

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 6 February 2002

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, G.B.S., J.P.

DR THE HONOURABLE DAVID CHU YU-LIN, J.P.

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, G.B.S., J.P.

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

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

THE HONOURABLE NG LEUNG-SING, J.P.

THE HONOURABLE MARGARET NG

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

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE HUI CHEUNG-CHING, J.P.

THE HONOURABLE CHAN KWOK-KEUNG

THE HONOURABLE CHAN YUEN-HAN, J.P.

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, B.B.S.

THE HONOURABLE LAU KONG-WAH

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

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

THE HONOURABLE AMBROSE LAU HON-CHUEN, G.B.S., 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.

THE HONOURABLE MA FUNG-KWOK

MEMBERS ABSENT:

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE LAU CHIN-SHEK, J.P.

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

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE DONALD TSANG YAM-KUEN, J.P.

THE CHIEF SECRETARY FOR ADMINISTRATION

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

THE FINANCIAL SECRETARY

MR CHAU TAK-HAY, J.P.

SECRETARY FOR COMMERCE AND INDUSTRY

MR NICHOLAS NG WING-FUI, J.P.

SECRETARY FOR TRANSPORT

MISS DENISE YUE CHUNG-YEE, G.B.S., J.P.

SECRETARY FOR THE TREASURY

MR STEPHEN IP SHU-KWAN, G.B.S., J.P.

SECRETARY FOR FINANCIAL SERVICES

DR YEOH ENG-KIONG, J.P.

SECRETARY FOR HEALTH AND WELFARE

MRS REGINA IP LAU SUK-YEE, J.P.

SECRETARY FOR SECURITY

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>
Immigration (Amendment) Regulation 2002.....	14/2002
Air Pollution Control (Motor Vehicle Fuel) (Amendment) Regulation 2002.....	15/2002
Leveraged Foreign Exchange Trading (Annual Returns) (Amendment) Rules 2002	16/2002
Securities and Futures Commission (Annual Returns) (Amendment) Rules 2002	17/2002
Solicitors' Accounts (Amendment) Rules 2002	18/2002
Tax Reserve Certificates (Rate of Interest) (No. 2) Notice 2002.....	19/2002
Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Ordinance (10 of 2001) (Commencement) Notice 2002	20/2002

Other Papers

- No. 53 — Report by the Board of Governors of The Prince Philip Dental Hospital for the period from 1 April 2000 to 31 March 2001
- No. 54 — Hong Kong Arts Development Council Annual Report 2000-2001
- No. 55 — The Hong Kong Academy for Performing Arts Annual Report 2000-2001 and the Financial Statements and Auditor's Report for the year ended 30 June 2001

- No. 56 — Employees Retraining Board
Annual Report 2000-2001
- No. 57 — Li Po Chun Charitable Trust Fund
Annual Report for the period 1 September 2000 to
31 August 2001
- No. 58 — Report of the Public Accounts Committee on the Reports
of the Director of Audit on the Accounts of the
Government of the Hong Kong Special Administrative
Region for the year ended 31 March 2001 and the
Results of Value for Money Audits (Report No. 37) and
Supplemental Reports of the Public Accounts Committee
on Report Nos. 35 and 36 of the Director of Audit on the
Results of Value for Money Audits
(February 2002 - P.A.C. Report No. 37)

Report of the Bills Committee on Mandatory Provident Fund Schemes
(Amendment) Bill 2001

ADDRESS

PRESIDENT (in Cantonese): Address. Mr Eric LI, Chairman of the Public Accounts Committee, will address the Council on the Committee's report on the Reports of the Director of Audit on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2001 and the Results of Value for Money Audits (Report No. 37) and Supplemental Reports of the Public Accounts Committee on Report Nos. 35 and 36 of the Director of Audit on the Results of Value for Money Audits.

Report of the Public Accounts Committee on the Reports of the Director of Audit on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2001 and the Results of Value for Money Audits (Report No. 37) and Supplemental Reports of the Public Accounts Committee on Report Nos. 35 and 36 of the Director of Audit on the Results of Value for Money Audits

MR ERIC LI: Madam President, on behalf of the Public Accounts Committee (PAC), I have the honour to table our Report No. 37 today.

The Report corresponds with the Report of the Director of Audit on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2001 and his Report No. 37 on the results of value for money audits, which were submitted to you on 30 October 2001 and tabled in the Legislative Council on 21 November 2001.

The PAC Report No. 37 tabled today contains three main parts:

- (a) the PAC's assessment of the actions taken by the Administration in response to our recommendations made in the PAC's previous Reports Nos. 34 and 35;
- (b) our observations on the Report of the Director of Audit on the Accounts of the Government for the year ended 31 March 2001; and
- (c) the conclusions reached by the PAC on the Director of Audit's Report No. 37.

At the time when PAC Report Nos. 35 and 36 were finalized, the PAC's deliberations on the subject "Construction of two bridges" in Report No. 35, and the subjects "Follow-up review on control of utility openings" and "Review of the Hong Kong Sports Development Board" in Report No. 36, were continuing. A full report on these chapters was therefore deferred. The PAC has now concluded our deliberations and have the honour to table the supplemental reports on these three chapters together with our Report No. 37 today.

As in previous years, the PAC has selected for detailed examination only those chapters in the Director of Audit's Report No. 37 which, in our view, referred to more serious irregularities or shortcomings. The Report tabled today covers our deliberations on seven of the eight subjects selected. We have decided to defer a full report on the subject "Mechanized street cleansing services" as we shall hold a second public hearing on 1 March 2002 to examine, among other things, the many tiers of staff in the chain of command in the Food and Environmental Hygiene Department involved in the operation of mechanized street cleansing services, and how they affect the provision of the service. The PAC will endeavour to finalize our report to the Council at the earliest opportunity.

The PAC's work

The PAC's consideration of the actions taken by the Administration in response to the recommendations made in our previous reports, and our examination of the Director of Audit's Report on the Accounts of the Government are an integral part of our work.

In reviewing the Administration's actions in response to PAC Reports Nos. 34 and 35, the PAC has proactively inquired about the latest position of a number of issues which have been outstanding for quite some time and urged the Administration to expedite action to conclude them without delay. The PAC's concerns and the Administration's responses have been documented in our Report.

To quote an example, the PAC has not lost sight of the outstanding issues relating to the subject "Administration of allowances in the Civil Service". We note that the Civil Service Bureau is consulting the staff side regarding the recommendations of the Standing Commission on Civil Service Salaries and Conditions of Service, and the Standing Committee on Disciplined Services Salaries and Conditions of Service, on the job-related allowances provided for civil servants. We have requested the Civil Service Bureau to provide the outcome of the consultation and its decision on the way forward by the end of March 2002. The PAC will then decide on the appropriate way to follow up the matter.

The PAC has made a number of inquiries on the Accounts of the Government for the year ended 31 March 2001. In respect of the advances relating to the expenditure on Vietnamese migrants, as the remark that "the full recovery of the amount due is doubtful" has existed for a long time, the PAC has inquired about the prospects of recovering the advanced amount and when the remark can be removed. The PAC is also concerned about the significant variances between the original approved estimates, and the actual revenues and expenditures in respect of some revenue and expenditure heads and has therefore requested the reasons for the variances. For example, regarding the advances of Tsing Ma Control Area, the PAC has requested the Administration to explain the background to the creation of this Advance Account and the reasons for the significant variance between the toll revenue and related receipts collected, and the remuneration of the Tsing Ma Control Area operator.

*Supplemental reports on the Director of Audit's Reports No. 35 and 36**Construction of two bridges*

The PAC's report on "Construction of two bridges" had been deferred due to the Administration's refusal to disclose in public the information provided by the contractors to the Government relating to the bridge contracts concerned.

The PAC is seriously concerned that because of the confidentiality provisions in the General Conditions of Contract for the bridge contracts concerned, the Director of Audit has to exclude from his Report the relevant information, that is, detailed information relating to the contractors, the dispute resolution processes and the settlement sums, thereby causing unnecessary delay in the PAC's work and reducing the overall usefulness and timeliness of the Director of Audit's Report.

Arising from the issue, the PAC considers that there is a need to amend future General Conditions of Contract for government capital works projects so that the Administration can make the necessary disclosure to the PAC. The PAC has held meetings with the Administration on the wider question of the PAC's access to documents and information in considering the Director of Audit's reports. The PAC considers that, to enable us to fully discharge our duties and report to the Council, we should have free access to all the documents which have been made available to the Director of Audit for examination.

While the PAC appreciates that the Administration is making efforts to improve the flow of information to the PAC, there are nonetheless still areas where a consensus cannot be reached. We are disappointed with the Administration's insistence that it will not disclose the records of meetings of the Executive Council and the Chief Secretary for Administration's Committee or its Policy Groups without regard to the subject matter and the issues involved, and that it will not allow the PAC unrestricted access to all government documents in a manner similar to that for the Director of Audit.

The PAC has suggested that, in order for the Administration to discharge its duty to be accountable to the Legislative Council and its Committees, and to live up to the spirit of maximum co-operation with the PAC, the Administration should set out the circumstances which would justify a refusal to accede to the

PAC's request for provision of certain documents or information. This has not been taken on board, as the Administration maintains that, in processing the PAC's request for documents, it will give consideration to "public interest" in the light of the circumstances surrounding each case. This falls short of our expectation that the Administration should undertake to provide any documents or information being sought unless it is clear that substantial harm to the public interest would be caused by the provision of such documents or information.

The PAC has urged the Chief Secretary for Administration to ensure that the Administration will render full co-operation when considering our future requests for access to documents and information.

Follow-up review on control of utility openings

The PAC's report on "Follow-up review on control of utility openings" is our third report on the subject, after Report No. 17 of January 1992 and Report No. 24 of July 1995. We are gravely dismayed that after three examinations by the PAC, there is still a lack of real progress on the control of utility openings.

