare not propose to establish an independent complaints mechanism — to refer these complaints to the appropriate channels. Moreover, it is also necessary to provide an independent service, whereby patients are offered professional advice on the entire hearing. I would like to clarify that what I mean by "independent" is not that the secretariat should be independent of the medical profession, because I think professional advice is indispensable. Without such advice, no one can have a clear idea of what has actually happened. However, I do hope that this mechanism can really be "independent" of any conflicts of interest and clashes of roles. That way, the participation of professionals will not be interpreted as a sign of "doctors protecting doctors" or an attempt to defend the interests of the medical profession.

Finally, Madam President, up to this point, I inevitably have to talk about the subject of professional autonomy again. In fact, professionals have always been regarded as intellectuals, the conscience of society; during the age of landed aristocracy, the middle class was a force that served to check and balance the power of totalitarianism. This is a fine tradition, one which I hope the Hong Kong Bar Association can continue to uphold; I also hope that other sectors can adhere to the tradition of maintaining checks and balances against the Government. However, the continuation of this fine tradition depends on the healthy forces within the profession and integrity of the professionals themselves, and they can only win the respect of the community and maintain their credibility by upholding their own integrity. If there are any black sheep in the profession, or if some in the profession commit acts of misconduct, the entire profession would be held accountable to the public. Thank you, Madam President.

**MR NG LEUNG-SING** (in Cantonese): Madam President, individual medical incidents that occurred recently have aroused public concern, and the mutual trust between the medical profession and patients has been damaged to a certain extent. Therefore, the question of how to improve the mechanism for handling medical complaints has currently become an issue that should be thoroughly discussed by various sectors of the community with sentimental bias cast aside.

In principle, self-regulation has all along been operating well in all professions. We can see that the effective implementation of a self-regulatory system has enabled various local professions and trades to develop continuously and ensured a good quality and reputation of the professions and trades. However, with the continuous development of society, the public naturally has increasingly higher expectation of the quality of professional services. For some professional practices or principles, even though they were accepted in the past or had not aroused considerable concern, they may also face new requirements and challenges over time as society develops. Such a situation, which exists in different professions, actually reflects that the ultimate purpose of the existence and development of any profession is not to serve itself, but to provide the best service for the public. To fulfill this purpose, society, by enacting legislation, provides individual profession with an independent and self-regulatory system, which aims to confer on it a monopolistic status in its professional practice. The system can, on the one hand, prevent outsiders from intervening in or even leading the profession and provide the profession with

ample room for self-development on the other. This arrangement is also an implication of public expectation of a profession to improve its service quality continuously and meet the expectations of the public. It can be said that it is a contractual arrangement based on the mutual trust between society and individual professions. Under this arrangement, all parties should hold a balanced view. On the one hand, society must be prudent in dealing with any call for intrusion and intervention in the independence of a profession. On the other hand, all professional sectors must understand that the so-called superior professional status is not a matter of course. If they neglect the purpose of serving the public, pander to the outworn beliefs, and fail to respond to public expectation of professional services as the development of society continues, it may damage the mutual trust on which the social contract mentioned above is founded.

As for the medical complaints mechanism that has recently aroused public concern, I think there is also a need to strike a balance between responding to public expectations and maintaining professional independence. The problems that cropped up in the past have indicated that it is indeed necessary to improve the structure and operational procedures of the existing mechanism. In particular, more efforts should be made to further tune in with patients' feelings and situations. In the course of handling the complaints, more professional assistance both in the medical and legal aspects should be provided for patients, allowing greater transparency in the complaint procedures so as to enhance the embodiment of the principle of natural justice.

However, it does not mean that there is a need to set up another medical complaints mechanism. In fact, a more effective measure is to make improvements to the existing mechanism. If another mechanism is set up to oust the constructive and active participation of the medical profession, then it will be easy for the profession to be influenced by laymen, in detriment to the independence, autonomy and scope of development of the profession. In the long run, it may not be in line with patients' interest. But if another mechanism is established, under which constructive and active participation from the medical profession is allowed, it will be very difficult to see how it is different from making improvements to the existing mechanism. If both systems co-exist, apparently that is redundancy. If the latter is replaced, it will be nothing more than old wine in a new bottle. The proposal to set up a so-called independent complaints mechanism can always be heard in the social public policy context.

But such call for independence merely for the sake of independence will easily bring formalism into play, so it must be handled with care and prudence.

Madam President, I so submit.

**DR LO WING-LOK** (in Cantonese): Madam President, before I go on, I need to declare my interest first. I am a doctor and a member of the MCHK. Since the amendment moved by Mr Howard YOUNG involves an individual case handled by the MCHK with the addition of the phrase "after the occurrence of the 'mobile phone doctor' incident", as a member of the MCHK, I am not allowed to vote against or for the amendment. Therefore, I will absent myself from the Chamber when the amendment is put to the vote. I hope you, Madam President, and Honourable colleagues will understand that my absence means no disrespect.

Recently, some people requested the MCHK to separate its investigation function from other functions. I would like to take this opportunity to give a brief explanation. The MCHK has an internal mechanism in place to ensure that its investigation function is independent of its prosecution and arbitration functions.

The investigation work of the MCHK is conducted by its preliminary inquiry group. Members of the group include one layman member, several professionals and one person not belonging to the MCHK. A member of the MCHK serving as member of the preliminary inquiry group will not be allowed to take part in future formal inquiries. The legal advice given to the preliminary inquiry group is also independent of the advice given by legal advisors of the MCHK. Therefore, the investigation and arbitration functions of the MCHK are basically independent of each other.

The lack of resources is the biggest problem faced by the preliminary inquiry group for all its members are volunteers. However, they have to handle approximately 200 cases each year. Therefore, most of the cases are dealt with by way of correspondence because members of the preliminary inquiry group can only spend very limited time on interviewing complainants. Perhaps this is why the complainants feel that they have not been taken seriously by the MCHK.

I think the best way to improve the investigation work is to increase the resources of the preliminary inquiry group by, for example, commissioning some experienced doctors and lawyers to carry out investigation, rather than making the investigation power independent of the MCHK. If the Government wants to play a role, it can appoint doctors and lawyers to assist the group in carrying out the investigation work.

Some members of the public have demanded that an independent mechanism for handling complaints be set up. Their first argument is no matter what reform is carried out to the MCHK, only doctors are subject to its regulation. Other aspects of the medical sector are not regulated by the MCHK. In fact, this argument cannot stand because all serious medical complaints are targeted at doctors. Complaints of a serious nature are seldom lodged against paramedical staff such as nurses. Even if it happens, the existing mechanism is able to deal with such complaints. As for complaints related to medical administration, a number of mechanisms for handling such complaints are also available and these mechanisms have not been strongly criticized by the public.

The fact that serious medical complaints are mainly targeted at doctors does not mean that doctors' conduct is especially poor. It is only because doctors play a leading role in the health care system and public expectation of doctors is particularly high. More often than not, doctors are eventually held accountable to the public. Therefore, if we can see this point thoroughly, we will understand the operation of the medical regime and understand that the public is actually appealing to the Government to reform the mechanism for lodging complaints against doctors. Therefore, it is not necessary for Honourable colleagues to package the complaint mechanism against doctors as a medical complaints mechanism.

In order to retain the profession-led status, we must satisfy the aspiration of society. As the saying goes, "You have made your own bed and you must lie on it." The medical sector know this only too well.

If I ask how "independence" can be defined, I think many people cannot possibly give me an answer. Nevertheless, I can say this. A Complaints Office established under the Department of Health is definitely not independent because the office is not independent of government administration.

In comparison, the MCHK can, to a very large extent, maintain independence of the government structure. The public is just criticizing that the MCHK is not independent of the medical sector.

The appeal for establishing an independent mechanism for handling complaints may imply that people are actually asking for a complaints mechanism which is independent of government administration and the medical sector. The crux of the question is: Can a mechanism for handling medical complaints remain independent of the medical sector?

How can a mechanism for handling medical complaints operate in the absence of the participation of the medical sector? In Hong Kong, which doctor can remain totally independent of other doctors? Can overseas experts take the place of local doctors? In view of the major trend of medical globalization, can overseas doctors really remain independent of Hong Kong doctors?

I think that it is not at all difficult for an organization handling medical complaints to remain independent of the administrative framework. However, it is very difficult for such an organization to remain independent of the medical sector.

The only choice before us is:

- (a) to maintain the *status quo* or even raise the status of the MCHK to enable it to operate independently of the administrative framework; and
- (b) to reform the composition and functions of the MCHK to enable it to operate independently of the interests of the medical sector but not independently of the medical sector. We must not only do so, but also let the public see that the MCHK is able to do so.

A mechanism for handling professional complaints is most cost-effective and is in the best interests of the entire community if it is professional-led and credible. Therefore, we should focus on improving the existing mechanism instead of destroying it.

Madam President, it is very easy to criticize. But it is not that easy to realize ideals. No medical complaints mechanism in the world can be perfect.

As such, I hope that the medical sector and the public can stand on the same side and work together in search of a feasible and reasonable reform package.

I so submit.

**MRS SOPHIE LEUNG** (in Cantonese): Madam President, we have a debate over a very professional issue in this Chamber today and Members apparently have divergent views. It just rained very heavily; does it mean we will be presented with a new scene after the refreshing shower on the subject of our debate today?

Some said that three professions have emerged in the 20th century, namely, the legal sector, the medical sector and the engineering sector. Some also said that as doctors and lawyers work at an even more professionalized level, they have bound their own limbs and formulated a lot of professional codes, and there is even legislation on registration. The engineering sector thinks that engineers are given free rein in operation and are monitored on the basis of the codes of professional conduct. They do not have legal problems and the like. Among these three professions, the engineering sector one that has achieved outstanding performance and contributed a lot in the 20th century.

Several Members have spoken on this motion today and I have no intention to start another round of debate. But I still think that it is necessary to make a few comments after a Member has made a point about "self-protective professionals". I think an elucidation is necessary. I am not a professional, but I have taken part in the work of some professions in the past 20 years and I understand how they work. I do not think Members should say that the professions are self-protective.

In respect of the medical sector, I can say that even if a person obtains a medical degree and is recognized as a doctor, if he does not serve in the sector continuously, he can be described as detached from the sector's process of handling human lives after a certain period of time. Today, some have said that those in the profession may be self-protective and we have also debated whether the mechanism for handling complaints within the medical framework should be totally independent of the medical sector. If people who are not serving as doctors or who served as doctors in the past few years are appointed to take charge of the mechanism, they may be totally detached from the process of

saving people and rescuing them from the gates of hell. I do not think the community wants these people to follow up their complaints or determine whether someone has neglected his duty or whether there are irregularities in the relevant medical process.

Certainly, among the many so-called professions a lot of people will say that they are professionals and teachers also think that they are professionals. If we say that professionals are self-protective, Members among us who represent teachers will naturally have something to say on self-protective professionals. But if we turn to some really professional sectors such as the medical, legal and engineering sectors, laymen cannot discuss or understand what is wrong in the process of their work. I only wish to make this point and I hope that colleagues will catch my point. Thank you, Madam President.

**MR JASPER TSANG** (in Cantonese): Madam President, even if Mr Howard YOUNG has not proposed the amendment, we know very well that today's debate was triggered off by the "mobile phone doctor" incident. Indeed, after the relevant incident, there have been extensive discussions in the community on the medical sector and the medical profession, especially on the credibility of the MCHK.

At first, I did not want to think that members of the MCHK who participated in or were in charge of the hearing made an unfair decision because they wanted to defend one another. As we all know, these members, especially those from the medical sector, have worked in the profession for long and they are professionals of status. There is no reason why they should sacrifice the reputation of the whole profession to defend the reputation of a doctor. However, when I noted the remarks made by members of the MCHK to the public or in defence of their decision, I had a stronger and stronger feeling that the mechanism for handling complaints concerning medical incidents was problematic. For instance, a doctor who participated in the hearing said in a media programme that the hearing was very similar to the LIN Qiaoying case. Before the hearing, everybody thought that the doctor would be ruled to have committed professional misconduct because he had talked over his mobile phone for more than 10 minutes in the course of an operation. Could it not be his fault? As in the LIN Qiaoying case, the public initially thought that the Immigration Department was wrong but it was gradually revealed that her evidence was unreliable and there were a lot of loopholes. I also noted that a doctor who had



participated in the hearing told his colleague that his question revealed dozens of loopholes in the evidence given by the witness. Was such evidence reliable? Now that there were so many loopholes, and a doctor had pointed out in a letter to me that even if civil standard of proof was adopted in place of criminal standard, that is, if we compare the evidence given by both parties to determine the relative reliability to see who is more reliable. The evidence of the witness would still not be established and we could not assert that the doctor should be held responsible.

Evidently, this conclusion is totally contradictory to the views of the public on the incident. Firstly, no doctor has ever said that the doctor had not used his mobile phone in the course of the surgery and it was right to use mobile phone in the course of the surgery, thus, the doctor should not be reprimanded. However, why did the hearing come to such a conclusion? If we make a comprehensive survey of the whole process and mechanism for handling complaints, even if every member of the MCHK who participated in the hearing was fully responsible and they handled the complaints impartially according to the rules, we find that they could only arrive at such a conclusion. The doctor was criticized on the basis of the evidence given by the patient, but the MCHK had found during the hearing that the evidence of the patient had a lot of loopholes, therefore, his evidence was not established. I think that this mechanism as it stands fails to meet the public's requirements and it also fails to achieve the expected results. In other words, when there is a medical incident, the aggrieved patient must be fairly treated. The medical profession should learn a lesson from this medical incident. So, it is actually necessary to conduct a review of this mechanism, and the community has already reached a consensus on this need.

Would setting up an independent mechanism for handling complaints concerning medical incidents injure the autonomy and professional status of this profession? After such an incident has occurred in the medical sector, does it mean that the professional status of other professions such as the legal sector is also threatened? The Honourable Mrs Sophie LEUNG has just mentioned teachers. In the past, I had participated in the process of the professionalization of teachers. Our conclusion was that there were great differences between professions. Although they shared some commonalities, the professions were greatly different from one another. There were similarities and differences between the relationship of lawyers and their clients as well as doctors and their patients. As the Honourable Ms Audrey EU has said, the attitude of lawyers

towards other professionals in the trade was different from the "brotherhood" among doctors. Therefore, it would be exaggerating to say that setting up an independent mechanism might harm the medical profession and other professions.

Thank you, Madam President.

**DR TANG SIU-TONG** (in Cantonese): Madam President, doctors are medical professionals and they must thus be bound their professional code of conduct. But their professional code of conduct is after all just a set of general guidelines. It is very difficult to point out specifically and in exact detail what a doctor should do or should not do. For this reason, in their daily work, doctors usually have to treat their patients by applying their own professional judgement, and normally, patients will respect the judgement of their doctors, in the belief that they will do the appropriate things at appropriate times and under appropriate circumstances. But when it comes to the definition of "appropriate" and whether it is appropriate for a doctor to use a mobile phone during an operation, all will have to depend on the professional assessment and judgement of the rest of the medical profession. But if professional assessment is brushed aside, how can we assess whether a doctor is guilty of "professional misconduct"?

I have been practising medicine for 30 years, and I understand that when doctors will seldom carry and use any mobile phones, let alone chat over them in the course of operations. To begin with, an operating theatre must be completely sterilized, and the carrying of a mobile phone may bring germs into it. Besides, even if a doctor has to communicate with people outside the operating theatre during an operation, he will usually use a fixed network telephone, because the radio waves emitted by a mobile phone may interfere with the functioning of electronic equipment. To be honest, I think that even if an operating theatre is equipped with a fixed network telephone, and even if a doctor needs to follow up other patients, he must not answer any telephone calls as far as possible during an operation (unless it is absolutely necessary), lest he may be distracted. And, even if it were really true that the use of telephone by a doctor during an operation will not affect his patient, doctors should still refrain from doing so because of their professional ethics. This is a kind of respect doctors should show for their own profession and for their patients.

For this reason, although the hearing conducted by the MCHK came to the conclusion that there was no evidence to substantiate the allegation of professional misconduct against the "mobile phone doctor", we should not thus think that the behaviour of the "mobile phone doctor" was acceptable. Nor should the MCHK say so on the ground that the complications suffered by the patient after the operation had nothing to do with the doctor's use of mobile phone. The MCHK is the most authoritative professional body for the handling of medical complaints, but following its decision on the complaint, it did not explain to the patient and the public why it had accepted the defence of the "mobile phone doctor" and why it had come to the conclusion that his behaviour was not so worse as to be described as professional misconduct. The conclusion of the MCHK fails to give due regard for the feelings and legitimate interests of the affected patient. It has also underestimated the severe impact of the behaviour of the "mobile phone doctor" on doctors' professional image, thus causing people to question the impartiality and credibility of the MCHK. This is most regrettable.

In order to restore public confidence in the medical sector, I urge the Medical Council to reform the medical complaints mechanism as soon as possible. There should be, among other things, a review on whether the existing arrangement under which charges are initiated by the secretariat of the MCHK with assistance from lawyers of the Department of Justice can ensure maximum impartiality, on whether the dual role of MCHK members as both judges and jurors in hearings can ensure maximum objectivity, and on how best to work out a composition of the MCHK which can take account of both professional autonomy and reflection of public opinions. The medical sector and the public should be extensively consulted on the relevant proposals, so as to foster tripartite discussions among the Government, doctors and the wider community, and restore their mutual trust. As pointed out by Dr LO Wing-lok, we must carefully assess whether it is feasible to put in place any autonomous mechanism that is completely independent of the medical sector.

Now that the MCHK has already launched efforts to work out remedial measures to deal with the problems with the medical complaints mechanism, I very much hope that this isolated incident of the "mobile phone doctor" will not cause patients, members of the public and the media to forget the long-term contributions made by large numbers of other dedicated doctors who show great concern for the well-being of their patients. Actually, while it is certainly important to improve the complaints mechanism, it is even more important to

enhance the medical knowledge of the public and strengthen the mutual trust between patients and doctors. Medical treatment is after all different from vehicle repairs, in the sense that there is no such thing as "satisfaction guaranteed" for the former. Any treatment process will necessarily carry varying degrees of risks. For this reason, even if a doctor has done the best he can, has adhered to the professional code of conduct, and has applied his best professional expertise to treat a patient, accidents may still occur. If patients do not realize this point, thinking that "failure to cure a patient" is "professional misconduct", and that whenever a complaint is found to be unsubstantiated, "peer protection" among doctors must be the cause, then it will never be possible to resolve conflicts.

Besides, in the course of diagnosis and operations, doctors often have to apply their own judgement, so patients must have reasonable trust in their doctors. If the relationship between doctors and patients is characterized by tension and mutual suspicion, it will only be natural that doctors will tend to put their own protection before patients' interests. This will easily lead to the problem of "defensive medicine" found in some countries. This means that even when a doctor knows very well that his patient is just having a common cold, he may still carry out chest X-ray and haematological examinations for the patient, lest the patient may complain about his inadequate treatment or examinations. This kind of tense and hyper-sensitive relationship between doctors and patients will not only increase health care costs and waste resources, but also unnecessarily add to the psychological pressure of both doctors and patients. In the end, no one will benefit.

Madam President, I so submit.

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

**MRS SELINA CHOW** (in Cantonese): Madam President, it is undeniable that the "mobile phone doctor" incident has struck a heavy blow at the medical sector. The public has formed a negative view of doctors and a lot of doctors may think that it is unfair. The public is very dissatisfied with the MCHK and they think that the MCHK handles complaints in an impartial manner and doctors are defending one another.

In moving his amendment, Mr Howard YOUNG made it clear that the Liberal Party did not say that an independent mechanism for handling complaints could not be set up at this stage. Actually, we had reservations about the proposal to set up an independent mechanism for handling complaints. We cannot overlook one thing and that is, the public does not need any special professional knowledge to determine that the doctor was wrong in the "mobile phone doctor" incident. We all think that doctors should concentrate when carrying out an operation or working, but the doctor has not done so. The public determined on the basis of common sense that he was wrong. I believe most people, doctors or otherwise, will think that it is inappropriate for doctors to use mobile phones in the course of an operation. However, we have to understand that the complaints to be handled by the mechanism very often involve professional knowledge and judgment. In respect of the example cited by the Honourable Miss LI Fung-ying, I understand why the dependants concerned or the patient would be dissatisfied. In fact, ordinary people lack certain professional knowledge, if non-professionals or people who cannot understand the whole matter are to make a judgment, the conclusion may be unfair. This is the concern of professionals. Laymen cannot fully understand the situation in certain cases and they may not understand even if explanations have been given. It is because they do not have the professional knowledge, background or basis of consideration to back their judgement. However, they may have the right to make a judgement. I believe we cannot overlook this point. Therefore, we have to take both sides into consideration. While we have to make the public satisfied, we have to look after the views of the professional sector.

Undeniably, the public was dissatisfied with the decision made by the MCHK. Had the MCHK done so before and had it left people an impression that doctors were defending one another? Can we then determine that the MCHK should not handle complaints and that another independent mechanism should thus be set up? Should we put everything to an independent mechanism for resolution? This is not necessarily the case. What we need may be a mechanism composed of professionals or mainly composed of professionals so that the public can continue to have confidence and can participate. But this does not mean that the existing mechanism cannot achieve the objective by way of a reform. In fact, the public must objectively consider various complaints and they cannot merely base on the "mobile phone doctor" incident and the fact that the decision of the MCHK is not accepted by the public to thus conclude that the MCHK should not handle complaints concerning medical incidents and that

another independent mechanism must be set up. This is not the best solution in my view. We must discuss in depth how the concern of both parties can be addressed. Actually, we are only looking for a way to handle complaints impartially.

I agree fully with Ms Audrey EU that doctors should conduct a review and do some soul-searching. Insofar as this incident is concerned, I believe many doctors may not agree to the decision of the MCHK and they even think that the remarks made by some representatives have caused them embarrassment. However, we cannot thus decide that the MCHK should not handle complaints.

I hope Members will support Mr Howard YOUNG's amendment. We have not said that an independent mechanism should not be set up because this solution may actually be feasible. However, we should consider in detail various alternatives and ensure that the final choice must be impartial. We should also understand the details and the professional considerations in respect of the incident. Finally, I hope Members will support Mr Howard YOUNG's amendment.

**DR YEUNG SUM** (in Cantonese): Madam President, I think I must say a few words, or else Mr Andrew CHENG's motion will be misunderstood by Members. I have listened attentively to Members' speeches. Their arguments are broadly as follows. They opined that the call for this independent complaint mechanism arises from the "mobile phone doctor" incident, and that while the MCHK has failed to handle the incident properly, we should not seek to replace the MCHK. They added that establishing an independent complaint mechanism will mean the profession will be led by laymen. Some colleagues also pointed out that professional autonomy is a very important cornerstone of society and so, this proposal of the Democratic Party will destroy professional autonomy. In view of the severe criticisms in these three areas, I must expound the proposal and position of the Democratic Party.

Over the years, we have been continuously fighting for the establishment of an independent mechanism for handling medical complaints. Having engaged in the medical profession for long years, the Secretary should know that our proposal is definitely not made out of the "mobile phone doctor" incident. I do not wish to dwell on the "mobile phone doctor" incident either, for this incident has already dealt a heavy blow to the medical profession. I just wish to say more on the independent complaints mechanism.

Our Research Officers have collected some relevant information in overseas countries, such as the United Kingdom, Ireland and Australia. I would like to focus on the United Kingdom in particular. In 1993, the Health Service Commissioner Act was enacted in the United Kingdom and the Health Service Ombudsman was established. The Ombudsman is vested with investigative powers comparable to those of the high court, including the powers to obtain documents and require assistance from other people. The Ombudsman handles complaints against professionals including family doctors, and the scope of complaints include service standard, maladministration, inequity or sufferings caused by clinical decisions, and so on. The Ombudsman is tasked mainly to receive and investigate complaints, draw up improvement proposals and ensure response from the relevant institutions. Yet, the Ombudsman is not empowered to handle matters within the remit of the Court. With regard to the relationship between the Ombudsman and professional bodies, the Ombudsman will specifically refer complaints and inquiry reports in relation to practitioners being struck off the register or professional ethics to the relevant professional bodies for follow-up actions. From this we can see — and let me also make it clear — that Mr Andrew CHENG's motion has no intention to replace the MCHK by way of setting up an independent complaints mechanism, for many professional judgements are involved in the process and it is indeed more appropriate for the MCHK to handle them. As I have said earlier on, professional autonomy is an important cornerstone of our society. In an increasingly professionalized society, how can we shatter this fundamental principle of professional autonomy?

Dr the Honourable Raymond HO said earlier in the debate that the MCHK is vested with all the three powers, namely, investigation, prosecution and adjudication. I thought he would go on to suggest a separation of powers. But he only proposed to increase the number of lay members and the transparency of investigation, without further addressing the problem of centralization of all the three powers in the MCHK. Perhaps he did so in order to throw weight behind the position of Dr LO.

The Democratic Party proposes to bring the investigation of complaints under the purview of the independent Ombudsman, and we do not wish to see this area of work being taken up by the Department of Health. While the 1999 Harvard Report stated that the existing complaints system is riddled with problems, it did not suggest that the matter should be handled by the Department of Health either. The Government hopes to do it on its own. But we do not

agree. Basically, the Harvard Report and the Democratic Party share the same position in that we both call for the establishment of an independent mechanism for handling medical complaints. I have risen to speak mainly to make this point clear, and I hope Members will appreciate that we have no intention to have the MCHK replaced. Many issues involving professional knowledge or the definition of professional ethics must be handled by the MCHK. But should the MCHK be vested with all the powers? This is open to question. In this incident, we can see that even though the MCHK was not biased in favour of the medical practitioner, the public will still have this impression. I think it is inappropriate for the Government to play a part in it because many medical practitioners in the public sector have close relationship with civil servants. If the complaints are handled by the Department of Health, the public may not be convinced of the independence of the Department.

I just wish to add these points in order to spell out this underlying spirit. I hope Members will understand it. Thank you, Madam President.

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

(No Member responded)

**PRESIDENT** (in Cantonese): Mr Andrew CHENG, you may now speak on Mr Howard YOUNG's amendment. You have up to five minutes to speak.

**MR ANDREW CHENG** (in Cantonese): Madam President, Mr Howard YOUNG pointed out in his amendment that it was only after the occurrence of the "mobile phone doctor" incident that the public started to lose confidence in the complaints mechanism. In our opinion, however, members of the public lost faith in the mechanism for handling medical complaints a long time ago. As early as June 2000, the findings of a survey conducted by the Democratic Party already showed that only some 10% of the respondents thought that medical complaints were treated impartially. Mr Howard YOUNG's amendment has expediently confined the scope of the problem to the MCHK. Actually, not only the MCHK requires improvement and reform. Other sectors are also plagued with different problems and await restructuring. For instance, the Public Complaint Committee, set up under the Hospital Authority, is lack of



solid power. It does not have authority to summon medical practitioners and is not served by an independent secretariat. The entire complaints mechanism is unlikely to see improvement if the Government continues to adopt such an expedient attitude by doing something like reviewing the MCHK today and the nursing profession the next when something goes wrong.

The Democratic Party has no strong view with respect to the appeal made by Mr Howard YOUNG to urge the Government to expeditiously complete the work on reforming the mechanism for handling complaints concerning medical incidents. Actually, the Government has proposed in its previous Consultation Document on Health Care Reform to set up a Complaint Office in the Department of Health to help patients lodge complaints. Nevertheless, this Complaints Office fails to respond to public opinion by putting in place an independent mechanism for handling medical complaints. The biggest difference between an independent statutory organ and a government department lies in that a statutory body is independent of the health care system. Therefore, no one will suspect it will take sides with the Administration or "side with medical doctors". On the contrary, if a department responsible for handling public complaints is set up within the government framework, suppose the Equal Opportunities Commission is a working group under the Home Affairs Bureau, public confidence in the ability of such a department to remain autonomous will inevitably be undermined. Furthermore, an independent complaints mechanism will be able to accommodate representatives from different sectors, including the health care sector, patients' organizations, people from the community, and so on, as members to closely monitor its daily operation. If medical complaints are dealt with by a government department, it will encounter more difficulty in commanding public trust and ensuring its credibility and neutrality since laymen will not be appointed as its members. Therefore, the Democratic Party can only accept the setting up of a Complaint Office in the Department of Health on a trial basis to gauge its actual effectiveness and use this as a transitional measure to pave the way for an independent office for handling medical complaints in future.

With these remarks, Madam President, I oppose the amendment.

**SECRETARY FOR HEALTH AND WELFARE** (in Cantonese): Madam President, recently, there are a lot of discussions among the public on the credibility and transparency of the complaints system for health care services;

and suggestions on various improvement measures. I would like to thank Mr Andrew CHENG for moving this motion and Members for actively putting forward their views, so that the public can have a better understanding of the root of the problem and the Government can gather different views on the issue.

It seems that today's discussions focused mainly on the complaints system of the Medical Council of Hong Kong (MCHK) and the improvement measures. However, I think it may be more appropriate to first consider the patients' complaints system as a whole. After that, I will respond to questions related to the composition and complaints system of the MCHK and clarify the standpoint of the Government.

Just now, Members have discussed the role, functions and credibility of a patient complaints systems. In order to properly define the role and function of a complaints system, we must first understand what constitutes a complaint. A complaint occurs when there is grievance resulting from a discrepancy, which is perceived as unreasonable, between the expectation of the patient and the service received or the outcome of treatment. Such grievance may be related to the quality of professional care, administrative procedures or attitude of the health care professionals. And the discrepancy may be the result of, among other things, poor quality of service, miscommunications or undue expectation from the patients. Sometimes, it could also arise from grief in reaction to the loss of a loved one or to loss of health arising from their own illness.