The PAC has spared no effort in following up the issues involved in this subject, including the slow progress of implementing the excavation permit fee and the new penalty system over the past 10 years, and the delay in introducing the relevant legislative amendments. We have held three public hearings to take evidence from the witnesses and spent much time ascertaining the relevant facts, examining the evidence obtained, and reaching our conclusions. The PAC would like to assure the Council and members of the public that we will not be satisfied with the mere admission of mistakes or the lip service paid by government officials on making improvements, while business is conducted in the same old fashion. Unless and until the PAC is provided with evidence that concrete measures have been put in place to improve the control of street excavation works, the PAC will not rule out the possibility of revisiting the subject for the fourth or more times.

Review of the Hong Kong Sports Development Board

In examining the subject "Review of the Hong Kong Sports Development Board (SDB)", the PAC is gravely concerned that from the integration of the SDB and the Hong Kong Sports Institute in 1994 up to 1999, the relevant Policy

Branches and/or Bureaux which were responsible for the government subvention to the SDB, had neglected to follow the "Guidelines on the Management and Control of Government Subventions" to determine the comparable grades of the SDB staff in the Civil Service, and to ensure that the package of salary and fringe benefits of the SDB staff was not superior to that of their comparable grades in the Civil Service. Moreover, the Home Affairs Bureau's review for ascertaining whether the package of salary and fringe benefits for the SDB staff has exceeded that of their comparable grades in the Civil Service, which started in early 1999, has not yet been completed, causing serious doubts on the effectiveness of the role of the Secretary for Home Affairs and other public officers sitting on the SDB in closely monitoring the terms and conditions of service of the SDB staff to ensure compliance with the Government's subvention policy.

This is not the first time that the PAC has had cause for concern about the role of the public officers appointed to sit on the boards of statutory bodies. In our Report No. 33B, we already made the recommendation that the Administration should arrange for one of the public officers appointed to the Vocational Training Council to be responsible for reminding it of the Government's subvention rules. For the SDB, we have made a similar recommendation again. We consider that, in view of the irregularities identified in these organizations and the recent controversy over the roles and responsibilities of the Secretary for Transport and the Secretary for the Treasury on the Kowloon-Canton Railway Corporation Board, it falls on the Administration to take on board our recommendation rigorously.

Report on the Director of Audit's Report No. 37

Turning to the subjects in the Director of Audit's Report No. 37 covered in our Report, I would like to comment from the following perspectives:

- a lot of public funds could have been saved if government officers concerned had treated the public money under their charge with the same care and prudence as if it were their own money; and
- the work of the PAC and other Committees of the Council is complementary to each other.

Use of public money

When examining the subject "Construction of government office buildings", the PAC is seriously concerned that due to the change in the allocation of office space of the Cheung Sha Wan Government Offices from the Architectural Services Department to the Rating and Valuation Department (RVD) at short notice, the submissions of the fitting-out plans for the RVD were delayed, resulting in the grant of extension of time to the contractor, and the estimated prolongation cost of \$3.27 million.

We are also seriously concerned that the Department of Health's decision of not relocating the Medical Examination Board (MEB) was made after the fitting-out works for the MEB had been completed, resulting in abortive fitting-out works which cost \$3.7 million. We consider that much of the abortive works and costs could have been avoided if the government officers had dealt with the situation more prudently and proactively.

This is not an isolated case. In considering the subject "Procurement and management of government supplies", the PAC is seriously concerned that for 79.9% of all common-user items, the target stock turnover rate of five times a year was not achieved in 2000-01, resulting in \$35.3 million being tied up in the average stockholding of these items. There are also 568 items, with stockholding totalling \$15.2 million as at 31 March 2001, which had a stock turnover rate of lower than 0.5 time a year in 2000-01. Among these 568 items, 194 items with stockholding totalling \$4.4 million had a stock turnover rate of lower than 0.01 time a year in 2000-01. We are dismayed that the Government Supplies Department has not demonstrated that it had exerted its best efforts to notify the user departments of the anticipated expiry dates of items in stock, and dispose of items which are in excess of users' requirements and will become outdated or pass their expiry dates shortly.

When considering the subject "The administration of sale of land by public auction", the PAC is gravely dismayed that, in the sale of a site in Siu Sai Wan, the Director of Lands, and the chairman and members of the District Lands Conference (DLC) had neither achieved the Government's planning objective of lowering the development density in order to "thin out" the population, nor sought to obtain the maximum revenue at the public auction by upgrading the Siu

Sai Wan site to a Class C site, for example, by requiring the provision of an extra street. If the site had been clearly classified as a Class C site for auction, the eventual auctioned price might be higher than the present auctioned price of \$11,820 million.

While the PAC does not want to speculate on the motive behind the DLC's decision to delete the clause specifying the maximum residential gross floor area from the Conditions of Sale of the Siu Sai Wan site, we are gravely dismayed that the decision had not fulfilled any land policy, revenue or planning objectives.

Land, with its limited supply, is one of Hong Kong's most valuable assets and the sale of land represents a significant source of public revenue. At a time when the Hong Kong economy is in the doldrums and when the Government is facing a severe budget deficit, it is incumbent on the Government to optimize the use of land and maximize revenue from land sales. Seen in this light, the PAC considers that the reason for the sale of land by public auction must be to maximize land revenue, after other policy objectives, such as land supply, town planning, environmental and safety concerns, have been clearly stated in the Conditions of Sale and relevant legislation.

I take this opportunity to record that there has been close co-ordination between the PAC and the Council's other Committees, to ensure that there is no overlap between our work and that our work is complementary to each other.

Following the tabling of our report on the "Administration of the Quality Education Fund" today, this subject will be discussed by the Education Panel. Meanwhile, the Planning, Lands and Works Panel is actively following up the proposed charging and penalty system for street excavation works, which is one of the issues studied in our report on "Follow-up review on control of utility openings". On the Director of Audit's observations on the method of assessing the financial resources of infant legal aid applicants, contained in his Report on the "Provision of legal aid services", we understand that the Working Group on Legislation concerning the Provision of Legal Aid Services, under the Administration of Justice and Legal Services Panel, has taken note of the relevant policy issues and would deal with them in its report to the Panel.

Madam President, as always, the PAC has made our conclusions and recommendations in this Report with the best intentions and with the aim of ensuring value for money in the delivery of public services.

Finally, I wish to register my appreciation of the contributions made by members of the PAC. Our gratitude also goes to the representatives of the Administration and other organizations who have attended before the PAC. Last but not least, we are grateful to the Director of Audit and his colleagues, the clerk to the PAC and the other staff of the Legislative Council Secretariat for their unfailing support and hard work which has made it possible for us to make this Report to the Council within the tight timeframe.

Thank you.

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Rising Number of Bankruptcy Cases

1. **MR AMBROSE LAU** (in Cantonese): *Madam President, it is learnt that the number of bankruptcy petitions rose to an all-time high of over 13 000 last year. In this regard, will the Government inform this Council:*

- (a) *whether it knows how the numbers of bankruptcy cases in Hong Kong in the past 10 years compare with the relevant figures for neighbouring countries in Asia;*
- (b) *whether it has assessed the impact of the soaring bankruptcy cases on Hong Kong's economy; if so, of the assessment results; and*
- (c) *of the measures it will take to prevent debtors from abusing the bankruptcy mechanism to evade liabilities?*

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

- (a) A comparison between the numbers of bankruptcy orders made by the Court in the past 10 years and the relevant figures for

neighbouring countries in Asia is set out in the Annex for Members' reference.

- (b) Although the number of bankruptcy cases has been on the rise, the number of bankrupts and the amounts of liabilities involve a very small proportion of our working population and the amount of loans and advances for use in Hong Kong, with little impact on Hong Kong's economy. However, the increase in the number of bankruptcy cases has some impact on the credit risks and delinquency ratios of financial institutions.
- (c) We place much emphasis on enforcement action against any abuse of the bankruptcy system. The Bankruptcy Ordinance provides that a bankruptcy petition is sanctioned by the Court. After the Court makes a bankruptcy order, the Official Receiver's Office (ORO) will become the trustee of the bankrupt and examine the bankrupt's statement of affairs. This statement is verified by affidavit. It is a criminal offence under the Crimes Ordinance to make any false statement in the affidavit. Under the existing legislation, it is a criminal offence to obtain credit through fraudulent means and to evade the debt thus incurred. The ORO has been working closely with the police and will refer any suspicious cases it identifies in the course of processing bankruptcy cases or upon provision of information from creditors to the police for follow-up action. The legislation also empowers the ORO to conduct public examinations of bankrupts to investigate their conduct. The creditors also have the right to ask the ORO to conduct such public examinations with the Court's prior approval. Moreover, the ORO will prosecute delinquent bankrupts for offences under the Bankruptcy Ordinance, for example, failure to disclose assets, failure to keep accounts in business-related bankruptcies. In the past year, 44 bankruptcy-related prosecutions were made by the ORO. The ORO also monitors the financial position of bankrupts by examining their annual Statements of Earnings and Property Acquired until their automatic discharge from bankruptcy. If necessary, the ORO may raise the amount of approved bankrupts' contributions. Moreover, in accordance with section 30A of the Bankruptcy Ordinance, the Court may extend the four-year bankruptcy period on the application of the trustee or creditor on the ground that the bankrupt has failed to co-operate or failed to prepare an annual report of his earnings and acquisitions.

We appreciate the need for banks and financial institutions to have early access to information in respect of persons who have lodged a bankruptcy petition so as to avoid approving new credit for these persons in the absence of sufficient information. A new search procedure has been agreed between the ORO and the Hong Kong Association of Banks to enable banks and financial institutions to ascertain in a timely manner if a bankruptcy petition has been filed against one of their customers. This arrangement will be implemented, subject to the formal confirmation from the Office of the Privacy Commissioner for Personal Data.