Moreover, patients will translate the discrepancy into a complaint only when they believe that their concerns will be taken seriously and investigated, that a clear explanation will be given and appropriate follow-up actions or improvement measures carried out by the system or organization dealing with the complaints. Besides, patients must know and perceive that making complaints is a basic customer right before they will do so. We should also note that there may be a very different psychology underlying each complaint and different objectives that the complainant wishes to achieve. While some complainants merely want to air their dissatisfaction and seek an explanation or apology, others wish to see prompt action taken to improve service quality or think they deserve a compensation.

Therefore, based on the above understanding of complaints, an effective complaints system should act in the public interest to investigate, analyse and identify the cause or causes of each complaint. The system must be accessible

and user-friendly so that aggrieved patients will not be discouraged from making complaints. It must be fair, objective and transparent in order to gain the confidence of both the patients and health care workers. Moreover, the complaints system should act as a bridge and mediator between the complainant and the parties complained against in case there is a breakdown in communication.

Apart from that, any complaints system should provide opportunities for self-examination and improvement. We should look at complaints positively and treat every complaint as a chance for improvement.

As mentioned in the consultation document on health care reform released last December, we are very concerned about the problems of the existing complaints system and have proposed improvement measures targeting the problems identified. We have examined the existing complaints system. There are quite a number of channels for airing grievances, including the complaints mechanism of individual providers, the professional regulatory bodies, the Ombudsman, the Legislative Council and the court of law.

We should note that these different complaints channels have different functions and role in handling grievances or complaints of different nature. For instance, the complaints mechanism of service providers handles complaints from a customer's perspective, but also includes professional practice and compensation; the professional regulatory bodies are responsible for cases related to professional misconduct or negligence; the Ombudsman would investigate complaints related to maladministration in public services; and the court of law may need to consider damages and compensation.

We need to examine how these systems relate to each other and how they function in order to guide future improvement. Improvement measures should be targeted at adding functions that may be inadequate and enhancing functions that are not effectively carried out. We have identified the following main problems in the existing system:

- (1) although complaints channels are available, they are complex and the interface between the various channels is confusing. Owing to the lack of understanding of the system, complaints are often directed to an inappropriate channel and the objectives of complainants cannot be fulfilled;

- (2) the credibility of the complaints systems, especially in relation to the way organizations handle complaints against the practice of doctors, has been questioned; and
- (3) the complaint process is not user-friendly or transparent.

Regarding Members' proposal for an independent complaints office, I think we will have to be clear about how independent the system should be, how the scope of its functions and powers should be defined, and what its relationship with the existing complaints systems should be. Having an additional independent complaints system will not only duplicate the functions of the existing systems but will also add confusion to the already complex system and create even greater problems in the interface between various complaints channels.

In view of the problems of the existing complaints system, we have made proposals on the reform measures in our consultation document on health care reform. We proposed to set up a Complaints Office within the Department of Health to handle complaints related to patient care. Such an arrangement has several advantages:

- (1) The Complaints Office will rectify one deficiency of the existing system. It can assist the complainants by clarifying the nature of complaints and the objective of the complainants. Acting as a guide to the complaints systems, it can steer the complainants to the appropriate complaints channel. It can also help complainants by providing advice and assistance in clarifying the content and nature of the complaints.
- (2) The Office will open up an opportunity for communication between the complainants and the parties complained against through mediation at an early stage. This will help to reduce conflicts and avoid further deterioration in the relationship between patients and health care workers.
- (3) In addition, the Office will be able to provide a one-stop service to the complainant. It could conduct investigations into complaints, assist complainants to obtain expert advice, brief complainants on the facts of the case as known and try to mediate between the complainant and the parties complained against.

Now, I would like to respond to Members' proposals for the expeditious reform of the composition, operation and complaints handling procedures of the MCHK. Let us first revisit the objective and advantages of a professional regulatory body.

The primary purpose of the professional regulatory body is to protect the public from incompetent practice and maintain public confidence in the profession and the integrity of the profession. A well-designed professional regulatory system which is effectively executed offers the best guarantee of professional standards to patients and the community. As complaints may reflect inadequacy in the service of health care professionals, one of the main objectives of an effective complaints system is to monitor the quality of the service provided and rectify any deficiency identified.

Medicine is a discipline with a specialized body of knowledge. Therefore, medical and health professionals are in an appropriate position to appraise and pass judgement on the practice and conduct of their peers. Professionals in Hong Kong are empowered by legislation to carry out self-regulation, as is the case with many other places. It is recognized that such system is effective and efficient when it is applied in the best interest of patients and society. However, we must not forget that one prerequisite is it has to have the confidence of the public and the profession. Thus, it is essential for the system to be fair, objective and transparent in order to ensure public confidence in the system.

In recent years, the public has started to question the credibility of the complaints system of the MCHK. Besides, the complaints handling procedure is not user-friendly or transparent. The MCHK has to evolve and develop in order to meet changing public expectation in relation to the complaints system and societal needs. As the reform of the MCHK has a direct bearing on the protection of patients' interest, the Government has the responsibility to review the existing law and procedures for handling complaints in order to ensure they are in line with the public expectations and that the public interest is being protected.

I agree that we need to review the structure, function of the MCHK and its complaints handling procedures in order to enhance its credibility and transparency. In view of the recent incidents and public discussions, I have initiated a review of the structure, function and operation of the MCHK in

association with the MCHK. I will cite two areas that need to be reviewed. First, the MCHK is empowered by law to investigate, prosecute, inquire, deliver verdict and make disciplinary award for complaints received. Since the evidence and information collected during investigation would directly influence the adjudication, people may question the fairness and independence of the final adjudication if investigation and adjudication are not separated. Besides, the majority of members of the MCHK are doctors. This will lead to a perception that decisions and judgements made in the complaints handling process are dominated by doctors and views of lay members are not adequately reflected.

We have initiated a dialogue with the MCHK and I am encouraged that it agrees there is a need to review and propose improvement measures related to its structure, function and complaints system. In the House Committee meeting of this Council held on 27 April this year, Members decided to set up a working group under the Panel on Health Services, inviting representatives from the Government and relevant health professionals to discuss the reform measures to enhance the credibility of the existing patient complaints system and the need to amend the existing law. I look forward to the commencement of work of the working group. I believe that through the co-ordinated work of the various parties, a consensus on the reform proposal for the improvement of the patient complaints system can be reached that will meet with the public's approval.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr Howard YOUNG to Mr Andrew CHENG's motion, be passed. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Dr YEUNG Sum rose to claim a division.

**PRESIDENT** (in Cantonese): Dr YEUNG Sum has claimed a division. The division bell will ring for three minutes.

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

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Kenneth TING, Mr James TIEN, Dr Raymond HO, Mr Eric LI, Miss Margaret NG, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr Abraham SHEK and Mr Tommy CHEUNG voted for the amendment.

Mr CHEUNG Man-kwong, Mr CHAN Kwok-keung, Mr SIN Chung-kai, Mr LAW Chi-kwong, Mr Michael MAK, Mr IP Kwok-him and Mr LAU Ping-cheung voted against the amendment.

Miss LI Fung-ying and Mr Henry WU abstained.

Geographical Constituencies and Election Committee:

Dr TANG Siu-tong, Ms Audrey EU, Mr David CHU, Mr NG Leung-sing, Prof NG Ching-fai and Mr Ambrose LAU voted for the amendment.

Miss Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Jasper

TSANG, Dr YEUNG Sum, Mr LAU Chin-shek, Mr LAU Kong-wah, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG and Mr YEUNG Yiu-chung voted against the amendment.

THE PRESIDENT, Mrs Rita FAN, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, 15 were in favour of the amendment, seven against it and two abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 27 were present, six were in favour of the amendment and 20 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

**PRESIDENT** (in Cantonese): Mr Andrew CHENG, you may now reply and you have seven minutes five seconds.

**MR ANDREW CHENG** (in Cantonese): Madam President, first of all, I wish to thank a total of 20 Members, being one third of Honourable colleagues in this Council, for speaking in this debate.

Madam President, I slept for only three to four hours altogether for the past two nights. Last night, I spent long hours at a public hospital, trying to assist those people who were arrested by the police yesterday and were sent to hospital for medical examination to apply for bail. I had some very strong feelings there. I have always held doctors and health care personnel in high repute and last night, this feeling was even stronger, for the health care personnel have to work very hard indeed. But given the repeated occurrence of medical blunders under the existing complaint system which allows cronyism, so to speak, it is true that the public will only lose confidence in the health care system. To health care personnel who have been working so hard, the loss of public confidence is tragic indeed.



I have just seen the voting result of the amendment moved by Mr Howard YOUNG. I hope to make a last-ditch effort to urge Members to support the motion that I moved on behalf of the Democratic Party, or else efforts made by both of us will be wasted and both the motion and amendment will be defeated. But I stress that this is nothing more than a final struggle, for Members have actually expressed their views. So, I am only trying my best to appeal for support. Here, I would like to respond to some of the 20 Members who have spoken in the debate.

Mr Howard YOUNG, who spoke on behalf of the Liberal Party, said that the Liberal Party still adopts an open attitude. I very much hope that this open attitude of theirs will not persist any longer. It is because in the last term of the Legislative Council when Mr Michael HO moved a similar motion on behalf of the Democratic Party, I vaguely remember that the Liberal Party also held an open attitude. However, it is imperative to call for the establishment of an independent mechanism. Mr Howard YOUNG also drew an analogy between computer software or computer operation and the existing health care system. I am not very familiar with computer operation. Nor am I as knowledgeable as the Honourable SIN Chung-kai is in this regard. Yet, it seems that frequent interference by hackers will undermine the performance of a computer software. Although the outer casing of the computer still exists, there is indeed a need for us to make many more improvements to its innards.

I think the Honourable LAU Ping-cheung is heavily burdened with the interest of his functional constituency. Nevertheless, he said that we should correct mistakes, if any, and guard against them, if none, so to speak. This, I entirely agree. I hope that this principle of correcting mistakes, if any, will point to a direction for improvement.

I wish to emphasize that we absolutely will not neglect the interest of professional bodies in establishing this independent mechanism. But when the public interest under discussion here concerns life and death, sectoral interest should never take precedence over public interest.

I think the speech made by Miss LI Fung-ying is very touching indeed. Perhaps it is because I listened very attentively to her just now or perhaps it is because she sits very close to me. Her speech and the two relevant cases cited by her have indeed touched a chord in the hearts of Honourable Members. She said that patients still show immense tolerance and leniency towards health care personnel nowadays. But if such tolerance and leniency are still built upon a

complaints mechanism underpinned by cronyism, this tolerance and leniency will only mean blind faith and blind subservience on the part of patients towards medical practitioners.

As for the speech of Ms Audrey EU who is not in this Chamber now, I actually share most of her views. Particularly, she said that the culture among doctors not to point fingers at fellow doctors is indicative of their mentality of not doing anything that infringes upon the sense of "brotherhood", and I think her description is right to the point. But I must stress here that I hope Ms EU will understand that professional autonomy should not be an obstacle to our pursuance for a fairer and more advanced medical complaints mechanism.

The Honorable Miss Cyd HO raised the point of trial by the media. I think this is entirely due to the failure of the current system and therefore, many complainants are compelled to rely on the media. This is a problem indeed. I must stress that everyone will make mistakes, and it is sometimes unavoidable for human beings to make mistakes. But if a system makes mistakes, we can improve it. These mistakes of the system actually originate from the current system of the MCHK which is professional-led and biased in favour of the medical profession.

Lastly, I wish to say a few words on Dr LO Wing-lok's speech. I think whenever Dr LO speaks, he will never show disrespect to any Member of this Council because whenever he speaks, he always stands upright with both hands put in this position. While he had absented himself from this Chamber and abstained from the vote taken just now, I think every time he speaks, he is always trying his best to strike a balance between the interest of his constituents and public interest. Yet, I hope that Dr LO Wing-lok can make reference to overseas medical complaints mechanisms, especially that in the United Kingdom, and note particularly the fact that these agencies for handling complaints do have arbitration powers over professional bodies.

Madam President, to conclude my speech on this motion, I implore Members to support this motion. Thank you.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Andrew CHENG, as set out on the Agenda, be passed. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr Andrew CHENG rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Andrew CHENG has claimed a division. The division bell will ring for three minutes.

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

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr CHEUNG Man-kwong, Mr CHAN Kwok-keung, Mr SIN Chung-kai, Mr LAW Chi-kwong, Miss LI Fung-ying, Mr Michael MAK and Mr IP Kwok-him voted for the motion.

Dr Raymond HO, Mr Eric LI, Miss Margaret NG, Mr HUI Cheung-ching, Mr Bernard CHAN, Dr Philip WONG, Mr Abraham SHEK, Dr LO Wing-lok and Mr LAU Ping-cheung voted against the motion.

Mr Kenneth TING, Mr James TIEN, Mrs Selina CHOW, Mrs Sophie LEUNG, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr Henry WU and Mr Tommy CHEUNG abstained.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr LEUNG

Yiu-chung, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Chin-shek, Mr LAU Kong-wah, Miss Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG and Mr YEUNG Yiu-chung voted for the motion.

Dr TANG Siu-tong, Mr David CHU, Mr NG Leung-sing, Prof NG Ching-fai and Mr Ambrose LAU voted against the motion.

THE PRESIDENT, Mrs Rita FAN, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 25 were present, seven were in favour of the motion, nine against it and nine abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 28 were present, 22 were in favour of the motion and five against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

**PRESIDENT** (in Cantonese): Second motion: Landscaped development and greening policy.

## **LANDSCAPED DEVELOPMENT AND GREENING POLICY**

**MR LAU PING-CHEUNG** (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

In his 1999 policy address, the Chief Executive proposed that he would build Hong Kong into a "garden city". He also stressed the need to improve our living environment and our quality of life.

Since then, the Government has done much work for the greening and city appearance of Hong Kong. However, our work is fragmented, lacking in an overall plan or a unified goal. Our work can be regarded as palliatives. In a densely-populated place like Hong Kong, to plant a tree is one thing; to

formulate policies and administrative guidelines on the provision of sufficient space and resources for the people and implementing the policies is another.

In Hong Kong, its natural landscape, parks, gardens, public areas, waterfront promenade, roads and pavement are very much part of people's daily life. They form the "living environment" of Hong Kong people. Together, they form the city appearance Hong Kong has to show to visiting tourists and businessmen. Our morbid living environment is so bad that it is injuring both Hong Kong and its residents. It does not compare favourably with neighbouring regions or cities.

People in general are dissatisfied because demands for urban development and other purposes have destroyed the natural environment and the quality of the city landscape is poor. From reports in the newspaper and on the television, we know how difficult it is for people to enjoy a stroll on either side of the Victoria Harbour. Works at Route 7, Route 10, West Kowloon Reclamation, South East Kowloon Reclamation and Anderson Road Quarries all show a barren look. Slopes are treated with gunite covering. All this proves that due consideration is not given to our natural landscape in our development planning.

The problem is very obvious. Singapore, Shanghai and even Shenzhen manage to formulate landscaped development or greening policies tailored to their needs, thereby creating a quality living environment. Why can Hong Kong not do the same? Moreover, what attitude does the Hong Kong Government hold towards a landscaping policy?

The present problem is that people generally agree that their living environment is less than satisfactory. Let me cite the following examples:

Developments in infrastructure and building works create incessant erosion to our natural landscape and ecological resources. The situation is particularly bad at urban fringes;

Sidewalks in city central are, frankly speaking, not designed for use by pedestrians, who can hardly use them. Noise pollution and dust are everywhere. Walking on these streets is a torture. Space for people to walk in is minimal. This is having a huge adverse effect on Hong Kong tourism;

There is a severe shortage of open areas in town. Where there are open areas, they lack variety. The areas have not been fully utilized to plant trees or hold cultural or entertainment activities;

Designated open areas, when they exist, have little or no landscaping such as sightseeing promenade, waterfront promenade or other common areas for a walk or sitting out on benches. They are a rare species, indeed;

A lack of visual interest or character, coupled with no greening or heritage for territorial history and culture, or concern for nature and humanities would mean relinquishment of a good opportunity to educate our next generation. This would also mean a waste of tourism resources. For instance, we all know Dr SUN Yat-sen, Father of Modern China, had deep roots in Hong Kong. But where are the locations of the old Revive China Society and the Alliance Society? Even with a government-printed travel guide for the Central and Western District in hand, one would easily miss these locations for a lack of clear signs.

Hong Kong was once called the "Pearl of the Orient", but now its city appearance is not as good as the neighbouring "garden cities". Tourists flock to Shanghai to enjoy the coastal views and spacious promenade at Wai Tan. International investors prefer to go to Singapore for its clean and serene environment, which has attracted many businessmen and executives to go there for investment or work. Closer at home, our neighbours, Macau and Shenzhen, have put enormous efforts and abundant resources into improving the environment because the input can generate high returns in trade and tourism. In contrast, our present situation is indeed worrying.

The poor city appearance in Hong Kong has also adversely effected the health of the people and social cohesion. Since we do not care for people's well-being on the streets and we are short of public open space, it would be very difficult to cultivate a sense of belonging. Who would be proud of a disorderly city appearance?

The root of the problem lies in the fact that our public space is being shared by users with conflicting interests, resulting in confrontation and imbalance.

Using our streets in the heart of the city as an example. Let us look at streets in Wan Chai and Mong Kok. If one thinks the streets there are only for cars to pass through or for pipelines of numerous public utilities to go underneath, he is basically correct. However, the streets should in fact be walked on by the people. If pedestrians are deterred from using the streets, we would have no place to walk on. It seems people have forgotten that in addition to the above purposes, streets are where retail, recreation, cultural and entertainment activities take place. Streets are then the face of Hong Kong as shown to the rest of the world. At the moment, when a tourist steps out of a hotel, what he sees immediately are either busy streets or dug-open roads.

To improve our living environment, we must rethink what the real meanings of such ideas as "pedestrian space" and "unobstructed stroll" are. For instance, we may make use of the balconies of buildings as canopies to protect pedestrians from the hot sun and the wet rain. We may also plant a variety of plants on our roadsides to give some visual interest and modulation. We may encourage people to host activities on the sidewalks to revive the long-lost street shows. In summary, we should put pedestrians on the top of the list of our road-users.

We have now lost control of our public space mainly because:

- (1) Hong Kong does not have a policy of a people-oriented "living environment". Specifically, no officers in the Policy Bureaux have been designated to deal with landscaped development and greening issues; nor is there a standing spokesman for "living environment".
- (2) For a long time, landscaped development and landscape issues have been given a very low priority in public works and planning projects. Works projects, country parks excepted, usually lack greening or landscape designs. Very often, little consideration is given to conservation of the original landscaping resources. For example, plants and their growth needs are seldom cared for. There is little, if any, reserved space, designated experts or investment for the design, construction and maintenance of new landscapes.
- (3) Landscape design and implementation often bear the brunt of impacts by various factors such as transportation, underground public utilities, and so on, such that huge concessions and

compromises are needed. For instance, in the allocation of space and funds, what actually takes place is that the loudest voice gets the most funding. Without well defined guidelines and standards, landscape design will never have a consistent standard in public works.

- (4) We put excessive emphasis on the need for minimal maintenance and management in designing public space such as open space, streets and the waterfront. The need becomes the guiding design principle and as a result great limitations arise.

Furthermore, ideas and notions often go unnoticed, by choice or by chance, just because they are not related to a specific land use; but they can add so much to our street life. For example, space for activities on our streets are often diminished where possible if it does not contribute to vehicular traffic or flow. However, if more space is reserved on the sidewalks, restaurateurs may put up bistros, flea markets may open and carnivals may flourish. All these can help immensely in promoting tourism, cultural and recreational activities and benefit the retail industry. The space reserved may also become public space, waterfront promenades or parks in the urban fringe, to name just a few.

In short, the present design of public space is not helpful at all to passing on the history and cultural values in Hong Kong.

Having studied the experience in Singapore, Shanghai, Shenzhen and Macau, we found a garden city cannot be created by slightly dressing up residual space in a place with roads, railways, housing estates, culverts and even public utilities galore. In the cities mentioned, there are comprehensive policies and designated offices for this development. In these cities, landscaped development and greening legislation are seriously enforced in the course of construction. The cities are now reaping the harvest of proper planning and enjoying the benefits of landscaped development and greening. We all understand Hong Kong has to compete with these cities. Should we spare living environment in the competition?

Why can we not have a co-ordinated and consistent landscaped development and greening policy to govern the planning, construction and management of our living environment? Obviously, we have an urgent need to lay down such a policy to guide the construction of external space in order to improve our living environment. We must not just carry out piecemeal décor.



The Government should assign a Policy Bureau to co-ordinate the work of ensuring that all developments are compatible with the existing environment and consistent with green construction. We have some successful and commendable landscaping works in Hong Kong, evident that good landscaped development and greening can be achieved. What we need is a Policy Bureau to ensure that landscaped development and greening policies are observed.

To achieve policy objectives in landscaped development and greening, a key factor lies in the development of a complete structure for landscaping. The structure should have these functions:

- (1) record resources for landscaped development and greening;
- (2) conduct an overall landscape assessment for Hong Kong and its towns, including the compilation of landscape master plans on a district level;
- (3) formulate a strategy for protecting landscape resources that already exist or that are to be developed in the near future;
- (4) lay down a mechanism to develop project-based guidelines for landscaped development and greening designs;
- (5) define a set of co-ordinated and compatible practices for the design, implementation and maintenance of landscapes; and
- (6) define a set of examination and approval procedures for design and implementation to provide for conflicts that may arise between public works projects and landscaping policies.

Madam President, everyone in Hong Kong is trying their very best to improve the living environment in Hong Kong. Yet, everyone has his/her own ways and co-ordination is lacking. Consequently, they can only obtain results that are cosmetic and skin-deep. If we do want to contribute to the community and realize the garden city concept advanced by the Chief Executive, the Government must develop and implement a set of comprehensive and co-ordinated landscaped development and greening policies. Why is Hong Kong lagging behind other places in this regard? Is the Government indifferent to the concerns of the people?

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

**Mr LAU Ping-cheung moved the following motion: (Translation)**

"That this Council urges the Government to immediately review the distribution of the natural and landscape resources in Hong Kong for the purpose of formulating a territory-wide landscaped development and greening policy, and to designate a Policy Bureau to monitor and co-ordinate the effective implementation of the policy by various government departments in carrying out town planning and infrastructural projects, in order to achieve the goal of sustainable development; at the same time, the Government should improve the existing conditions of the urban areas through re-planning and other measures so as to enhance the quality of the living environment."

THE PRESIDENT'S DEPUTY, MRS SELINA CHOW, took the Chair.

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr LAU Ping-cheung be passed.

**MR HUI CHEUNG-CHING** (in Cantonese): Madam Deputy, within a century or so, Hong Kong has developed from a barren piece of land to a densely populated commercial centre with good transport facilities and a forest of skyscrapers. We are all proud of it. However, commercial development has a high price. Greening work has been neglected in Hong Kong and the forest area keeps shrinking. To make matters worse, early town planning did not provide for any landscaped and green areas. As a result, traditional business districts such as Central and Tsim Sha Tsui, new business districts like North Point and Quarry Bay and tourist districts such as Mong Kok and Causeway Bay have relatively few landscaped areas and trees. There are even less trees in such old industrial areas as Cheung Sha Wan and Kwun Tong. Hong Kong is not only not as green as most developed world-class cities, such as Vancouver, San Francisco and Singapore, it even lags behind mainland cities which are rapidly developing their economy, such as Guangzhou, Zhuhai and Shenzhen. If Hong Kong wants to become a genuine world-class city where businessmen and professionals from all over the world would like to work and live, the Administration cannot afford to neglect the landscaping and greening policy. The motion proposed by Mr LAU Ping-cheung today is timely indeed.

The Government's present landscaping and greening work has plenty of room for improvement.

Firstly, encouraging real estate developers to reserve green areas as far as possible in the building plans and in constructing buildings, such as developing hanging gardens. The Government should take the lead in increasing landscaped and green areas inside and outside government buildings. The Government can also promote the increasingly popular environmental property management concept, using public contests to stimulate property management agents to come up with novel ideas to help people make their housing estates in the concrete jungle greener.

Secondly, the Government should formulate a territory-wide conservation policy on the conservation of trees, ancient trees and wetlands. It can establish a conservation database and set the priorities of the conservation areas in view of the limited resources. The Government should offer incentives to encourage the public to support conservation. For instance, if the Government thinks that the wetlands should be conserved, it should offer to buy, rent or jointly develop the wetlands with the landowners, instead of prohibiting the landowners from selling the wetlands, thus depriving them of their land use rights.

Madam Deputy, the Government is undertaking large-scale reclamation projects such as the West Kowloon Reclamation, the development of new towns such as Tung Chung and tourism projects such as the Disney theme park. It is also improving the town planning of the South West New Territories and the tourist facilities of East New Territories, as well as developing the potential of ecological tourism in the territory. At the same time, after the establishment of the Urban Renewal Authority, the renewal of old districts will speed up. That is why it is now time to review comprehensively the territory-wide landscaped development and greening policy. Of course, if the Government wants to improve its greening work, determination alone is not enough. Flexible co-ordination is equally important, for the relevant task involves many departments such as the Planning and Lands Bureau, the Territory Development Department, the Leisure and Cultural Services Department, the Environmental Protection Department and the Commissioner for Tourism. The Administration must raise the greening consciousness of the various departments and clarify the division of work among them, lest they would shift their responsibilities onto one another and impede the progress of greening initiatives.

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

**MR ALBERT CHAN** (in Cantonese): Madam Deputy, as we all know, Hong Kong has little land but a large population. At present, Hong Kong has a population of \$6.8 million and our population density probably ranks first in the world. Our urban areas only occupy 20% of the land in Hong Kong and only one fifth of the urban areas is used for housing development. We can imagine how densely populated Hong Kong is. The population in Hong Kong may exceed 8 million over the next 15 years. By that time, we would need more land for housing to accommodate the increasing population. Thus there is all the more reason for us to pay attention to the living environment.

In recent years, we often apply the concept of "sustainable development" to town planning. It means that to sustain the development of a place, we must maintain the health of the natural environment and put resources to the optimal use in meeting the needs of the economy and society. Unfortunately, the idea of "sustainable development" has not been put into practice fully.

Town planning and the design of the living environment in Hong Kong have failed to satisfy people's needs. The poor living environment of the people in general is indicative of the seriousness of the problem. Earlier, the Government proposed to build up Hong Kong's image as a world-class city in Asia. But in terms of the quality of the living environment, Hong Kong is a world-class extremely crowded city through and through. I hope that while promoting Hong Kong's international status, the Government will also pay attention to the importance of the living environment.

In terms of urban development, the lack of co-ordination among government departments constitutes a major obstacle to the improvement of the living environment. In Hong Kong, environmental assessment must be conducted for large-scale development projects. At present, the Planning and Lands Bureau is responsible for formulating policies on housing, land and planning. However, the co-ordination of the implementation of land use and other policies is extremely confusing and lacks clear guidelines. For instance, the Environmental Protection Department (EPD) is responsible for carrying out environmental assessment for land development. The Agriculture, Fisheries and Conservation Department is in charge of the conservation and protection of natural resources while the Town Planning Board is responsible for vetting the relevant development proposals. Yet, we can clearly see from the recent conflict between land development and conservation that there is inadequate co-ordination among the various departments and a lack of overall planning and development directions. For instance, earlier, the EPD rejected the Highways

Department's plan to build a road link between Mui Wo and Tai Ho, which was later replaced by a plan to widen Tung Chung Road. While the Highways Department has learned a lesson and pledged to enhance communication in this respect in future, the existing legislation cannot ensure that similar cases will not happen again. Besides, in terms of the policy consultation system, the Administration still adheres to an executive-led policy and is not open to suggestions. Thus, it fails to allow the public to participate in the actual policy-making.

Basically, Hong Kong has a hilly terrain and limited flat land. Due to the geographical constraints, the Government has always created additional land by reclamation. Since the Second World War, the Government has derived 3 600 hectares of land from reclamation, almost the total areas of Kowloon and New Kowloon. Coastal reclamation and marine borrowing have done serious damage to the natural coastline. The landscape quality and ecology are also seriously threatened. In fact, the natural coastline is a valuable asset, but the continuous development projects have done irreparable damage to the ecology and the natural coastline. It is estimated that the natural coastline is only preserved in certain regions such as Sai Kung, the Southern District on Hong Kong Island and Lantau South. To conserve the natural coastline, the Government should abandon the reclamation-based development pattern.

In respect of the planning of new towns and urban planning in Hong Kong, the planning and greening policies are implemented by different departments and greening is often overlooked. For instance, proposals to plant trees on the pavements may be abandoned to make way for serving projects. The design of local open space is also too elaborate. There is more concrete than there are trees in parks, and it is very unnatural. Their high building cost is also a waste of public money. This shows that while the Administration talks about greening and environmental protection all the time, it has not taken the basic requirements of greening into serious consideration. Thus, I hope the Government can study the issue in detail and formulate a comprehensive greening policy that incorporates environmental protection measures.