We are also studying the proposals on sharing of positive consumer credit data submitted by the banking industry and are discussing the matter with the Office of the Privacy Commissioner for Personal Data and the Consumer Council. It is hoped that there will be early consensus on this issue to further guard against possible abuse of the bankruptcy system.

Annex

Comparison between Numbers of Bankruptcy Cases in Hong Kong and the Relevant Figures for Australia, Singapore and New Zealand¹

<i>Year</i>	<i>Hong Kong</i>	<i>Australia</i>	<i>Singapore</i>	<i>New Zealand</i>
1992	295	15 328	1 226	2 624
1993	329	14 754	1 453	2 480
1994	306	13 647	1 413	2 037
1995	455	15 380	1 276	2 023
1996	543	19 819	1 251	2 393
1997	639	23 424	1 696	2 658
1998	893	25 409	2 585	3 224
1999	3 071	25 405	3 054	3 003
2000	4 606	20 910	2 710	2 746
2001	9 151	26 045	3 039 ²	2 317

¹ The figures are the numbers of orders made by the Court.

² Up to November 2001.

MR AMBROSE LAU (in Cantonese): *Madam President, from the Annex to the main reply, we can see that there were 893 bankruptcy cases in 1998 — of course, we know that there was a financial crisis in 1998. By 1999, the number of bankruptcy cases further increased by 440%. If the figures of 1998 were used as a basis for comparison, the figures of 2000 have shown an increase of 510% and that of 2001, a 1 000% increase. Let us take a look at the situations of countries like Australia, Singapore and New Zealand. Though all these countries were hit by the financial crisis, there were not many changes in the number of their bankruptcy figures. We know that the Government amended the Bankruptcy Ordinance in 1998 to relax the relevant provisions. Has the Government made comparisons with other regions to see whether or not the great increase in the number of bankruptcy cases was due to abuses in the application of the Ordinance as a result of the relaxation of the Bankruptcy Ordinance in Hong Kong?*

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): I would like to thank the Honourable Ambrose LAU for his supplementary question. It is true that the Bankruptcy Ordinance was amended in 1998, but in fact, even prior to 1998, it was not always true that bankruptcy orders could not be automatically discharged within four years; it mainly depended on the merits of the applications and no specific timeframe was set at that time. At this stage, it is certainly hard for us to state specifically how far the increase in the number of bankruptcy cases could be attributed to the amendment of the Bankruptcy Ordinance, or how far could it be attributed to economic conditions, the Asian financial crisis or easy access to credit, and so on. However, I would also like to say that even the Ordinance was amended so that the time limit for automatic discharge from a bankruptcy order was reduced to four years, we are actually still very conservative compared to other places. For example, the time limit for discharging a bankruptcy order may be as short as two months in the United States, nine months in Canada, one year in the United Kingdom, and even the three years limit in Singapore is shorter than that of Hong Kong. Therefore, today, it is very difficult for me to prove that the increase in the number of bankruptcy cases is due to the amendment. I do not think this is one of the main reasons, and there should be other reasons.

PRESIDENT (in Cantonese): Honourable Members, since 11 Members are waiting to ask supplementary questions, those who have a chance to do so should make their questions as concise as possible.

DR DAVID LI: *Madam President, in view of the increasing number of bankruptcy cases, what steps has the Administration taken in trying to help the Official Receiver's Office to obtain more resources, and to deal with this alarming situation?*

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): I would like to thank Dr the Honourable David LI for his supplementary question. In fact, the ORO has recently revised its working procedures, increased the efficiency of its staff and contracted out company liquidation cases, in order to redeploy its resources. Furthermore, the ORO has also employed temporary staff to increase its manpower in dealing with bankruptcy cases. In the next financial year (that is, from 1 April), the ORO will employ some 30 temporary staff to help processing bankruptcy cases.

MR KENNETH TING (in Cantonese): *Madam President, of the 13 000-odd bankruptcy petitions filed last year, how many of the petitioners were students, or persons below 21 years of age? How do such figures compare with that of neighbouring Asian countries?*

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): I would like to thank the Honourable Kenneth TING for his supplementary question. We do not have the figure on the number of students among bankruptcy petitioners, but I would like to talk about the categories of people who filed bankruptcy petitions in the past year. Those people are generally aged between 30 to 50, in the income bracket of about \$10,000 to \$15,000 who are in possession of eight to 10 credit cards with a liability of \$400,000 to \$500,000. However, I am very sorry that we do not have breakdown figures on students or professionals.

PRESIDENT (in Cantonese): Mr TING, has your supplementary question not been answered?

MR KENNETH TING (in Cantonese): *Madam President, we are concerned that this would impact on students, for they have many credit cards*

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

MR KENNETH TING (in Cantonese): *Madam President, the Secretary has not answered whether any bankruptcy cases are related to students. Could the Secretary give us a written reply after the meeting?*

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

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, I understand that there are actually very few bankruptcy cases involving students, and even among young persons under 20, the number of bankruptcy petitions is also very small, but I do not have the actual figures.

MR ALBERT CHAN (in Cantonese): *Madam President, "no one with a head full of hair would prefer to have favus on their scalp", by this I mean no one would like to go bankrupt. However, according to my experience, many people are driven into bankruptcy, and one of the main reasons is that they are hard pressed by banks and financial institutions. Generally speaking, if debtors wish to negotiate loan restructuring with banks or financial institutions, they would not be given any friendly treatment. Could the Secretary make some suggestions or see what he can do to make banks and financial institutions negotiate the restructuring of loans with debtors in a more accommodating manner, so that debtors do not have to solve their financial problems by going into bankruptcy?*

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): I would like to thank the Honourable Albert CHAN for his supplementary question. I know that Mr CHAN has still got a lot of hair on his head. *(Laughter)*

I understand that banks do encourage their clients to restructure their loans, and they would not like to see debtors solving their problems by resorting to bankruptcy. For example, I have recently chaired a meeting to which members of the Hong Kong Association of Banks were invited. In fact, banks also wish to encourage their debtors to solve their problems by restructuring their loans. They have, therefore, considered doing more by way of publicity and issuing pamphlets to debtors, to state that clients are encouraged to adopt the approach of loans restructuring. In this connection, we would continue to meet with members of the Association and follow up with the banks, in the hope that more debtors would choose to deal with their debts by restructuring their loans.

MR CHAN KAM-LAM (in Cantonese): *Madam President, in part (b) of the main reply, the Secretary said the number of bankrupts and the amounts of liabilities involve a small proportion of our working population and the amount of loans and advances for use in Hong Kong only have a little impact on the economy of Hong Kong. He has obviously taken it too lightly. If we look at the figures of the past decade, we could see that the number of bankruptcy cases has increased by 3 000-fold, while that of other countries has only increased by 170-fold and 270-fold, and that for some countries has even decreased. Therefore, I think the government reliance solely on banks exchanging positive consumer credit data is inadequate. May I ask the Secretary whether the Government has other ways to crack down on those people who intend to evade their liabilities by declaring bankruptcy?*

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, I believe the Honourable CHAN Kam-lam would have noticed that a large part of part (c) of the main reply is devoted to the work that the Government has been doing to prevent abuse of the bankruptcy mechanism. For example, persons who submit false information or obtain credit through intentional fraud may have violated the Crimes Ordinance. In this connection, the Government has actually attached great importance to enforcement.

Moreover, the police and the ORO have also been working closely and follow-up actions will be taken once they come across any suspicious cases in the course of processing bankruptcy cases. I believe Members are also aware that recently, the police have often talked about such cases, thus showing that they are very much concerned about the situation. The ORO also encourages creditors (normally banks) to submit more information, so that it can take follow-up actions.

I do not wish to repeat what I said earlier in the main reply, but I can certainly say we attach great importance to enforcement. Of the 9 100-odd bankruptcy cases of last year, more than 6 800 cases were related to bank credits, that means most people had petitioned for bankruptcy because they had failed to repay credit card loans after obtaining credit cards, therefore, we think the exchange of positive consumer credit data among banks is a very effective channel. In fact, the increase in the number of bankruptcy cases in Hong Kong is not particularly great. If Members take a look at the figures of Canada and the United States, they would notice that the number of bankruptcy cases in these countries has also reached a record high.

MR TAM YIU-CHUNG (in Cantonese): *Madam President, may I ask the Secretary how long a bankruptcy petitioner has to wait before the relevant scrutiny work can be completed by the Court and approximately how long the entire procedure will take? Furthermore, will the time required now be much longer than before?*

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, at present, it takes about 15 weeks for the Court to conclude hearing and pass judgement on a case. I think the time required is about the same as before.

DR DAVID CHU (in Cantonese): *Madam President, the Secretary pointed out in the last paragraph of part (c) of the main reply that they are now studying the proposals on sharing of positive consumer credit data. May I ask the Secretary whether other neighbouring Asian countries have also adopted this practice?*

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): I would like to thank Dr the Honourable David CHU for his supplementary question. I believe that apart from the Asian region, many other places have also shared positive consumer credit data and the United States is one of such places. Banks may have different views in the past but as I said earlier, of the 9 000-odd existing bankruptcy cases, more than 6 000 are related to credit cards. Therefore, I believe that banks may now agree that they need to do more by way of exchanging positive consumer data before they decide whether credit cards should be issued to the applicants. I believe this would help to ensure that the bankruptcy mechanism would not be abused.

PRESIDENT (in Cantonese): We have already spent 16 minutes on this question. This is the last supplementary question.

MR HUI CHEUNG-CHING (in Cantonese): *Madam President, the Secretary said in the last paragraph of the main reply that the Government is now discussing the proposals on sharing of positive consumer credit data with the Office of the Privacy Commissioner for Personal Data and the Consumer Council. Some people think that the past repayment records of a person may have an impact on his prospects for obtaining credit in the future. May I ask the Secretary what measures are in place to minimize such impact?*

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, I did not get the last two sentences of the Honourable HUI Cheung-ching's question.