I would also like to talk about the concept of "living environment". "Living environment" may refer to the surroundings of one's home, or the living area and related space of each individual. When we discuss town planning, we mainly focus on the environment outside one's home, but we also consider the space and facilities within one's home which directly affect the quality of the

living environment. I wish to point out that the living environment and the standard of living must be considered in conjunction with each other. Of the many housing problems, it is a crowded environment that will seriously affect normal family life. Up to September 2000, nearly 20 000 households were living in overcrowded public rental flats, that is, each person has a living area of less than 5.5 sq m. The living environment of those who dwell in cubicles and bedspace apartments in old private buildings is even worse. A crowded living environment forces people to go outside to the wider public space. In the old districts and public housing estates, it is not uncommon to find young and old people wandering in the streets for they patron such public space as part of their everyday life.

In my view, town planning should cover both the interior and the exterior environment. Without a proper interior living environment, beautiful landscaped areas will merely be a luxury for the leisured classes to enjoy. Lastly, I urge the Administration to seek a balance between the quality of the living environment, greening, landscaping and the quality of interior facilities, so as to provide the general public with a comfortable living environment.

In the long run, the town planning framework and policy must be comprehensively reformed to increase their transparency and to allow public participation. They should achieve the objective of building an urban oasis in the concrete jungle as well as providing homes of reasonable quality, in order to create a truly quality living environment.

Madam Deputy, the Democratic Party supports the contents of this motion. Thank you.

**MRS SOPHIE LEUNG** (in Cantonese): Madam Deputy, after a series of controversies over environmental protection and urban development surrounding the Kowloon-Canton Railway Corporation's Sheung Shui to Lok Ma Chau Spur Line, the Lantau North-South Road Link, and so on, members of the public have become increasingly more concerned about nature conservation. Therefore, the motion moved by Mr LAU Ping-cheung today is worthy of our discussion. If the Government can formulate a long-term policy on nature conservation, including drawing up a list of places with high conservation value in the territory, there will be rules for the Government to follow in developing land and there will be no more contention and uncertainty.

For places with high conservation value, they should include places with high ecological, cultural and historical values, and also places with beautiful natural landscapes and rural characteristics as well as coastal regions that have yet been designated as protected areas. Only in this way can we avoid the recurrence of incidents where major infrastructural projects similar to those mentioned above abort for environmental reasons. These incidents have pointed to a serious question and that is, how can we strike a balance between environmental protection and urban development? This is a pressing issue particularly as a number of large-scale railway, road and infrastructural projects will be given the green light in a couple of years. Coupled with the ever increasing population, I am worried that if the problem cannot be resolved, similar incidents where projects have to abort may recur anytime, which will then slow down the pace of the development of society.

After the Lantau North-South Road Link was rejected, and faced with strong protest from residents on Lantau, a working group comprising representatives from the relevant bureaux and departments, including the Transport Bureau, Highways Department, Transport Department, Environment and Food Bureau, Environmental Protection Department and Planning Department, is formed to expeditiously discuss ways to resolve the problems relating to the Road Link and has undertaken to identify solutions for the residents within three months. We consider it worthwhile to draw experience from this mode of co-operation among bureaux and departments. But it is most desirable if this mode of co-operation is not compelled by the urgency of the case. I think this mode of co-ordination can be regularized. As to whether it should be implemented by an existing department or a new department, we are very happy to study it, and anyone having any proposal may put it forward for discussion.

In April, the Sustainable Development Unit (SDU) was set up under the Office of the Chief Secretary for Administration, responsible for setting up a sustainability evaluation mechanism. To ensure that sustainable development is considered in the policy-making process as early as possible, all bureaux and departments are required to include in their submissions to the Chief Secretary's Committee or the Executive Council results of the sustainability evaluation. I believe the establishment of this new SDU will help improve co-ordination between environmental protection and development. If, on the policy level, the SDU can formulate a comprehensive landscaped development and greening policy, I believe it will be more conducive to the environment and urban planning.

Madam Deputy, nowadays when environmental protection is the order of the day, urban greening is of great importance to improving public health and air quality. However, there is very limited space for trees to be planted in urban areas, and this is the result of the failure to duly set aside space for greening in early town planning and building design. On the design of roads, narrow road surface and poor soil quality have made urban greening utterly difficult. Further, most of the planning work still targets at vehicles, and as Mr LAU Ping-cheung has said, pedestrians' feelings and health are often neglected in the process. This explains the scarcity of space on roads for greening purposes. All these are the consequences of the lack of environmental consciousness in planning in the early development of the territory. Therefore, urban greening and greening on roads should be made an important consideration in the overall urban planning and building design.

Greening in the territory has all along come under the remit of quite a number of government departments. Each of these departments has their own major objectives and considerations, and no department has ever been tasked to co-ordinate or complement their work, resulting in a waste of resources and reduced effectiveness. For instance, the Territory Development Department is responsible for greening and tree planting in new towns; the Highways Department takes care of plants along roadside; the Leisure and Cultural Services Department oversees the greening work in parks; the Agriculture, Fisheries and Conservation Department is responsible for the conservation of trees in country parks; and the Housing Department is responsible for all greening and tree planting work within its housing estates. Moreover, there is no co-ordination between departments responsible for urban planning and those responsible for greening. As a result, plans of tree planting have to be shelved or postponed in order to make way for other public facilities. So, the Government must review the present situation and expeditiously look into the co-ordination of environmental protection and urban planning to ensure the well-balanced development of both.

Madam Deputy, I wish to pay tribute to the Secretary for Planning and Lands. Recently, in respect of a park under planning, a community organization suggested to the Secretary that an idling site nearby could be considered in conjunction with the park, thereby making greening a more meaningful process. It was also suggested that a lay-by for coaches could also be incorporated in the planning. It is very encouraging to learn that while this is



a preliminary proposal made by a community organization, the Secretary has actively given consideration and encouragement to it. The Secretary even said that he would take the lead to consider the proposal. The community organization is very happy about this. Indeed, we need more of such Secretaries or Directors. But much to our regret, the incumbent Secretary has indicated that he is determined to leave the Government to pursue knowledge from books.

In fact, in last year's policy address, the Chief Executive stated that more efforts would be made to make Hong Kong a greener city particularly by planting more flowers and trees in urban areas. The Secretary for Environment and Food is also tasked to oversee the co-ordination of the greening initiatives. This is proof of the Government's commitment to the promotion of greening in Hong Kong. We hope that the relevant initiatives can be implemented expeditiously. We also hope that more Secretaries or Directors can work more positively to address the problem of having too many policy-makers.

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

THE PRESIDENT resumed the Chair.

**MR IP KWOK-HIM** (in Cantonese): Madam President, human lungs need fresh air; in very much the same way, a city must need adequate green areas to serve as its lungs, so that the emissions generated by its various activities day in and day out can be filtered. Unfortunately, in the eyes of many, Hong Kong is literally a stuffy, concrete jungle. There are towering buildings all around, with hardly any space for people to move about. Factories, commercial buildings and residential settlements all mingle with one another; pedestrians and vehicles always struggle for road space; in brief, the whole place is densely populated. After a hard day's work, ordinary members of the public can hardly find any open space for a short spell of peace and quiet.

Actual statistics, on the other hand, show that the size of green areas in Hong Kong is not small at all. According to government statistics, the total land area of Hong Kong is 1 100 sq km, and grassland and scrubland occupy the largest areas, about 519 sq km in total; second to them is woodland, which

covers about 220 sq km. Most of the Hong Kong people are in fact living in built-up areas, which occupy just about 187 sq km, or 16.7% of Hong Kong's total land size. The problems mentioned above are mainly caused by the Hong Kong Government's inadequate attention to land use planning in the past and also by our drastic population growth. Just take a look at our old districts, such as Kwun Tong, To Kwa Wan and Kennedy Town, and we will notice that they all share these common features: the mingling of residential settlements, factories and commercial buildings, intolerably high population density and an acute shortage of sitting-out areas.

In recent years, the Government has been paying more attention to land use planning, and marked improvements and progress have thus been made. Whether in the process of land use planning or during the formulation of planning indicators, the Government has listened more to people's opinions than ever before. And, with respect to the average per-capita size of sitting-out areas, there have been some improvements. That is why in the new housing estates completed in recent years, both private and public alike, more sitting-out areas than before are provided. But the residents of old districts cannot be benefited immediately, and they have to continue to put up with poor living conditions.

Therefore, the Democratic Alliance for Betterment of Hong Kong (DAB) supports the motion moved by Mr LAU Ping-cheung today, which urges the Government to improve the existing conditions of the urban areas through re-planning and other measures so as to enhance the quality of the living environment. To achieve this objective, the authorities must speed up the progress of urban renewal. People very much expect the newly established Urban Renewal Authority (URA) really speed up the progress of urban renewal. But I must also point out that besides the URA, the participation of private developers is also very important, because the URA alone cannot possibly be expected to solve the problem of urban decay in Hong Kong completely. In the past, the DAB actually put forward quite a number of proposals aimed at encouraging private developers to participate in urban renewal, and these include the offer of additional plot ratio to developers, so as to encourage them to combine construction sites in old districts for large-scale redevelopment.

Urban renewal is an integral part of the efforts to improve conditions in old districts, and from the macro perspective, the formulation of a territory-wide, integrated landscaped development and greening policy is really a matter of

extreme urgency. Under the existing legislation, the Planning Department is empowered to draw up outline zoning plans, and in the Hong Kong Planning Standards and Guidelines, the minimum standards applicable to various facilities and sitting-out areas are set down. However, due to the lack of a territory-wide landscaped development and greening policy, the outline zoning plans drawn up by the Planning Department simply cannot achieve any coherence, resulting in fragmented town planning in Hong Kong. In the case of South East Kowloon, for example, the development plan itself does contain many green areas. But what about the peripheral areas? There are no concrete plans to date. Had the Government formulated an integrated landscaped development policy, the above situation would not have arisen.

The DAB is of the view that if we are to upgrade the quality of our town planning, an integrated landscaped development and greening policy is essential. According to some information, in many countries and places, such as Singapore and Shanghai, an integrated landscaped development policy has long since been put in place. In October last year, the European Union even drew up a convention on landscaping in Europe, requiring the signatories to enhance their protection, management and planning in respect of landscaping. Under the convention, all the signatories are required to formulate appropriate policies, strategies and guidelines of their own to achieve the stipulated objective of protecting landscaping resources. The signatories are required not only to conduct surveys on their landscaping resources, but must also collect and answer, through different channels, people's opinions and expectations in relation to their surrounding landscape features and the relevant policies. Besides, the signatories are obligated to enhance their people's awareness of the need to protect landscape resources, and they must also step up the education in this respect, so as to give full expression to the underlying spirit of the convention. The DAB opines that the authorities should study the experience of other countries in respect of similar policies, draw lessons from their success, and formulate an integrated landscaped development policy suitable for Hong Kong as soon as possible.

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

**PROF NG CHING-FAI** (in Cantonese): Madam President, forest conservation, urban greening and rural area landscaping have never been given due attention in Hong Kong. Besides, since the Government does not have in place any

complete forest and urban greening policy, greening is the weakest part of Hong Kong's environmental efforts. In fact, like any other cities in the world, Hong Kong also has greening needs. We need forests to adjust the microclimate of urban areas and to absorb the carbon dioxide in the air; we also need flowers, plants and trees to help maintain a balanced ecosystem, as well as to beautify our living environment. For these reasons, I consider the motion on landscaped development and greening policy moved by Mr LAU Ping-cheung today merits support. I wish to take this opportunity to raise three points.

As a start, I should like to speak on the greening policy. The absence of a complete set of greening policies may be attributed to the absence of any government department designated for co-ordinating the implementation of greening policies. A "gardening department" responsible for planting trees was first set up in 1870. As things develop, the responsibility for greening the environment is taken up separately by a number of government departments, namely the Territory Development Department, Highways Department, Leisure and Cultural Services Department, Agriculture, Fisheries and Conservation Department, Housing Department, and so on. Since the different roles played by these departments in this connection have already been made mention of by other Members, I do not wish to repeat them here. While the approach of having the greening responsibility shared by several government departments does have its merits, there are also some demerits; namely, the lack of sufficient co-ordination among relevant government departments and the absence of an overall policy study and decision. Hence, the establishment of a mechanism for conducting studies and formulating a comprehensive greening policy, as well as monitoring and co-ordinating the implementation of the policy, is now an important subject in sustainable development.

Next, I should like to switch to the issue of forest cover, which is an important natural landscape element. I suggest the Government adopt measures and embark on work to restore and rebuild forest cover, promote planned afforestation efforts, and treat afforestation as an important environmental protection initiative. At the same time, the Government should also draw up specific measures to protect trees and promote the sustainable management of forests, thereby rectifying the past situation where trees were only planted but not being taken care of: The trees planted on the Arbor Day every year might have been burnt to ashes by Autumn. I just hope we can allow 10 years' time for the trees to grow, so that beautiful mountains, clear sky and blue sea can be restored in Hong Kong again.

Here, I should like to speak briefly on the history of deforestation and the hazards currently confronting the trees and forests in Hong Kong. Although Hong Kong is only 1 092 sq m in area, it does have a lot of mountain ranges. Apart from that, the high temperature and heavy rainfall typical of the subtropical belt and the deep weathered crust layer are also favourable to the formation of forests. The area of Hong Kong several hundred years ago should be covered with subtropical rainforests, a scene which matched well with the description of late spring in southern China: "birds flying freely among green trees and wild flowers". Regrettably, due to damages caused by human activities, the existing forest ecosystem in Hong Kong is composed of semi-natural woodland, plantation area and afforested area. Natural woodland is just too hard to come by.

The damages done to forests in Hong Kong have been particularly grave over the past 50 years. In the Second World War period, because wood was an important source of fuel, a large number of the different kinds of trees grown in Hong Kong were cut down and severely damaged during the Japanese occupation. Then, in the '80s, the pine tree-based plantation forests growing in Hong Kong since 1870 were damaged by pests, causing the death of a considerable amount of pine trees. Worse still, since Hong Kong had not adopted any effective pest control measures, the pest spread northwards and caused the death of many pine trees in Guangdong Province. Added to these are the frequent hill fires. During the seasons for ancestral worship, many hill fires would break out and burn the vegetation to ashes. In the face of the hill fire problem, the Government only takes actions to fight the fire when it breaks out but gives no serious thought to prevention, thereby giving people the impression that only barren mountains will not have hill fires. Having suffered from damages caused by war, pests and hill fires over the past 50 years, many of the hills across Hong Kong Island, Kowloon, the New Territories and many outlying islands are covered with nothing but a weak bunch of grass or two.

Now that war has ceased to threaten our forests, the so-called "plant killer" has come to take its place. Two years ago, some biologist and environmental scholars in Guangzhou and Shenzhen discovered that *Mikania micrantha* had already invaded the Pearl River Delta. *Mikania micrantha*, which originates from South America, was first introduced into Malaysia in the '70s to green the waste land where no vegetation could survive. However, this highly reproductive vine has eventually become the plant killer haunting Southeast Asian countries for more than 20 years. This plant killer spreads so

rapidly that it reached Hainan Dao in the '80s and further north to the Guangdong coastal areas in the '90s. On Inner Lingding Island, for example, 40% to 60% of the tall trees and shrubs have already been covered by layers of *Mikania micrantha* and are dying because of insufficient sunlight, nutrients and water supply. The death of so many trees and shrubs is threatening the survival of 600 rhesus monkeys living on the Island, as they all live on the wild fruits grown there. At present, *Mikania micrantha* is spreading widely across Guangdong Province, covering some of the mangrove forests and roadside landscaped shrubs in Shenzhen. In Hong Kong, we have also been invaded by this plant killer since a long time ago. The spread of *Mikania micrantha* across the New Territories and outlying islands has reached a stage where we cannot afford to overlook. Seeing that some of our trees have already been drowned by *Mikania micrantha*, I believe it is time we raised the alarm and took actions to stop *Mikania micrantha* from harming the few remaining forests in Hong Kong. As an effective measure to kill the *Mikania micrantha* growing in Asia has yet to be found, the Guangdong authorities are putting in research efforts to look into ways to preserve forest cover. I understand that certain scholars in Hong Kong are also investigating into killing *Mikania micrantha* with its natural enemy. I just hope the Government can give due attention and encouragement to this research effort. For the sake of the ecology of our fauna and flora, for the sake of the green landscape in Hong Kong, and for the purpose of enabling members of the public to breathe fresh air, I hold that we must take care to love and conserve all the woodland in Hong Kong.

Last but not least, I would like to speak a few words on the issue of urban greening. As a matter of fact, Hong Kong has already made some achievements in urban greening which are in line with our unique "East meets West" characteristic. In addition to local species like Banyan tree, foreign tree species have also been introduced into Hong Kong. On the other hand, the many so-called "fung shui" woods are still preserved in the increasingly urbanized rural areas. I consider this commendable. Nevertheless, I still feel that not enough urban greening efforts have been made. I hold that what we need most is a greening policy. While Hong Kong has already embarked on the road of urban greening, the many tall buildings built on this tiny city have already formed many concrete jungles among us. As such, we very much hope to see more greenery in our city. I therefore hold that our greening policy must put forward new town planning requirements as a first step: New towns must have new and high standard green areas; as for old areas, they should be improved and reformed step by step. For these reasons, the Government must

make an effort to cater for the different environmental and landscaped development needs, implement the relevant plans and step up supervision at the same time. Hence, I support very much the proposal to urge the Government to formulate a greening policy and implement the policy in an effective manner.

I so submit.

**MR WONG YUNG-KAN** (in Cantonese): Madam President, Hong Kong lacks a complete landscaped development and greening policy though everyone is talking about environmental protection nowadays. Different government departments are doing their own work insofar as this subject is concerned and this not only results in a waste of resources but also does little to help in greening work. The Democratic Alliance for Betterment of Hong Kong (DAB) urges the Government to designate a Policy Bureau as soon as possible to take charge of co-ordinating a territory-wide landscaped development and greening policy so that Hong Kong people can enjoy a decent living environment soon.

Madam President, there are at present numerous government departments responsible for greening, namely the Agriculture, Fisheries and Conservation Department, Leisure and Cultural Services Department, Housing Department, Territorial Development Department, Highways Department, and so on, which are trying very hard to plant trees all over Hong Kong. In his policy address, the Chief Executive said he would promote further our greening work. I think greening means more than planting more trees. Greening has to be done in a systematic and planned manner. The current way of allowing various departments to work on their own without co-ordination is a waste of resources and we would thus get half the result with twice the effort in greening.

To rectify the situation, we in the DAB think the SAR Government should designate a Policy Bureau to co-ordinate matters on greening. It should also build up a database on forestry, including information on forestry resources, plant species and wildlife plant and animal species so that government departments may know in advance of their planning where protected plants and animals live, thus enabling them to plan accordingly. Incidents such as the Long Valley saga or the Lung Wah Street saga may henceforth be avoided. Had the Government set up a complete database at an early stage, the East Rail could have circumvented the wetlands grown out of deserted farmland at Long Valley when it commissioned the consultant to study the Lok Ma Chau Spur Line project. The public hearing held earlier could have also been avoided.

I hope Secretaries charged with the Herculean task of greening Hong Kong in future may make reference to success examples elsewhere. They need to learn from overseas countries in formulating a long-term greening programme to transform Hong Kong into a more beautiful world-class city than it is today. Switzerland, for example, is known as the world's garden. Even places which have long been regarded as having foul air, namely, our neighbour, Shenzhen and cities further into the Mainland such as Dalian, Zhuhai, Zhongshan and Guangzhou are making good progress in greening work, as can be seen by everyone. These cities, taking their respective topographic characteristics into consideration, introduce a variety of plants, set up gardens on their roadsides and even hang potted plants from their lamp-posts on the sides of flyovers, creating a green space. With its climatic environment similar to that in Shenzhen, Zhuhai and Zhongshan, Hong Kong can borrow some experience from them, I believe.

Insofar as the planting of trees is concerned, I suggest that Hong Kong should grow some evergreen plants that fit the environment and soil in the territory. We may also plant some seasonal plants and set aside certain areas for some special plant species to grow in. I understand that in 1997, the SAR Government asked the Guangdong Plant and Animal Research Institute to carry out a study to determine what plants should be grown in Hong Kong. I think if Hong Kong can do well in growing plants that fit it, its environment can be improved. The former Regional Council experimented with growing different kinds of windmill palm trees in Sai Kung. While there is a cactus garden in Kyushu, Japan, there is an orchid garden in Singapore. I wish to mention at this juncture that given the country park policy we have, which is here to stay, I still hope to see some dialogue between the Government and florists on ways to grant permission to florists to grow some rare species, such as orchids. Recently, we could see some orchids abandoned in the streets or sold for charity. I have spoken to some florists, who indicated that if the Government could grant land to them, they would be pleased to grow some flowers for the enjoyment of the people. This is a move that may serve several purposes. Granting the provision of suitable facilities, Hong Kong may have one more spot for sightseeing that makes Hong Kong more attractive to tourists. Hong Kong people may find yet another reason for spending locally.

Madam President, I support the motion

**DR LO WING-LOK** (in Cantonese): Madam President, earlier on I spoke with a heavy heart and now, the rain has finally stopped for the moment. While we



have yet seen sunshine after the rain, it seems that I can see some spots of green when I look ahead. I am fully confident that the mutual trust between the medical profession and the public can be rebuilt. So, while I was not prepared to speak originally, I rise to call on the Government to formulate a greening policy and to support Mr LAU Ping-cheung's motion.

I have listened to the speeches made by colleagues on a diversity of aspects. Prof the Honourable NG Ching-fai spoke of pests and hill fires, whereas other colleagues spoke of planning and environmental protection. Indeed, greening in Hong Kong involves a myriad of policy areas. To ensure consistency in the policy, there must be a central co-ordination mechanism. Only in this way will there be a clear direction for greening in Hong Kong to proceed smoothly.

As many of my friends may know, I am fond of country life. I have spent numerous weekends in country parks in Hong Kong. I have also done hiking in foreign countries, but none of the countries that I have visited has country parks as easily accessible as those in Hong Kong, for it takes only 15 to 30 minutes to reach a place with marvellous scenery. Country parks in Hong Kong are indeed very beautiful and very well maintained. The Sai Kung Country Park nowadays remains very much the same as the one that I knew when I was a student. It shows that the Government has taken very good care of our country parks.

I think as the first step of the greening policy, we should do our utmost to protect the existing green belts in Hong Kong and that is, the country parks that we very much cherish, so that all citizens in Hong Kong can enjoy them. We should endeavour to conserve our country parks, whether in terms of the area or quality. We must not slacken our efforts in protecting the country parks for economic or other considerations.

Recently, there is the phenomenon that attempts are made to "concretize" country parks. In the handling of dangerous slopes, for instance, the most common method is shotcreting. Anyone driving on the Island Eastern Corridor will find that the hillsides are full of grey scars if he looks towards Kowloon Park or Tsz Wan Shan. Also, shotcrete slopes are all over the hillsides along Jat's Incline and Shatin Pass Road. Shotcreting in a green environment is indeed a sorry sight and it is counterproductive to efforts made for a green Hong Kong. Therefore, I urge the Government to think twice before resorting to shotcreting in country parks next time, for this is part of the greening policy of Hong Kong.

Country parks aside, we also have to consider greening in the urban areas. In some older districts in Hong Kong, it is very difficult to plant even one single tree for it may get into the way of a double-decker bus. So, there are few options for promoting green features in a district. I think the only way is to carry out the greening work in urban redevelopment. For instance, in awarding contracts to contractors, the authorities may require the provision of certain green space. It is certainly easier to take the greening policy forward in the development of new areas. But still, the Government must have a set of policy that can be consistently applied before more green features can be incorporated in the newly developed districts.

The greening policy is, in fact, an integral part of the environmental protection policy. In many districts, we can see that even though efforts have been made to plant trees there, the trees still cannot grow luxuriantly after several years, and some have even withered, which is so disheartening. Why? The reason may be the environment is polluted. Polluted air makes it difficult for trees to grow; polluted soil makes it impossible for trees to grow; and polluted water limits the growth of plants. So, I call on the Hong Kong Government and all citizens of Hong Kong to have regard for the environmental protection policy as a whole, apart from championing greenery. Only in this way can we genuinely throw weight behind a green Hong Kong.

Madam President, I so submit.

**MR JAMES TIEN** (in Cantonese): Madam President, Mrs Sophie LEUNG has already explained how the Liberal Party looks at this motion. The motion has our total support.

Madam President, I only wish to add my observations of the greening effort in Hong Kong. The Secretary for Planning and Lands is the only government representative sitting here to listen to our views today, and there are no representatives from the Agriculture, Fisheries and Conservation Department (AFCD) or other departments. I suspect, very slightly though, that the trees planted by the AFCD all over Hong Kong may have some problems. If we look at other places near Hong Kong, such as Zhuhai and Xiamen, from where I have just returned, we will see that the greening efforts there are very successful. By whatever standards, Zhuhai and Xiamen are not as affluent as Hong Kong, and their environment is also not as clean as that of Hong Kong. Perhaps, as

pointed out by Dr LO Wing-lok, the air of Hong Kong may be polluted, and its water quality may also very poor, but still, these neighbouring cities are not any better than Hong Kong in comparison. The point is that these cities have done a very good job in keeping their environment green. I just wonder — I am not sure, for I am no expert — whether the experts in the AFCD are just not quite so professional as their counterparts in these neighbouring cities. Is it because Hong Kong has chosen the wrong species of tree to plant, with the result that those trees planted at the waterfront simply fail to grow well because of strong winds? Or, are there any other reasons? I am really puzzled. Anyway, we see that all the trees planted by the AFCD all over Hong Kong simply cannot grow fast, and some of them have even withered. In our neighbouring places (I am not talking about foreign countries, and I am just referring to Zhuhai, which is very close to us, and even Shenzhen), many trees are also planted. Admittedly, there is one difference between these places and us — the wages of these mainland cities are low. That is why we notice that the plants in these cities are watered and cleaned very frequently. But do we not have automatic watering systems? I think the Government should really examine what has gone wrong with the AFCD.

Madam President, I also agree very much to the point raised by Mr LAU Ping-cheung in the motion that the Government should designate a Policy Bureau to assume sole responsibility for our greening policy. Actually, greening should involve all government departments, but we just do not know which of them should make decisions. In contrast, the situation is much better in other policy areas. For example, those Policy Bureaux responsible for transport matters will do the job of building roads, and those with responsibility for housing matters will simply build houses. But there is no Policy Bureau vested with sole responsibility for the greening policy of Hong Kong. In terms of policies, it seems that greening considerations are always included, but in practice, these have never been included in the main objectives of any construction projects. That is why I very much support the motion, which urges the Government to designate a Policy Bureau to co-ordinate the greening work of various government departments.

Besides, I also share Mr LAU Ping-cheung's views on the application of gunite. Many foreign friends of mine have been to Hong Kong, and they tell me that other world-class cities also adopt this method, but Hong Kong has probably abused it to a very serious extent. In some countries, gunite is used only when there are no alternative remedial measures. But in Hong Kong,

gunite is always applied regardless of the circumstances. Some governments have recently adopted a better method — the laying of bigger boulders. We certainly understand that this is not possible with slopes that are very steep. Having said that, I must add that even if we really have to apply gunite, we can still do the job in a better manner. For example, holes about one metre in diameter can be drilled for the planting of trees. Unfortunately, very often, only gunite is applied and nothing more is done. I hope that the Government can consider the methods adopted by other countries and examine whether there are really no alternatives other than gunite that can be used for stabilizing slopes. If there are other alternatives, the Government should consider using them, for I believe they may not necessarily be very costly.

Madam president, I still wish to raise two points. First, Hong Kong is a very small place, and it can thus accommodate small-sized parks only. However, should we thus conclude that since small-sized parks cannot achieve much greening effect, we should stop building these parks altogether? My view is that since our environment is seriously polluted and there are many vehicles, even if we can only build a very small park measuring just a few thousand square feet and plant some trees and flowers there, it is still better than nothing.

The other point I wish to raise is about something that other Members have not mentioned — the appearance of our city. I am very concerned about all those dilapidated signboards hanging over the roads in old districts and busy areas. These signboards are dangling all around, and no one will remove them, and they will fall down only when they are battered by strong winds and long-time disrepair. If the Government is to remove these old signboards, the Treasury will of course have to foot the bill, but I am sure taxpayers will probably support the Government. Under the existing legislation, the Government will require the owners concerned to remove these signboards, but invariably, the owners will reply that the tenants concerned have already moved out. So, in the end, the signboard of a so-and-so restaurant will continue to hang over the road. Unless the signboard falls down due to rusting or as a result of a typhoon, simply no one will bother about it. At the sight of all these signboards, a tourist may well be puzzled, for he will just wonder why there are so many signboards but not as many shops. Though the removal of these signboards will cost taxpayers money, I still hope that the Government can give some consideration to it.

**MR LAW CHI-KWONG** (in Cantonese): Madam President, Hong Kong is indeed a unique city. As mentioned by many Honourable Members earlier in the debate, Hong Kong has a very high population density, yet at the same time a large number of country conservation areas are coexisting with the dense population in this tiny city.

If we are to develop Hong Kong into a cosmopolitan city and a better home, we must hold fast to the principle of "protecting important landscape while enhancing ecological value", so that nature conservation can go hand in hand with urban development.