MR HUI CHEUNG-CHING (in Cantonese): *Madam President, some people think that if credit data are made public, the credit history of a person may have an impact on his prospects for obtaining credit in the future. May I ask the Secretary what measures are in place to minimize such impact?*

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): I would like to thank Mr HUI for his supplementary question. I believe there is a need for banks to obtain more positive consumer credit data, including existing data, such as the number of credit cards a certain client has already possessed, his credit limit, and so on. For the banks, such data would be very useful in assessing applications for the extension of credit. Under such circumstances, apart from new positive consumer credit data, banks would certainly like to share existing data of their clients. I think this is very important to the banks and is a good thing to consumers as a whole. This is because from the perspective of consumers, if banks cannot share the data of their clients, they may have to bear a higher risk in issuing credit cards because they cannot get hold of more information and interest rates may be driven up. I think that the sharing of existing and new data of their clients is the best arrangement for banks. Certainly, in the course of data sharing, attention should still be given to the issue of privacy. The Office of the Privacy Commissioner for Personal Data would certainly be monitoring the situation closely to offer suitable protection, so as to ensure that such information would not be abused.

PRESIDENT (in Cantonese): Second question.

Fare Structures of Tseung Kwan O Extension and West Rail

2. **MR ANDREW CHENG** (in Cantonese): *Madam President, the Tseung Kwan O Extension of the MTR Corporation Limited (MTRCL) and the West Rail of the Kowloon-Canton Railway Corporation (KCRC) will commence operation in this year and next year respectively. Regarding the fare structures of these two rail lines, will the Government inform this Council whether:*

- (a) *it knows how the latest construction cost estimates for these two rail lines compare with their respective original estimates;*
- (b) *in order to alleviate the burden of travelling expenses on the public, it has discussed with the two railway corporations matters relating to the determination of the fare structures of these two rail lines (including suggesting that the fares should reflect the actual project costs instead of the estimates); if so, of the outcome of the discussions; if not, the reasons for that; and*

- (c) *it will discuss with the franchised bus companies concerned the reduction of fares for buses travelling to and from Tseung Kwan O, so as to provide the lower bus fare level as a reference point for the MTRCL in determining the fare structure of its Tseung Kwan O Extension; if so, of the details; if not, the reasons for that?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, the MTRCL's construction cost estimate for the Tseung Kwan O Extension at the time of entering into a project agreement with the Government in 1998 was \$30.5 billion. The latest cost estimate of Tseung Kwan O Extension is \$18 billion, about 40% below the original estimate. For West Rail, the KCRC's original construction cost estimate when the KCRC and the Government entered into a project agreement in 1998 was \$64 billion. The latest cost estimate, at \$46.4 billion, is below the original figure by about 28%. The construction costs of Tseung Kwan O Extension and West Rail have been reduced mainly due to the two railway corporations' initiatives to save cost and enhance efficiency, and the economic condition in recent years resulting in contracts awarded in lower prices.

The MTRCL and the KCRC have the autonomy to determine fares. The two corporations have not set the fares for the Tseung Kwan O Extension and West Rail yet, but will do so closer to the commissioning of the new railways. When setting Tseung Kwan O Extension and West Rail fares, the MTRCL and the KCRC will take into account a number of factors including the construction and operating costs, the range of distance travelled, the prevailing economic condition, passenger affordability, competition from other public transport modes, and the corporations' financial situation.

The MTRCL and the KCRC operate on commercial principles. We believe both corporations would establish competitive fare structures to attract railway patronage. For example, the MTRCL believes that the fares for Tseung Kwan O Extension, which is targeted for opening in mid-August this year, will be very competitive and broadly in line with the zonal fare structure of the existing MTR lines.

The Tseung Kwan O Extension will provide a convenient, speedy and reliable service to residents within its catchment. When opened, the Tseung Kwan O Extension will more than double the capacity of external public

transport services for Tseung Kwan O. There will be substantial changes to the travel pattern of passengers, many of whom are expected to switch to use the new railway. In the light of these likely changes, we are developing public transport service plans to enable better co-ordination among different public transport modes to meet the changing demand of passengers and to enhance network efficiency, maintain reasonable fares, relieve congestion and address environmental concerns. If, under the public transport service plans, the journey distance of certain existing bus routes are shortened, the Transport Department will explore with the relevant bus operators the feasibility of adjusting the fare levels of these routes.

MR ANDREW CHENG (in Cantonese): *Madam President, at present, an Octopus holder has to pay only \$11.8 for a journey from Kwun Tong to Central. Given that the Government is still the major shareholder of the MTRCL, the prevailing economic depression, and the fact that the construction cost has tumbled by \$12 billion, may I ask the Government whether it will encourage the MTRCL to offer fare concession or to set the fare below \$11.8 with a view to alleviate the burden of the public in transportation expenses? Particularly residents living in Tseung Kwan O have been suffering from expensive transportation cost for several years.*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, I have mentioned in my main reply that the construction cost is one of the factors to be taken into account when setting the fares, but it is not the only factor, as other factors may offset the fall in the construction cost. However, since the two railway corporations operate on commercial principles, they also have to seriously consider competition from various bus operators and other modes of transport, in order to set a fare level attractive to passengers. For this reason, I believe the MTRCL will surely take into account the concession proposal of the Honourable Andrew CHENG.

PRESIDENT (in Cantonese): Mr CHENG, has your supplementary question not been answered?

MR ANDREW CHENG (in Cantonese): *Madam President, the thrust of my supplementary was about the attitude and stance of the Government. Since the Government is still the major shareholder of the MTRCL, besides merely say that the MTRCL operates on commercial principles, what other actions will it take or what opinion will it propose in order to show its encouragement?*

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

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, being the point of co-ordination for the overall public transport system and the government authority agent in charge, the Transport Bureau will surely encourage all transport operators to provide sound, affordable, comfortable and quality transport services.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, the Government replied in the first paragraph of the main reply that the cost estimate for West Rail was \$46.4 billion. Does the figure include the \$1.5 billion liquidated damages explained by the Government two days ago? Furthermore, did the Government find unusual expenditure relating to the MTRCL such as compensation for the Tseung Kwan O Extension project, which is similar to the compensation made by the KCRC?*

PRESIDENT (in Cantonese): Mr SIN, you have raised two questions, which question do you wish the Secretary to reply?

MR SIN CHUNG-KAI (in Cantonese): *Madam President, in fact they are cognate, that is, whether the price includes a certain category of cost. I wish the Secretary to answer the second part of the supplementary, that is, whether the Tseung Kwan O Extension has a similar problem?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, I do not have information on that at hand. I can ask the KCRC and see whether they have such kind of unusual expenditure or the like. (Annex I)

PRESIDENT (in Cantonese): Mr SIN, I know you are very eager to raise questions, but you have to follow the Rules of Procedure and wait for your turn before you can ask a second supplementary.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, I wish to seek elucidation.*

PRESIDENT (in Cantonese): Mr SIN, there should be no elucidation during Question Time, you can only say that the Secretary has not answered a specific part of your supplementary. However, the Secretary has already replied the second question you have just raised.

MR SIN CHUNG-KAI (in Cantonese): *The Secretary has not answered my supplementary.*

PRESIDENT (in Cantonese): Has your supplementary question not been answered by the Secretary? Well, you may ask it again.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, my second supplementary was about the Tseung Kwan O Extension.*

PRESIDENT (in Cantonese): The second supplementary was about the Tseung Kwan O Extension. Secretary, it was about the Tseung Kwan O Extension.

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, I have answered that already. I said I do not have information on that aspect at hand, but I can provide a written reply.

PRESIDENT (in Cantonese): Fine.

MR LAU KONG-WAH (in Cantonese): *Madam President, in the past, escalating costs or rising operating costs were the reasons usually cited by the MTRCL for fare increases. However, we can see that the cost for the Tseung Kwan O Extension has in fact gone down now, and the operating costs in future will also go down. Actually, the Legislative Council has passed a motion which urged the MTRCL to reduce its fares. May I ask the Secretary, being a director of the KCRC and MTRCL, will he put across these two messages in the board meetings of these two corporations, and ask them to consider setting the fare structure at a more competitive level than the current level?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, as to costs, of course construction costs and operating costs are among the factors. However, we should bear in mind that as far as the Tseung Kwan O Extension and West Rail are concerned, certain new factors came to light in the past several years, which would also affect the costs of the two railway corporations in operating these two rail lines. For instance, the population growth estimate of Tseung Kwan O is lower than the original estimate of number of passengers that the Tseung Kwan O Extension would serve, and the same also goes for the West Rail. Under these circumstances, the revenue of these corporations and the number of passengers would be lower than the original estimate, and the income would drop correspondingly. Although the construction costs are one-off, the future operating costs may fluctuate in tandem with the number of passengers and other expenditures. As a result, they can only determine whether the total costs are higher or lower after weighing all the figures. The Honourable LAU Kong-wah asked whether the aspirations and quests of the general public would be reflected when the decision was made, it is absolutely sure. In fact, every member of the board will take into account a variety of factors when we set the fare level, including the affordability and financial situation of the passengers, we will not simply consider the construction costs in the course of setting the fare level.

MISS EMILY LAU (in Cantonese): *Madam President, the Secretary mentioned in the first paragraph of his main reply that the construction cost estimates of*

Tseung Kwan O Extension and West Rail were greatly lower than the original estimates. Many people told me that they were shocked by that and questioned how the construction costs of Tseung Kwan O Extension could be reduced by 40% and the West Rail by 28%. I have also raised the question in this respect and I am waiting for the written reply of the Secretary. The Secretary explained here that the fall in construction costs was due to the two railway corporations' initiatives to save cost, however, upon hearing the recent scandal, we can hardly feel that much costs have been saved and efficiency enhanced. May I ask the Secretary whether he has studied the two projects meticulously and examined whether the original costs had been exaggerated just as the general public thought, and eventually caused a sharp fall in the construction costs? Furthermore, has the Government compared the two projects with other projects of similar nature and checked whether costs for construction projects of the same period have become that inexpensive just because of economic reasons?

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, I will answer the latter part of the supplementary first. In the past several years, general works (including government works) encountered an identical situation, that is, construction costs were far below their original estimates. Of course it was a reflection of the economic condition, and it was also a reflection of the competitive environment of the construction industry, which was the actual situation of the industry at large. I think a number of Members in this Chamber who understand and know the industry well can confirm the above situation.

As to the original estimates of the two railway corporations, in the case of the Tseung Kwan O Extension, the estimate was put together in 1998 according to the information available at that time, the price level of tender in the international market, as well as the estimate of the settlement cost of the Airport Express. The condition of the West Rail was the same. In 1998, the construction costs of the West Rail were also worked out by the consultants according to the prevailing costs of construction materials, industrial equipment, wages and supervision fees in the market. As a result, both corporations estimated the construction costs according to reliable information they could obtain during the time the estimates were compiled. As to the causes leading to the drop in construction costs, I have already explained that in my main reply.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, the Secretary mentioned in his main reply that when setting the fares, the two railway corporations would take into account competition from other public transport modes. However, the problem is that the Secretary is the person responsible for the approval of bus routing, and he is also the government representative in the boards of the two railway corporations. Will the Secretary stand up for the two railway corporations since the Government either wholly owns the two corporations or it is the major shareholder of them, resulting in reduced competition? Let us take the Tseung Kwan O Extension as an example. The Secretary said all the bus routings will be reorganized, and it is believed that when the West Rail is put into service, the bus routings in Yuen Long and Tuen Mun may well be reorganized, too. Does the Secretary have any conflict in his roles, and by then the monopolies of the two railway corporations will be exacerbated and competition will disappear? In view of this, the Secretary actually has not taken the competition factor mentioned in the main reply into consideration.*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, if I have to follow the aspirations of everybody as well as all Honourable Members, then I have to stand up for a lot of people. Being the Secretary for Transport, I have to take care of the transportation needs of the entire community; and in the course of planning, I have to see whether I can strive for the maximum interests of the community at large, this has been the practice of the Transport Bureau all along. Under this principle, increasing competition and providing choices to the public are the two major elements of our job with regard to the provision of public transport services. As a result, Honourable Members should understand why we have to expand the size and service of railway network on the one hand, and to improve the coverage and quality of service of the bus network on the other. There should be competition between the two modes of transport, so there will not be any conflict at all. If Honourable Members learn that the two railway corporations are putting pressure on me, I believe they will surely ask why we have to yield to the bus companies; on the contrary, if the board of directors of the bus companies put pressure on us in their board meetings, Members may well ask why we always yield to the railway corporations. Under a competitive operating environment where options are opened to the public, the Government is always in a position to strike the right balance among

the services provided by different modes of transport. In a nutshell, the Government has to look after the interests of society as a whole.

DR TANG SIU-TONG (in Cantonese): *Madam President, the first paragraph of the main reply says the West Rail will save 20% and the Tseung Kwan O Extension will save 40%, so there is a difference of almost 12% between the two projects in terms of savings. May I ask the Government what the cause is? Is it because the West Rail is a spendthrift, therefore it is unable to save as much as the other project?*

SECRETARY FOR TRANSPORT (in Cantonese): *Madam President, as far as the length and total expenditure of the two railway lines are concerned, according to the current construction costs, the average cost of the two railway lines are \$1.5 billion per km, which is a very rough estimate. Therefore, insofar as the current construction costs are concerned, they are quite similar. However, as each railway line has different topographical environment, station requirement or different geological condition in the construction process, thus there are some deviations in terms of cost. However, generally speaking, the average cost of the two railway lines are \$1.5 billion per km.*

PRESIDENT (in Cantonese): *This Council has spent more than 17 minutes on this question. This is the last supplementary question.*

DR RAYMOND HO (in Cantonese): *Madam President, the Secretary said when setting Tseung Kwan O Extension and West Rail fares, the MTRCL and the KCRC will take into account competition from other public transport modes. I do not know what kind of message the Government has conveyed to the two railway corporations, such as whether they were told the proportion they will cover of the total number of railway passengers? Now that the proportion is 31%, will the Government tell them the future proportion will be increased to 40% or above? Will the Government tell them other public transport modes such as buses and minibuses are of a pure supporting nature, or they are in parallel competition with the two railway lines?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, the overall objective of public transport service is built around the railway lines being the backbone of the entire transport system, especially in long distance transport service. However, making railway lines the backbone does not necessarily mean that other modes of transport (including buses) are operating in a supplementary manner. In fact, on most occasions, there is a need of balanced service between buses and railway lines. Certainly, in areas outside the railway catchment, other modes of transport will naturally assume the major role. Therefore there is parallel competition between the two, and the general public may make the appropriate choice. However, as far as the investment and impetus of the Government are concerned, since railway lines can carry more passengers, we will surely make railway lines the backbone in our strategy.

PRESIDENT (in Cantonese): Third question.

Private Enterprises Relocating Businesses out of Hong Kong

3. **MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, regarding the issue of private enterprises relocating some of their businesses or production processes out of Hong Kong and consequently laying off a substantial number of their local staff, will the Government inform this Council whether:*

- (a) *it has analysed the reasons for private enterprises relocating businesses or production processes out of Hong Kong; if it has, of the results of the analysis;*
- (b) *it has assessed the number of private enterprises which will relocate businesses or production processes out of Hong Kong in the next few years, and the impact of such relocations on the local job market; if it has, of the details; and*
- (c) *it will formulate policies to encourage these enterprises to continue business development or production in Hong Kong, so as to safeguard the employment opportunities of local workers?*

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): Madam President, Hong Kong is a free and open economy imposing no restrictions whatsoever on the movement of capital. We thrive on being such an economy. In an era of growing economic globalization, it is only natural for enterprises to choose locations offering the greatest comparative advantage and conditions that can best suit their business strategy when deciding where to operate their business and production processes.

On part (a) of the Honourable CHAN Yuen-han's question, it is generally recognized that the relocation of businesses or production processes outside Hong Kong can be dated back to the early '80s, after the Mainland's economic reforms and open-door policy took root. Over the years, the ample supply of low-cost labour and land in the Pearl River Delta Region have attracted a large number of Hong Kong manufacturers who decided to relocate the labour-intensive processes of their business to the Region. Another important impetus was the tax concessions and other investment incentives offered by the mainland provinces and municipalities that further reduced business operating costs.

In recent years, the relocation process has extended to certain lower value-added and labour-intensive activities in the service industries, such as the database and logistics support services of the banking field.

It is evident from the above that the relocation of businesses or production processes outside Hong Kong is mainly cost-driven. The abundant supply of labour and land on the Mainland was also a major attraction for enterprises wishing to expand their scale of production and businesses.

On part (b), the answer is that we have not conducted an assessment on the subject raised by Miss CHAN Yuen-han. The reason is that the commercial decisions of enterprises, including whether and when to move a business or certain production processes elsewhere, are always subject to a wide range of factors. These would include the prevailing global and domestic economic climate, the market conditions of individual trades, as well as the adequacy of manpower supply and operating costs. Given the many variables involved, we believe it would be difficult to arrive at a reliable assessment.

Before responding to part (c) of the question raised by Miss CHAN Yuen-han, I would like to make a general point. The relocation of businesses or production processes we have been discussing is actually a process allowing

enterprises to make the best of their manpower and other resources by moving low value-added production processes to locations offering lower costs. Experience shows that the remarkable productivity gain from the Mainland has enabled Hong Kong manufacturers to continue to raise the competitiveness of their products in an increasingly competitive global market. Moreover, the relocation of low value-added production processes across the border has also allowed local enterprises to devote their domestic resources to developing higher value-added economic activities. This positive trend has been entirely market-driven and rightly so. We do not consider it right or necessary for the Government to intervene.

Nonetheless, it has always been the policy objective of the Government to create a favourable business environment for local and foreign enterprises alike. The aim is to enable enterprises to flourish as well as bring in fresh source of foreign investment. In a nutshell, our policy focuses are:

- (i) To uphold the fundamentals vital to our economic success, such as the principle of "one country, two systems", the rule of law, the free flow of information, a simple tax regime, a low tax rate, and so on;
- (ii) To maintain a clean and efficient Government and adopt measures that help businesses to grow;
- (iii) To upgrade both our soft and hard infrastructure, including the provision of manpower training and launching construction projects; and
- (iv) To support small and medium enterprises, increase the productivity of local companies, and help them develop their markets as well as pursue added value for their products and services through the support of organizations like the Hong Kong Trade Development Council and the Hong Kong Productivity Council.

We believe that the above will continue to safeguard Hong Kong's position as one of the world's best places to do business.

It is worth pointing out that the relocation of manufacturing processes across the border has not only enhanced the competitiveness and productivity of our enterprises, but also contributed to the significant growth in business as well

as job opportunities for the related servicing sectors. This is particularly so for those engaged in freight transport, storage, telecommunications, banking, real estate, as well as legal and insurance services. Thanks to such new opportunities, the size of Hong Kong's working population has continued to grow in the past decade.

It is true that there are job mismatches in our labour market as our economy restructures, and those less educated and skilled tend to encounter greater difficulties in finding jobs. The Government is committed to improving the employment prospects of these citizens by providing more opportunities for further education, as well as training and retraining. Through such measures, we aim to reduce job mismatch and maintain a more balanced development of our labour force.