As we all know, Hong Kong is a small city with a large population, the population density here is therefore very high. To cope with such population pressure, it is imperative that the urban area be expanded and extended continuously. Naturally, this would add to the pressure on the natural environment in Hong Kong. Although Hong Kong is very small in area, it is remarkably rich in ecological resources. With regard to natural environment, for example, on top of the wide variety of woodland, river, wetlands, and so on, Hong Kong also boasts a good many species of wild fauna and flora. On the geological front, almost all kinds of rock can be found in Hong Kong. Moreover, many of the cultural and historical relics in Hong Kong are worth conservation and of very high scientific, environmental, economic, educational, historic, as well as appreciation value.

In carrying out development projects, changes will inevitably be caused to the landscape mentioned. If the development is well-constructed and matches well with the landscape, the two can bring out the best in each other. However, in the event of the development being grotesquely built, the landscape will be ruined. The Democratic Party therefore urges the Government to formulate a set of landscaped development and greening policies and to conduct a comprehensive study of the landscape and natural resources of Hong Kong, with a view to identifying their distribution and enabling the relevant planning authorities to formulate appropriate conservation policies.

At present, while hardly any relevant study or review has ever been conducted in this respect, the natural and landscape resources in Hong Kong are monitored and protected by but a few fragmentary pieces of legislation. Earlier, a number of Members have spoken on issues relating to government departments. For my part, I should like to speak briefly on the legislation concerned. As

matters in this connection are governed by the Country Parks Ordinance, Town Planning Ordinance and Marine Parks Ordinance, which are the responsibility of different government departments, there is naturally a lack of co-ordination among the relevant policies and measures. We therefore hope that the Government will, in addition to formulating a comprehensive landscaped development policy, study drawing up legislation on protection of natural resources, with a view to conserving fully Hong Kong's valuable landscape, including natural areas, cultural relics, shoreline, mountain ranges, and so on. An enforcement agency should be established by virtue of the legislation with the specific responsibility of supervising and co-ordinating the efforts of the various government departments in implementing landscaped development and greening policies. Further still, the Government should also make the study on possible compensation packages payable to private sector developers for exchanges of development rights a key initiative, with a view to ensuring that conservation work can be carried out more smoothly in the future.

The quality and prosperity of a city is dependent upon how people make use of its natural resources and manage its ecosystem. For this reason, we must not pursue economic development at the expense of the quality of life. To improve the quality of city life, it is imperative that efforts be made to improve the living environment, enhance environmental hygiene, increase and upgrade public facilities, and develop community services. That way, the sustainability of the city can be established on the basis of healthy development in the social, economic and cultural aspects. The Democratic Party supports the motion moved by Mr LAU Ping-cheung.

**MISS CHOY SO-YUK** (in Cantonese): Madam President, the Chief Executive stated in his policy address in 1999 that he wished to turn Hong Kong into a world-class city. He also urged the people of Hong Kong to build a better home for themselves and to put the concept of sustainable development into practice. People all know by now that while we develop the economy, we cannot overlook the damage done to the natural environment. First-rate cities around the world all attach great importance to environmental planning. They endeavour to preserve the precious natural resources and try to ensure co-ordination and compatibility between urban development and the natural environment. To this end, a greening policy formulated by the Government is very important. If cities can have more trees, this will not only enable the people to enjoy fresh air, but also make the cities look more pleasant. Major cities in China all attach

great importance to a greening policy and try to turn themselves into "garden cities". For example, Shanghai has made environmental protection and ecological development its focuses of construction in the next five years. Plans are made to construct a green belt around the city, a large-scale green area in the city centre, and artificial forests in the suburbs. All these complementary green ecological systems will raise the greening areas to cover 30% of the city. In Wuhan, the municipal government has also formulated a landscaped development and greening policy. There are plans to raise the greening area to cover 35% of the city. In Hong Kong, although forested areas, grassland and scrubs take up about 67% of the total area of the territory, they are all situated in the undeveloped areas like country parks. In developed areas, rest areas with greening functions only take up 9% of the total area. If Hong Kong does not rise and catch up in greening efforts, it will not be able to develop into a world-class city and will even lag behind other cities in China.

Madam President, despite the fact that a greening programme has been in place here for a few years, there is very limited space in the urban areas to grow trees. This is due to the failure to reserve land for green purposes in the urban planning and building construction activities in the past. Take Wan Chai District as an example. The Wan Chai District Council used to have a plan to plant 1 000 trees, but no suitable place could be found for this purpose. Work has to be stopped when 888 trees have been planted recently, falling short of the objective. In densely populated commercial areas like Central, Mong Kok and Wan Chai, what the public can see are only blocks of high-rise buildings. The number of trees planted in between buildings or on roadsides is very limited. The public simply does not have enough green resting areas. This shows precisely the fact that the Government has all along been neglecting greening the urban areas. I think the Government should put in more efforts in the following two areas to effectively improve on the situation.

First, the Government must urge developers to reserve a certain amount of space and money for investment for greening purposes in their construction of buildings. That will effectively increase the coverage rate of trees and other vegetation. In February this year, the Buildings Department issued some notes for the construction of environmentally-friendly buildings. So in future when developers construct public hanging gardens, podium gardens, balconies and such like green facilities, the area can be exempted from calculation of gross floor area, with a maximum of 8% of the gross floor area. Although such measures can encourage developers to reserve more space for greening purposes,

these are not enough, for environmentally-friendly measures also include public corridors, sound insulation wings, shading panels and reflective panels, and so on. The area left for planting trees is not much. Moreover, for some small and medium developers or developments which are not very large in scale, the idea of green buildings may not be that attractive. Therefore, the Government should issue clear guidelines to urge developers to put in more greening efforts. The Government should make reference to the experience of mainland cities like Zhuhai. The Honourable James TIEN has mentioned the greening efforts in Zhuhai. As a matter of fact, developers are mandatorily required to reserve a certain amount of land as green zone. They are also required to put in a certain amount of money as deposit and the deposit may be forfeited if they fail to meet the set standards of greening. The deposit forfeited will be used by the local government to carry out the greening efforts on behalf of the developers in the works project concerned. In addition, our Government should devise an effective monitoring mechanism to require developers or estate management companies to ensure that the green area is maintained on a permanent basis. This is to prevent the green areas from being converted for other purposes once the project is completed. Therefore, supervisory efforts are equally important.

Second, to implement a greening policy effectively and to conserve forestry resources, the Government should refer to the experience in other places and designate a department to take unified charge of greening and tree conservation policies. This can rectify the disadvantage of having different departments doing conservation work on their own without any co-ordination, thereby failing to use the resources effectively. As regards the specific recommendations on the conservation of tree resources and administrative framework for such purpose, I will move a motion in this Council on 23 May on conserving valuable and old trees, and I will expound on them then.

Madam President, apart from policies on greening and conserving trees, I would like to talk about what I think of the nature conservation policy of the Government as one last comment. From the litigation about the residential development in Sha Lo Tung, Tai Po and the case with the East Rail spur line which runs through Long Valley, it can be seen that the Government lacks a long-term policy on nature conservation and therefore the conflicts between nature conservation and urban development cannot be effectively resolved. Doubtless rural areas with ecological value should be protected. However, the Government must not disregard the local residents whose interest may be



adversely affected. Those villagers in Long Valley and Sha Lo Tung possess the right to dispose of their land there and no wonder they are dissatisfied when their land cannot be developed owing to the ecological value thereof.

**PRESIDENT** (in Cantonese): Miss CHOY So-yuk, your time is up.

**MISS CHOY SO-YUK** (in Cantonese): Madam President, I so submit in support of the motion.

**DR RAYMOND HO** (in Cantonese): Madam President, in recent years, the Government has been making strenuous efforts to develop Hong Kong into a world-class city, and it seeks to make Hong Kong not only a major city in China or Asia, but also a metropolis that can rival New York and London. This long-term objective should deserve our total support. Although Hong Kong has already attained quite a high standard in many respects (For example, it is already an international financial and shipping centre), it still leaves much to be desired in many other aspects such as its overall appearance and environment. In the case of landscaped development and greening, for example, it is lagging far behind even some rapidly developing cities in the Mainland, such as Shenzhen and Shanghai. Landscaped development and greening constitute an integral part of the development of mainland cities. In contrast, they have hitherto received far less attention in Hong Kong.

Some say that this is due to a factor unique to Hong Kong — a dense population packed in a tiny area, but I do not think that this is the principal cause of the problem. Rather, the key lies in the weight attached by the community to landscaped development and greening. It cannot be denied that in the past, Hong Kong put too much emphasis on short-term economic gains, and for this reason, greening measures were hardly accorded priority consideration in town planning. People can thus do nothing but to accept the argument that we are a tiny city with a dense population.

With the mature development of our economy and the resultant rise in living standard, people have attached increasing importance to the appearance of their city and its environment, and they have also become increasingly

demanding. However, the Government still fails to answer people's aspirations in respect of urban development and planning policies, with the result that landscaped development and greening have not yet been regarded as an important factor shaping the development of Hong Kong. Most of the development projects in recent years, with the exception of a handful of new towns, have failed to accord any importance to landscaped development and greening, and this is especially the case with development projects in the urban areas.

When we fly over many other cities and have a bird's view of them, we will often find that they are richly covered with trees, with extensive green areas. In contrast, a bird's view of Hong Kong shows nothing but a "concrete jungle" in the extreme.

The fact is that despite people's wish to plant trees extensively along our pavements, the Government has refused to listen at all.

We have a superb and most picturesque harbour. At least, there should be a well-designed corridor along both shores for people to have a walk, to take a rest and to appreciate the magnificent view; such a corridor will certainly become a favourite place for people, both at night and during the day.

Perhaps because of the fact that environmental protection has become a major trend in advanced economies, the SAR Government has started to attach more importance to landscaped development and greening. Unfortunately, the results still leave much to be desired, as responsibilities for the relevant policies are now scattered among many different departments such as the Highways Department, Territory Development Department, Leisure and Cultural Services Department, and so on. Moreover, greening efforts are still limited to the provision of small-scale landscaped features as a decoration near buildings and roads; the importance of landscaped development and greening in modern town planning is entirely ignored. Therefore, the Government should really enhance its internal co-ordination in respect of landscaped development and greening, so as to ensure that the various government departments can really implement the relevant policies.

Besides, the Government should also enhance its co-operation with those local professional bodies closely connected with greening, such as the engineering sector, the construction sector, the landscaping sector and planning professionals, with a view to building up a more beautiful and superb urban

environment. At the same time, the Government should encourage private-sector organizations to accord importance to greening in their development projects.

Madam President, to achieve sustainable development for Hong Kong and to make it a world-class city, the Government must act now to implement an integrated landscaped development and greening policy. Only this can give the people of Hong Kong a genuinely quality urban environment.

With these remarks, I support the motion.

**MR CHAN KWOK-KEUNG** (in Cantonese): Madam President, over the years, Hong Kong has been known as a "concrete jungle" because the urban areas and the crowded residential areas are packed with clusters of buildings, big and small, and plants, especially tall trees, are scarcely found. It is because during the construction of buildings, the Government and developers will remove the trees there.

Due to the scarcity of plants, little oxygen is produced by plants. As a result, the air quality in these areas is especially poor. The air is foul throughout the day. The circulation of air is blocked by the closely packed buildings. On a windless day, one would rather hold one's breath than inhale the stale air.

Hong Kong has little land and a large population. Every inch of land is fully utilized to build homes, commercial premises or other facilities, and little space is left for greening. That is why some luxurious private developments use the green space in the developments as a selling point. This shows how fervently Hong Kong people have been longing for green space.

Insofar as the greening policy is concerned, mainland cities are far ahead of Hong Kong. More than a decade ago, Beijing already had giant trees on both sides of the roads, whether in new or old districts. For the newly-developed cities such as Zhongshan and Zhuhai, the green concept is also incorporated into their town planning, and they are eventually developed as beautiful garden cities. Hong Kong's urban areas are even no greener than one tenth as green as they are.

After long years of development, Hong Kong has neither reviewed its past building approach which features plenty of concrete but little plants, nor followed the greening examples of newly-developed cities. As a result, Hong Kong has lagged behind the neighbouring regions in terms of the pace of greening.

A green city makes people feel good, and greening initiatives can also bring job opportunities to Hong Kong people. I remember that in the past, workers doing the greening work used to wear broad-brimmed Hakka straw hats while planting under the hot sun, sweating all over and working laboriously. Today, workers wear caps and put towels around their heads to protect against the sun instead. But they still sweat all over and the work is still hard. Hong Kong people have not become lazy. They would rather make a living by sweat and toil than rely on social assistance.

As long as the wages, working conditions and working hours are reasonable, Hong Kong people are willing to stand on their own feet.

I urge the Government to create job opportunities for Hong Kong people while implementing the greening policy to beautify the city. With these remarks, Madam President, I support the motion.

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

(No Member responded)

**SECRETARY FOR PLANNING AND LANDS** (in Cantonese): Madam President, first of all, I would like to thank Mr LAU Ping-cheung for moving the motion on landscaped development and greening policy. I would also like to thank Members for their valuable comments. The Government is in full support of the spirit of the motion moved by Mr LAU, that is, to create a good living environment and to promote the sustainable development of Hong Kong through the implementation of landscaping and greening initiatives.

Before giving an account of the Government's initial response to the recommendations in the motion, I would like to say a few words about the Government's efforts in the areas of landscaping and greening. I would only

say a few words because as Mr LAU and a few other Honourable Members have said, the issue is related to a number of Policy Bureaux and many departments. We need to take follow-up actions in co-ordination. As a matter of fact and as Mr LAU has said, we need to make a review of the work we have done. We need to compare our achievement with that of the other major cities in the world in respect of aspects like the per capita ratio of green areas in urban districts. We will study how existing policies can be improved against this background and how efforts in this regard can better be carried out.

What efforts has Hong Kong made? Hong Kong has spectacular natural scenery. The Government attaches much importance to protecting these valuable natural resources. At present, over 60 000 hectares of land in Hong Kong have been designated as country parks, special areas, nature reserves, sites of special scientific interests, conservation areas, green belts, and marine parks, and so on which occupies about half the total land in Hong Kong. In 2000-01, 648 000 saplings were planted in country parks by the Agriculture, Fisheries and Conservation Department, and the number will increase to 780 000 in 2001-02.

The relevant Policy Bureaux and departments have always attached importance to the promotion of landscaping and greening. In the 1950s, 1960s and 1970s, the Government was not able to find a proper balance in respect of setting land aside for greening and planting trees as there was an urgent need to build more new towns to accommodate the growing population. The problem we face now is how to be more assertive in our landscaping and greening efforts under the present circumstances. From town planning to the implementation of public projects, landscaping and greening works have been an integral part of our policy. Urban landscaping is generally made up of two components, namely the hard and soft landscaping. The former refers to the overall design and layout of parks and infrastructure while the latter refers to greening projects including the planting of grass, flowers, trees, and so on in urban areas, buildings and works projects. In other words, greening is an integral part of landscaping.