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, in answering part (b) of the main question, the Secretary indicated that the Government had not conducted an assessment on the subject and then went on to list the various reasons why there had not been any assessment on the reasons for the relocation of businesses or production processes out of Hong Kong. In the '80s, our manufacturing industry accounted for about 20% of our Gross Domestic Product, but the figure has now dropped to 7%. Recently, the Government indicated it would strive to develop high technologies but Motorola and Citizen Watches have relocated their production out of Hong Kong. Is the Government determined not to carry out any research all through the '80s, '90s and the present time? Does the Government want to see an army of grass-roots workers without jobs and business operators without a favourable business environment?*

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): Madam President, as I have pointed out clearly in the main reply, it would be difficult for the Government to make a reliable assessment. It would be very dangerous to attempt to carry out an assessment when it is not possible to obtain an accurate or a reliable one. Moreover, we may end up collecting the wrong data.

The northward relocation of Hong Kong industries mentioned by Miss CHAN does not mean that Hong Kong is losing its industries. On the contrary,

with the Mainland as its hinterland on the economic front, Hong Kong industries are continuously developing. Through their hard work, Hong Kong industrialists have set up a colossal production base in the Mainland. In its heyday, that is, about 20 years ago, Hong Kong industrialists had less than 1 million, say 900 000-odd, factory workers under their employ. Now, Hong Kong has around 300 000 of them. Over the last 10-odd years, Hong Kong industrialists have employed 5 million-odd workers working in their 50 000-odd factories in Guangdong Province alone. This proves that we have created a large new production base never seen before.

At the moment, the relative advantage of Hong Kong has changed from low-salary, labour-intensive production activities to high value-added and knowledge-based ones. Hence, what the Government does is to try to provide an environment conducive to high value-added and technology-based activities that will enable the manufacturing and service industries in Hong Kong to remain competitive in the international market.

Employment in Hong Kong in the past decade or two has not dropped as a whole although the number of workers has recorded a dramatic fall. As I said, there were 880 000 workers in 1983 but only 330 000 in 2000, a drop of around 540 000. However, during the same period, the number of workers in the tertiary industry has risen sharply from 1.3 million in 1983 to 2.55 million in 2000, an increase of 1.2 million-odd. This shows that as some Hong Kong enterprises move out and economic restructuring continues, more enterprises are being set up and job opportunities created. We believe that if the Government pursues its persistent economic policies, job opportunities should increase after the periodic economic recession is over.

MR LEUNG FU-WAH (in Cantonese): *Madam President, part (c) of Miss CHAN's main question was about whether the Government would formulate policies to encourage these enterprises to continue their operation in Hong Kong so as to solve the local unemployment problem. However, the Secretary's reply just said the Government would not intervene and he listed some figures just now. Will the Secretary inform this Council whether it is true that the Government has no specific policy to encourage these industries to continue their operation in Hong Kong so as to solve the local unemployment problem?*

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): Madam President, it has been the persistent policy of the Government of the Hong Kong Special Administrative Region (SAR) to create a favourable business environment, to allow enterprises to give full play to their strengths and to do our best to assist enterprises to enhance their competitiveness. This policy, in our view, can best enable enterprises to stay in Hong Kong and attract overseas businesses to come to Hong Kong. In my main reply, I have stated clearly the persistent economic policy of the Government, which is to make private enterprises the driving force, regulated by a free market economy. And the progress of development of the Hong Kong economy and the creation of job opportunities will ultimately be determined by the market, not the Government. If the Government made policy decisions which might distort the economic structure or the utilization of economic resources to artificially change the decisions of some enterprises that plan to move out of Hong Kong, the result would be that some enterprises not qualified to remain in Hong Kong would be continuing their operation here, using subsidies from our taxpayers. The Government does not think this is meritorious.

MR LEUNG FU-WAH (in Cantonese): *Madam President, the Secretary has not answered my question. I asked whether the Government had any policy to encourage the enterprises to remain in Hong Kong.*

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

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): Madam President, the Government does not make special efforts to encourage those enterprises which have decided to move some of their production processes and businesses out of Hong Kong to stay here. As I said, the persistent policy of the Government is the best policy, which is to create a favourable business environment. If we formulate policies to encourage the enterprises not to move their production processes or businesses out of Hong Kong, we will be wasting the resources of taxpayers on the support given to make non-competitive enterprises stay in Hong Kong, thereby distorting the economic structure of Hong Kong and the utilization of economic resources.

DR LUI MING-WAH (in Cantonese): *Madam President, in answering supplementary questions a short while ago, the Secretary repeatedly mentioned that the Hong Kong Government had the best economic policy to encourage enterprises to stay in Hong Kong. Nevertheless, over the last 20 years, we lost 75% of our manufacturing industry, together with 600 000 to 700 000 jobs in the labour market. If the policy of the Government is that good, why has there been a continual loss of jobs in the labour market, making the unemployment situation so acute? What effective policies does the Government have to encourage more new enterprises to come to Hong Kong to create jobs?*

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): *Madam President, I cannot help thinking that Dr the Honourable LUI Ming-wah does not understand the Hong Kong economy (laughter). When the economy of Hong Kong lacks the conditions to support the manufacturing industry or some labour-intensive production processes and businesses, jobs related to these processes will naturally be lost. However, as I said, when the number of jobs in the manufacturing industry shrank from 800 000-odd to 300 000-odd, that in the local service industry increased from 1.3 million to 2.5 million, which almost doubled the original. In summary, Hong Kong recorded an increase of around 500 000-odd job opportunities.*

If we want to retain some economic activities, which would otherwise fail to survive under normal circumstances, that is, without government subsidies, the only way is to provide them with subsidies. We will have to subsidize them until they are not only free from losses but also guaranteed to make some profit each year before they can be made to stay. This is a very simple economic principle. I cannot understand why Dr LUI would ask such a supplementary question.

PRESIDENT (in Cantonese): *Dr LUI, has your supplementary question not been answered?*

DR LUI MING-WAH (in Cantonese): *Madam President, the Secretary has not answered my supplementary question. I mainly wanted to find out what industrial policies Hong Kong has in attracting overseas investors to come to*

Hong Kong to set up plants to help high value-added, high-technology enterprises so that job opportunities are created.

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

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): Madam President, under this situation, I would quote what my boss said, which is the best thing to do. There are two advantages in so doing. Firstly, I would not make a blunder because it has been said by my boss also. Secondly, I can use the opportunity to please my boss (*laughter*).

Madam President, let me quote what the Chief Executive said last week in public, to this effect: "As regards industry, what can we do? Our land is expensive and so is our labour. We can see no advantage basically in formulating an industrial policy to help certain industries. We must, instead, strengthen our existing advantage. I am glad the Central Government takes the opportunity of China's accession to the World Trade Organization to help us in areas where we have a competitive edge, such as finance, tourism and logistics. The Central Government is very proactive in studying arrangements such as the establishment of a free trade zone. It is indeed being very proactive in this respect. Regarding logistics, last week, the Chief Secretary for Administration had a meeting with the leadership of the State Planning Commission. They discussed, *inter alia*, the co-ordination between Hong Kong and Guangdong Province in infrastructure construction to avoid a waste of resources and to ensure Hong Kong maintain its advantages in the future. So we feel we should concentrate on our own advantages. What then can the Government do? We may help in training, exhibition, and so on, to encourage promotion within the relevant trades. I do not think we need a general policy on industry. If a certain trade, such as an industry is likely to have a competitive edge in Hong Kong, discussions may be carried out to find out how it can be assisted. To formulate a general policy on industry is however not necessarily a good thing for Hong Kong. It is impossible to say what such a policy can be." These are Mr TUNG's words.

PRESIDENT (in Cantonese): This Council has spent over 17 minutes on this question. Last supplementary question.

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, the Secretary has stated a number of reasons why a policy on industry cannot be formulated in Hong Kong. However, his reply to Miss CHAN's main question was very good. In the second paragraph of his reply, he said that another important impetus was the tax concessions and other investment incentives offered by the mainland provinces and municipalities that further reduced operating costs in the Mainland. This is exactly the crux of the issue of businesses moving out of Hong Kong. The Secretary said a while ago it was not desirable to use public funds to support these enterprises. But will the Secretary inform this Council whether he has considered the possibility of increasing job opportunities and revenue if the investment of public funds for the purpose can yield some returns on investment so that the funds thus applied may not be a waste? Will the Secretary inform this Council why he has not considered this point?*

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): Madam President, I thank the Honourable LEUNG Yiu-chung for his question. I think he has somehow misunderstood my main reply. I did not say a major reason for Hong Kong investors going northwards stems from the subsidies by mainland provinces and municipalities or concessions made to in-coming industries. In fact, the greatest attraction is the vast amount of cheap land and labour, whereas in Hong Kong there has been a shortage of labour for some time, and, owing to political rather than economic factors, importation of labour is not allowed. Hence, Hong Kong industries are compelled to move north into the Mainland. Of course, other factors are also involved.

One may wonder why the Mainland provides the relevant concessions while Hong Kong does not. Madam President, the Mainland used to fully practise socialism or communism and it is now gradually moving towards a market economy. The Mainland is a developing country, with a need to attract investors to develop industries there. If we, as a market-oriented economy, did as the Mainland does, I think we would be acting against the economic concepts on which Hong Kong has built its past successes over past decades. Moreover, we would thus be squandering huge amounts of public funds and we would eventually find that the loss would outweigh the gain.

PRESIDENT (in Cantonese): Fourth question.

Use of Cantonese in Court Hearings

4. **MS AUDREY EU** (in Cantonese): *Madam President, regarding applications made to the Courts by litigants in civil cases and defendants in criminal cases for their cases to be heard before a Cantonese-speaking Judge, will the Government inform this Council if it knows:*

- (a) *the respective numbers and percentages of Judges at various levels of courts who can conduct hearings in both English and Cantonese;*
- (b) *whether the Courts would normally allow such applications, where they are made at the fixing of hearing dates or earlier and such cases are suitable to be heard in Cantonese; if not, the reasons for it; and*
- (c) *whether the Judiciary has set any target to facilitate the hearing of all suitable cases in Cantonese by Cantonese-speaking Judges; if so, of the details; if not, the reasons for it?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, I think I have to answer this question with extra care and prudence. First, given the subject matter of the question, and the fact that it is raised by the Honourable Audrey EU who is Senior Counsel, that it concerns the law which I do not have much experience, my replies to the main question and the supplementary questions may not be entirely to the satisfaction of Ms EU. Second, there is a fine tradition of the Government of the Hong Kong Special Administrative Region that the Judiciary is responsible for its internal policies, like those regarding its specific resource allocation and its operation. The executive authority is only responsible for certain housekeeping matters, and certain issues of resource allocation that are more macro in nature. In this regard, to answer the main question of Ms EU, we must rely on the information provided to us by the Judiciary. What is more, it is likely that I am not too clear about the rationale behind such arrangements either, and my answers in this aspect may very possibly be considered by Ms EU as inadequate. Third, I think this is more of a question of principle. I am worried that, for those who do not have a strong legal background like Ms EU, when they see me, a representative of the executive authority, joining a discussion about an issue concerning the Judiciary at the Legislative Council, they may have a wrong impression that we

are interfering with the independence of the Judiciary. Therefore, I have to be extra careful in this aspect so as to avoid doing any injustice to the Legislative Council.

Madam President, I have consulted the Judiciary on the main question raised by Ms EU and have received the following information:

- (a) Judges and judicial officers who are proficient in Cantonese and English, and are able to conduct hearings in both languages at different levels of courts are as follows:

<i>Court</i>	<i>With Bilingual Ability</i>	<i>Percentage of Total</i>
Court of Appeal	3 Judges	33%
Court of First Instance	16 Judges	53%
District Court, Family Court and Lands Tribunal	19 Judges	56%
Magistrates' Courts and Tribunals	60 Magistrates and other Judicial Officers	75%

- (b) Whether a hearing is suitable to be conducted in Cantonese is a judicial decision. Section 5 of the Official Languages Ordinance stipulates that:

"(1) A judge, magistrate or other judicial officer may use either or both of the official languages in any proceedings or a part of any proceedings before him as he thinks fit.

(2) The decision of a judge, magistrate or other judicial officer under subsection (1) is final."

The decision as to which language to use is a matter for the Judge hearing the case. According to the guidelines of the Judiciary, the paramount consideration is the just and expeditious disposal of the cause or matter before the Court, having regard to the circumstances of the case. The factors to be taken into account include the language ability and wishes of the defendants or the litigants; the language ability of the legal representatives; the language ability of the witnesses; the factual and legal issues in dispute; the volume of

documents to be translated into the other official language; and the language ability of the Judge or judicial officer.

- (c) According to the information provided by the Judiciary, there are currently sufficient bilingual Judges and judicial officers to conduct hearings which are considered suitable to be heard in Cantonese. So the figures provided seem to support this argument.

That notwithstanding, the Judiciary has also noted that there is an increasing need for proceedings in Cantonese. Without undermining judicial and professional quality, the Judiciary's policy is to strive to increase the number of bilingual Judges and judicial officers. At the same time, the Judiciary also provides appropriate training so as to enhance the Chinese language abilities of the bilingual Judges and judicial officers. Such measure would not only be useful for proceedings conducted in Cantonese, it would also facilitate hearings conducted mainly in English. For example, part of the oral or documentary evidence can be taken in Chinese and need not be interpreted or translated.

MS AUDREY EU (in Cantonese): *Madam President, the Chief Secretary for Administration did not answer part (b) of my main question. Can I request him to answer this part of the question first before I raise my supplementary question?*

PRESIDENT (in Cantonese): Yes.

MS AUDREY EU (in Cantonese): *Madam President, I was not asking the circumstances under which the hearings are suitable to be conducted in Cantonese. I certainly understand that this is a judicial decision, and I also appreciate the circumstances under which hearings are suitable to be conducted in Cantonese. I have said in part (b) of my question that the cases concerned have satisfied all the conditions, and they are indeed very suitable to be heard in Cantonese. So would the Courts allow such applications under the circumstances? Madam President, the Chief Secretary for Administration did not answer this part of the question. In addition, the Chief Secretary for Administration has said earlier that he will safeguard the independence of the*

Judiciary and does not wish to do any injustice to the Legislative Council, this I am very thankful. However, I still wish the Chief Secretary for Administration to respond to this part of the question.

PRESIDENT (in Cantonese): Chief Secretary for Administration, do you have anything to add?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, in fact I have expressed earlier that it might be very difficult for Ms EU to find my answer satisfactory. I thought Ms EU was requesting me to explain the circumstances under which the relevant decision is made. If she says that a certain case has met all the requirements and conditions, then the decision rests with the Judge, not with us. Earlier, I have said that according to the law, whether a case is suitable to be heard in Cantonese is decided by the Court, not by us. If the Court rules that it is suitable to do so, arrangements will be made accordingly; but the trial Judge will no doubt handle it in the light of the facts of individual cases and the circumstances concerned.

MS AUDREY EU (in Cantonese): *Madam President, may I raise a supplementary question now?*

PRESIDENT (in Cantonese): Ms EU, you may do so.

MS AUDREY EU (in Cantonese): *Madam President, according to Article 87 of the Basic Law, the defendant shall have the right to a fair trial. I have this question for the Chief Secretary for Administration: At the first trial, for example, in hearing a criminal case, the Judge has to adduce evidence in respect of some issues in dispute and rule the witness of which party is telling the truth, and which one is lying. And the witness who lies might be sentenced to imprisonment. Under the circumstances, will the Chief Secretary for Administration or the Government feel that one of the very important elements of a fair trial is that the Judge concerned can understand the language used by the relevant defendants and witnesses?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, I believe that if the trial Judge concerned considers it fairer to conduct the trial in Cantonese after listening to the evidence, then he can decide on his own how he should handle the case according to the relevant provisions mentioned by me earlier. If the trial Judge does not understand Cantonese himself, I believe he also knows what method should be used to handle the situation. What I wish to explain is that this is a decision made by the Court.

MR MARTIN LEE (in Cantonese): *Madam President, the Chief Secretary for Administration expressed that sufficient bilingual Judges are available at various levels of courts to hear cases which are considered to be suitable to be conducted in Cantonese. In other words, Cantonese-speaking Judges are available in every court, and they can hear some cases in Cantonese as requested by defendants. Under the circumstances, has the Government put in place a package of policies to actually arrange cases to be heard by Cantonese-speaking Judges if the defendant so requests, instead of considering the convenience of the Courts only? The so-called "convenience" is to arrange a non-Cantonese-speaking Judge to hear the case with an interpreter interpreting for him. This practice is tantamount to a criminal case which took place in Paris, France, where a French-speaking Judge was not arranged to hear the case of a French-speaking defendant, and the trial was heard by a Spanish-speaking Judge through an interpreter. Was it very unfair?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, English and Chinese are the official languages in Hong Kong. It is understandable that some people should request interpretation services because they do not understand a certain language. I knew that French is only official language in France, so there must be some problems with the situation mentioned by Mr LEE. However, let us take Canada as an example. Since it has two official languages, people will request interpretation services. Hence, I do not find it strange.

Regarding the circumstances of using Cantonese in various courts, the tradition is quite good. Hearings conducted in Cantonese already commenced at Magistracies in the '70s. We revised the Official Languages Ordinance in July 1995 and lifted the restrictions on the use of Chinese in courts above the level of Magistracies. In other words, these courts can decide whether English

or Cantonese should be used in the conduct of hearings. I believe that if the defendant of a special lawsuit requests the hearing be conducted in Cantonese, the trial Judge will listen to the defendant's reasons carefully and decide whether such need is justified according to the existing legislation. If it is deemed necessary and the facility is also available in the Court, then the defendant's request can be met. However, decisions on individual cases are certainly made by the trial Judge.

PRESIDENT (in Cantonese): Mr LEE, has your supplementary question not been answered?

MR MARTIN LEE (in Cantonese): *Madam President, the Chief Secretary for Administration has not answered the first part of my supplementary question. Has the Government put in place a package of policies to arrange a Cantonese-speaking Judge to hear a case if the defendant makes such a request, given that there are sufficient Judges with bilingual ability at various levels of courts?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, this is related to the judicial policy and we can refer to the provision under section 5 of the Official Languages Ordinance. In a recent case, the Court has explained how such issues can be handled. Now, I quote the judgement of that particular lawsuit as follows: "In my judgement, the constitutional right of a person to use the Chinese language in a court of law in Hong Kong means no more than the right of that person to employ that language, that is, to utilize it, for the purpose of forwarding or protecting his interests. That right to employ or utilize the language does not imply a reciprocal obligation on the part of the Court to speak and read that language. It is sufficient if processes, such as the employment of interpreters or translators, exist to facilitate the Court comprehending what is said or written." This is the policy currently adopted by the Courts.

MISS MARGARET NG (in Cantonese): *Madam President, I wish to raise a supplementary question that the Chief Secretary for Administration can answer. Although the Chief Secretary for Administration has said in part (c) of the main reply that there are sufficient bilingual Judges and judicial officers at various*

levels of courts, unrepresented persons involving in lawsuits are increasing in number. Therefore, requests for hearings to be conducted in a bilingual manner, or in Cantonese are bound to increase substantially. In this connection, I have these questions for the Government: What are the policies to provide more sufficient resources to the Judiciary so that it can increase the number of bilingual Judges and supporting staff, enhance language training, and so on? What are the policies to increase resources, the number of Judges and supporting staff?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, the Judiciary has actually done a lot of work in respect of bilingual training. It provides language training to bilingual Judges and judicial officers every year, assisting them to use Chinese to conduct hearings and write up judgements. To my understanding, the Judiciary organized a total of 22 relevant courses from 1999 to 2001, including a 20-day course organized jointly with the Tsinghua University with participation from some 220 Judges and judicial officers. In addition, special training is also provided to court interpreters every year.