In territorial or sub-regional planning undertaken by the Planning Department (PD), one of the major objective is to conserve and develop the landscape of Hong Kong. In planning studies for individual districts, the PD always explores ways to ensure that the planned developments will have a good landscape effect. In addition, sufficient open space will be reserved for landscaping and greening purposes in accordance with the Hong Kong Planning

Standards and Guidelines. The PD is now conducting three planning studies which will directly or indirectly affect the urban landscape. They are: Urban Design Guidelines for Hong Kong, Review of Metroplan and Planning Study on the Harbour and its Waterfront Areas. Public consultation is being/will shortly be carried out on the recommendations of these three studies. If supported by the public, these three studies will greatly help develop and improve the entire appearance of our city.

As for new towns and new development areas, landscaping and greening are considered in the feasibility study stage. For example, in the South East Kowloon Development Feasibility Study, the Territory Development Department has requested the consultants to formulate a landscape master scheme for the entire development so as to ensure that the landscaping and greening works could fit in with the overall project. Honourable Members may recall seeing the relevant draft plans. Our present concept is that residents living in this new district in South East Kowloon may walk just 1 km or 2 km from their homes before they reach the waterfront. After passing through a specially designed waterfront park, they may continue walking along the coastline for a further 2 km or 3 km, and they will not see any vehicle on the way.

Another example is the West Kowloon Reclamation. The purpose of the Concept Plan Competition launched recently is to invite submission of visionary and innovative plans for the development of a prominent site on the waterfront into an integrated arts, cultural and entertainment district, so as to create a unique and attractive environment, as well as a new look for the Victoria Harbour.

In carrying out infrastructural projects such as the construction of bridges and roads, the works departments will consider the impact of the works on landscape and maximize the extent of greening.

For new slopes or improving existing artificial slopes, the Works Bureau requires that the relevant departments should give priority consideration to planting of vegetation. If this is infeasible for technical or safety reasons, other measures like the planting of grass should be considered to improve the appearance of the slopes.

In regard to highways, the departments concerned have made much efforts in enhancing roadside plantation. The Leisure and Cultural Services Department (LCSD) has embarked on a scheme to plant some 5 000 flowering saplings along major highways.

As regards parks and roads, the LCSD planted 60 000 saplings and 2.78 million seasonal flowering plants in parks and roadside amenities in 2000-01. In 2001-02, another 60 000 saplings and 2.8 million seasonal flowering plants will be planted.

In 2001-02, a total of 5.3 million saplings and bushes will be planted by the works departments in connection with their works projects, which represent an increase of about 45% over last year.

Now I would like to turn to private developments. To encourage landscaping and greening in private developments, the Government has recently introduced a series of initiatives to promote green buildings, which include the provision of more open space and more floor areas for residents to plant vegetation and trees within the buildings.

In addition, the Town Planning Board, in considering private development proposals, will as appropriate include requirements for tree preservation or environmental beautification as approval conditions, and assess their impact on the landscape to decide whether the developers should be required to propose improvement measures.

Madam President, I will now turn to the Government's initial response to the recommendations put forth in the motion moved by Mr LAU.

First, the motion urges the Government to conduct an early review of the distribution of the natural and landscape resources in Hong Kong. The Government supports this recommendation. In fact, a study on this subject has already been planned. The PD will commission a consultancy study on "Landscape Value Mapping of Hong Kong" in around the middle of this year, which will last about 18 months. The main objective of the study is to collect the distribution and baseline information of the landscape in Hong Kong, which will facilitate assessment of the landscape impact of major projects in future.

The motion also urges the Government to formulate a territory-wide landscaped development and greening policy and designate a Policy Bureau to co-ordinate the landscaping and greening efforts. The Government will give careful consideration to this recommendation. The Environment and Food Bureau, in conjunction with other relevant bureaux and departments, have formed a working group to comprehensively review the Government's efforts in greening. The purpose is to step up the co-ordination of the relevant departments in their greening efforts; to formulate a comprehensive strategy; as well as to work out the short-term and long-term measures to promote greening.

In respect of planning, there is a Committee on Planning and Lands Development within the Government. The Committee, chaired by the Secretary for Planning and Lands, comprises members from a number of Policy Bureaux and departments. It is responsible for examining development strategies and major land development plans. As landscaping is an essential element of these development strategies and plans, the Committee has, to a large extent, assumed the role of co-ordinator in this respect. Of course, after hearing so many valuable comments from Members, my colleagues from the Committee and I will begin a review of a territory-wide landscaped development and greening policy, and to see what are the areas that could be improved.

Another recommendation is to improve the conditions of the old urban areas through re-planning. The Government fully agrees with this recommendation. The Urban Renewal Authority (URA), newly established on 1 May this year, is tasked with the important mission of improving the conditions of the old urban areas. In the next 20 years, the URA will carry out some 200 projects in nine target areas, involving 55 hectares of land and more than 1 400 buildings. One of the major objectives of our urban renewal efforts is to enhance greening and beautify our old urban areas. In this process, the URA will consult residents of the districts affected on landscaping and greening.

Lastly, I wish to point out that landscaping and greening is not the sole responsibility of the Government. The general community and the private sector also play a very important role. An Honourable Member has mentioned earlier the damage done to our natural environment by hill fires. Another Honourable Member has made a complaint to me earlier. The Member said that a government works department was doing a good job. They would grow grass on a slope once the slope has been cut. However, in less than three weeks a group of stray cattle ate all the grass there. The department planted some saplings as a fence. But unfortunately, the cattle ate all the saplings as well.



Hill fires and forms of destruction of the above kind do convey a message, and that is, if we want to beautify our landscape and carry out greening, it is the responsibility of every citizen of Hong Kong. The Government will continue to pay attention to that issue and study how educational efforts can be promoted to foster a special affinity to our natural environment in the people of Hong Kong from their childhood.

**PRESIDENT** (in Cantonese): Mr LAU Ping-cheung, you may now speak in reply. You still have three minutes 42 seconds.

**MR LAU PING-CHEUNG** (in Cantonese): Madam President, I must thank those Members who have spoken. I notice that 12 Members have spoken, plus a Secretary. So, in total there were 13 speakers who all fully support the formulation of a systematic and co-ordinated landscaped development and greening policy.

The construction process of Hong Kong in general lacks an awareness of landscaping and greening. Where there is such awareness, it is not given due regard. In the debate, I could see some very positive response from Members and the Government, which is a good message. I believe this is an important step forward at least in improving the overall city appearance in Hong Kong.

However, under the present conditions in Hong Kong, landscaped development and greening is at the bottom of the list when budgets and facilities are considered for a common construction project. Consideration will be given to landscaped development and greening only when there is spare space or budget. In this connection, both the Government and private developers need to work harder.

In the Mainland, there are three indices for evaluating the greening level of a city: firstly, public green area per capita; secondly, green coverage and thirdly, green belts. Public green area per capita refers to the public green area per capita for city-dwellers. Green coverage refers to the percentage of total land in a city covered by the vertical projection of green plants found in the city, including trees, shrubs, lawns, and so on. Green belts refer to the percentage of green areas of all kinds in a city. The above indices can be applied to every city, region or separate unit as means of evaluation. The indices were introduced in

China in as early as 1982. So, Hong Kong should rise to catch up in this respect.

In other countries in the world, similar criteria can be found. Germany, for instance, stipulates that every citizen needs 40 sq m of quality green land in order to achieve a balance between sulphur dioxide and oxygen content in the atmosphere. The standard for cities in the United States is 30 sq m on average and for Canberra in Australia, the figure goes up to 70 sq m.

Given its special urban conditions, Hong Kong obviously cannot reach these standards. If it goes out of its way to endeavour to reach them, it would encounter enormous difficulties. But as colleagues pointed out in their speeches, there is a real need for Hong Kong to draw up a set of complete landscaped development and greening indices. It must designate a Policy Bureau to implement and monitor the relevant policies so that Hong Kong can become a real world-class city with a quality environment and an image that befits a metropolitan city.

Madam President, I so submit.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr LAU Ping-cheung, as set out on the Agenda, be passed. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion passed.

**NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the Council until 2.30 pm on Wednesday, 16 May 2001.

*Adjourned accordingly at twenty-six minutes to Nine o'clock.*

**WRITTEN ANSWER****Written answer by the Secretary for Housing to Miss CHAN Yuen-han's supplementary question to Question 1**

If the applicant accepts the first rehousing offer by the Housing Department (HD), the whole process should take about four weeks. Upon receipt of a referral from the Social Welfare Department (SWD) supporting the grant of a conditional tenancy, the HD will arrange, within three weeks, a pre-letting interview with the applicant on his/her preference for location. An offer is usually made within one week after the interview if flats are available in the applicant's choice of district.

If the applicant rejects the first offer, another offer will usually be made within two weeks. If this offer is refused again, depending on circumstances, the HD may refer the case to the SWD for any necessary counselling or re-assessment. On the basis of the SWD's further advice, a third offer will usually be made, again within two weeks, subject to the availability of suitable flats.

As the Honourable Member has pointed out, this is an interactive process and its timely completion depends largely on applicant's co-operation in the submission of relevant supporting documents, the availability of flats which meet applicant's expectations, and readiness of applicants to accept allocation offers.

The HD does not keep statistics on processing time for applications for conditional tenancy. Two case studies are attached to illustrate circumstances which have prolonged the allocation process.

It is the HD's aim to allocate flats to tenants in special need as soon as practicable. In fact, if the applicant's case is exceptionally urgent and the applicant is not particularly selective regarding choice of accommodation, the HD will complete the entire process within a few days.

**WRITTEN ANSWER** — *Continued*

Appendix

Case Studies on Flat Allocation  
under "Conditional Tenancy"

<i>Case study</i>	<i>Date received by HD</i>	<i>Vetting and pre-letting interview completed on</i>	<i>Offers* and dates</i>	<i>Remarks</i>
No. 1	13 April 2000	5 May 2000	Five offers: 9 May 2000 8 June 2000 13 July 2000 5 October 2000 14 November 2000	After the third offer, the case was referred to the SWD for reassessment on 16 August 2000. The fourth housing offer was made within one week after receiving further recommendation from the SWD. The applicant finally accepted the fifth offer (that is, six months after the first offer was made in early May 2000).
No. 2	5 March 2001	30 March 2001	Three offers: 4 April 2001 2 May 2001 31 May 2001	The applicant failed to produce the divorce document for verification. A longer processing time was necessary to establish eligibility. The applicant's choice of flat was rather narrow.

\* Note: After issue of offer letter, two to three weeks are allowed for the applicant to view the flat under offer and decide whether to accept or not.

**Annex II****WRITTEN ANSWER****Written answer by the Secretary for Commerce and Industry to Mr Ambrose LAU's supplementary question to Question 2**

At the meeting, the Honourable Member asked amongst the reports issued by the Office of the Government of the Hong Kong Special Administrative Region in Beijing (Beijing Office) to various departments, which ones concern the professional services sectors. We have consulted the Beijing Office and their reply is as follows:

The Beijing Office follows closely the latest developments in the opening of the mainland market, including the progress of liberalization and the market situation of the professional services sectors, and makes prompt reports to relevant offices in the SAR Government. The Beijing Office also informs relevant departments of the latest laws and regulations on individual professional services sectors promulgated by the Central People's Government. For example, reports have been made on Measures for the Management of Intermediary Services Charges (effective from October 1999), Accounting Law of the People's Republic of China and related regulatory measures (effective from July 2000), Temporary Measures for Management of Sino-Foreign Joint and Co-operative Medical Institutions (implemented on 1 July 2000), China's Notary Reform (implemented on 1 October 2000), and Marriage Law (effective from April 2001). The above information concern the medical, accounting and legal professions.

**Annex III****WRITTEN ANSWER****Written answer by the Secretary for Commerce and Industry to Miss Margaret NG's supplementary question to Question 2**

The Department of Justice is working closely with the Law Society of Hong Kong and the Hong Kong Bar Association over the provision of legal services in the Mainland by Hong Kong lawyers upon China's accession to the World Trade Organization (WTO). With this objective, a Sub-committee (chaired by the Solicitor General) was set up in January 2000. Comprises of representatives from the Hong Kong Bar Association, the Law Society of Hong Kong and the Department of Justice, the Sub-committee is studying the impact of China's pending accession to the WTO on Hong Kong legal services sector. Regular meetings are held to explore opportunities for the legal profession in Hong Kong arising from the opening up of the Mainland's legal services market, collecting the views from the legal professional bodies and reflecting them to the relevant mainland authorities.

In addition, the Sub-committee focuses on seeking further information in respect of:

- (i) how Hong Kong lawyers can sit in the National Lawyers Examination;
- (ii) the training required for Hong Kong lawyers to practise in the Mainland after they have passed the National Lawyers Examination; and
- (iii) the procedures and requirements for registration for Hong Kong lawyers in the Mainland.

The Department of Justice, assisted by the Beijing Office, collects information on the latest developments relating to the opening up of the legal services market in the Mainland. The Secretary for Justice and the Solicitor General frequently relay the concerns raised by the Hong Kong legal profession during exchanges and contacts with our counterparts in the Mainland. Through visits and exchanges between mainland officials and our Department's officials, we have discussed ways to assist Hong Kong lawyers to provide legal services in

**WRITTEN ANSWER** — *Continued*

the Mainland. We are also planning to launch shortly a webpage on the topic "WTO and the legal profession" at the Department of Justice homepage. The website will provide the latest news about the opening of the Mainland's legal services market, relevant updated regulations and rules, conference papers on the subject and forthcoming events and activities that may be of interest to Hong Kong lawyers wishing to enter the mainland market. We also assist the legal professional bodies in building up contact with mainland lawyers, the Ministry of Justice and other municipal and provincial Bureaux of Justice.

The mainland authorities are currently drafting regulations on the provision of legal services by foreign law firms. The Sub-committee is closely monitoring the development and will study the regulations as soon as they are released.



**Annex VI****WRITTEN ANSWER****Written answer by the Secretary for Security to Mr James TO's supplementary question to Question 4**

The police advise that because the necessary facilities and equipment are also used for other purposes and not exclusively dedicated for the identification of Pe-paid SIM card users, it is impracticable to specify the cost for this function.

**WRITTEN ANSWER****Written answer by the Secretary for Security to Mr SIN Chung-kai's supplementary question to Question 4**

The police advise that they rely on the exemption under section 58(1) of the Personal Data (Privacy) Ordinance (Cap. 486) to collect information of subscribers from telephone companies for the purposes of prevention and detection of crime. No court warrant is required for the collection of the information. The police have drawn up strict internal Orders governing the use of the telephone checking mechanism in order to ensure that information is collected only when necessary.

**Annex VI****WRITTEN ANSWER****Written answer by the Secretary for Works to Mr Abraham SHEK's supplementary question to Question 5**

As regards the number of contracts awarded and the amount involved which were related to school improvement programme, I would like to advise that there are 90 contracts awarded since April 1997 and the contract sum involved for these contracts is \$3 billion.