In assisting non-English-speaking people, the Judiciary has also done a lot of work. For example, a pilot scheme of court hearings conducted purely in Chinese was launched at North Kowloon Magistracy in July 2000. It required court hearings to be conducted in Cantonese, and all documents submitted by the prosecution and the defence were written in Chinese. Subsequently, the Judiciary evaluated the scheme and found that there was still room of development for this scheme. As a result, there is one court where all hearings are conducted in Chinese in every Magistracy starting from February 2002. In addition, the Chief Judge of the High Court has drafted a set of guidelines on court languages for the reference of all Judges and judicial officers, and booklets on the languages used in District Courts and the High Court are also available. Moreover, the Judiciary is provided with the resources to prepare Chinese translations of judgements for submission to the Final Court of Appeal, and other important judgements. Courts have also been given resources to prepare forms in Chinese for courts. On the other hand, Chinese version of the endorsements and sentencing guidelines of some important cases are also available. These versions have from time to time been published in journals of Hong Kong lawyers since March 1997. The Judiciary has also published *The English-*

Chinese Glossary Of Legal Terms with a view to helping judicial officers to use the appropriate wordings as far as possible. The Judiciary worked with the City University of Hong Kong on the development of an Electronic Legal Documentation/Corpus System in April 2000 and this project entailed additional resources. The system includes such functions as searching for judgements, and so on, and it is still being developed. Therefore, I think the Government has already spent enormous resources on the various aspects concerning the use of Chinese in courts, and responded in a very positive manner.

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

MISS MARGARET NG (in Cantonese): *Madam President, the Chief Secretary for Administration has not answered my supplementary question because he was talking about the past situation whereas my question is about what will happen in the future. In view of the fact that there will be a substantial increase in the need in future, what policies will the Government adopt to increase resources?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, I have already listed the annual increase in resources since the '70s, and I believe that this trend will not stop. In respect of the situation in future, the Judiciary will certainly act according to the needs of Judges or courts. I wish to say that what the Government does is to fight for the Judiciary the necessary resources with the legislature. The internal allocation of resources by the Judiciary will depend on the needs of various levels of courts. Certainly, if the Judiciary has additional needs in this regard, we will fight for additional funding from the legislature.

PRESIDENT (in Cantonese): This Council has already spent more than 18 minutes on this question. Last supplementary question.

MR JASPER TSANG (in Cantonese): *Madam President, the Chief Secretary for Administration answered part (b) of the main question raised by Ms Audrey*

EU with the information provided to him by the Judiciary. The Chief Secretary for Administration quoted that Judges can decide on their own which language to use to conduct hearings. According to the guidelines, various factors including the language ability of Judges or judicial officers should be considered. My supplementary question is: Why is the language ability of Judges or judicial officers made a factor of consideration? Does it mean that after considering all the relevant factors including the language ability of the defendants or the litigants and the witnesses, the factual and legal issues in dispute, the use of Cantonese will be rejected because the Judge or judicial officer cannot speak Cantonese albeit it is originally considered more suitable to conduct the hearing in Cantonese? If yes, will a fair trial be affected in that case?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, I have said earlier that the Judge will make the decision according to many conditions and situations. What has been mentioned by the Honourable Jasper TSANG is just one of the factors, and I believe the Judge will make his ruling after weighing the various factors. If there is really a need with the case, and the trial Judge also feels that the case must be heard by a Judge who is proficient in Chinese, Judges with bilingual ability will be available at various levels of courts, as revealed by the figures earlier.

PRESIDENT (in Cantonese): Fifth question.

Law Enforcement in Frontier Closed Area

5. **MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, a Frontier Closed Area (FCA) is currently established south of the land administration boundary of the Hong Kong Special Administrative Region (SAR) to serve as a buffer against illegal immigration, smuggling and other cross-boundary crimes. In this regard, will the Government inform this Council:*

- (a) *of the respective numbers of illegal immigrants (IIs) intercepted within the FCA and those at other locations in each of the past five years;*

- (b) *whether advanced technological equipment has been applied to enhance the efficiency in patrolling the FCA and save manpower resources; and*
- (c) *of the further measures to be adopted to stop IIs from entering Hong Kong via the FCA?*

SECRETARY FOR SECURITY (in Cantonese): Madam President,

- (a) The respective numbers of IIs intercepted within the FCA and at other locations in each of the past five years are set out in the Annex.
- (b) Control of the land boundary is the responsibility of the Hong Kong police. Various measures are taken to ensure security along our land boundary. Along the 35-km long land boundary between the SAR and the Mainland, a single fence with observation towers and police guard posts is erected. The fence is patrolled by police officers round the clock. To enhance the efficiency in enforcement of boundary security, the police have made use of the following advanced technological equipment in their operation:
 - (i) Thermal Imagers (Fixed Installation) — tower mounted high-powered optical devices that detect illegal immigrants by their body heat.
 - (ii) Sensor Cable (Fence Mounted) — the sensor detects movements including cutting and climbing on the main fence which trigger the alarm system in control centres and police officers can be deployed to intercept the intruders within the FCA.
 - (iii) Under Vehicle Surveillance System — video cameras project real-time images of the underside of vehicles at land crossing points to detect IIs' hiding underneath.

- (iv) Infra Red Detectors — a man portable device which can be set up to detect movements along a path or suspected II route in the area south of the fence.
 - (v) Night Vision Devices — a variety of portable light intensification equipment used to enhance vision in low light conditions.
- (c) To improve the police's capability in intercepting IIs entering Hong Kong via the FCA, a major project is underway to upgrade the Boundary Fence Protection System. The project, featuring the following, will be completed by April 2002:
- (i) replacing the existing electronic sensor cable which runs along the length of the fence.
 - (ii) installing closed circuit television (CCTV) cameras along the fence. Video Motion Detection functions are installed at certain CCTV locations.
 - (iii) upgrading control facilities at the Police Operational Bases in the Police Border District.

Annex

Numbers of IIs Intercepted within the FCA and at Other Locations
(1997 to 2001)

<i>Year</i>	<i>FCA</i>	<i>Other Land Locations</i>	<i>SAR Waters</i>	<i>Total</i>
1997	2 404	4 589	10 826	17 819
1998	2 264	5 815	6 534	14 613
1999	2 233	4 367	5 570	12 170
2000	1 952	2 606	3 918	8 476
2001	1 440	2 090	4 792	8 322

MR YEUNG YIU-CHUNG (in Cantonese): *Madam President, we find from the numbers for each of the past five years given by the Secretary that the total*

numbers of IIs and the numbers of IIs intercepted within the FCA or other locations on land have continuously decreased. Does the Government consider it necessary to freeze a lot of land, around 2 600 hectares, to maintain the FCA policy? Will the Government employ high technology to combat illegal immigration activities and narrow the boundaries of the FCA?

SECRETARY FOR SECURITY (in Cantonese): Madam President, the Honourable YEUNG Yiu-chung is right. In recent years, the numbers of IIs intercepted have really decreased year after year and it now remains at a low level of around 23 people being intercepted each day. We have such a result mainly because the Mainland and Hong Kong police have co-operated well and the parties have taken quite a few measures. In fact, almost half of the Shenzhen area is within the second line; for instance, half of the Baoan District is within the second line. Therefore, there is not only a buffer zone in Hong Kong but also a very big buffer zone in Shenzhen. Moreover, the Shenzhen authorities have also strengthened the fencing and installed CCTVs to combat illegal immigration activities. Besides intercepting IIs, the Hong Kong police have also stepped up the collection of intelligence such as information on syndicates and "snakeheads" smuggling IIs in order to crack down on these "snakeheads". The continuous efforts made by Hong Kong and the Mainland have brought such a result.

Whether it is necessary to preserve the FCA is not only related to the issue of security. In accordance with the Basic Law, Hong Kong is a separate customs territory and the import of certain commodities such as textile products, fuel, certain food and endangered species into Hong Kong must be controlled. Therefore, we have to combat the relevant smuggling activities. Hong Kong is also a separate place for travel. According to Article 22 para 4 of the Basic Law, for entry into the SAR, people from other parts of China must apply for approval by the competent authorities. In the legal, practical and security contexts, it is necessary for the SAR Government to maintain the FCA.

Although the FCA has an area of 2 600 hectares, the Government did not oppose making any adjustments. For example, in 1991, the Government deleted the North East New Territories Landfill from the scope of the FCA. In other words, the Security Bureau would adopt an open attitude and participate in the study on the development of the FCA under the premise of not affecting boundary security.

MISS CHOY SO-YUK (in Cantonese): *Madam President, we can see from the numbers given by the Secretary that the number of IIs intercepted within the FCA only accounts for 13% of the total number. The Secretary has just mentioned that the FCA covers an area of 2 600 hectares and I am very pleased to learn that the Secretary is willing to participate in the study. Has the Secretary worked out a timetable on when the relevant study will be completed, in order that the land within the FCA does not have to be frozen for a long time?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, the department studying the development potential of the FCA is not subordinated to the Security Bureau, it is the Planning Department under the Planning and Lands Bureau. The Department is conducting a study entitled "Hong Kong 2030: Planning Vision and Strategy" and the Stage 2 Public Consultation is in progress. The study covers the development potential of the FCA in the long run and the Security Bureau has taken part in the study. As I have just said, under the premise of not affecting boundary security or breaching the Basic Law, we would adopt an open attitude and participate in the study.

PRESIDENT (in Cantonese): Miss CHOY, has your supplementary not been answered?

MISS CHOY SO-YUK (in Cantonese): *Madam President, I wish to ask the Secretary whether she thinks that there would not be any effect from the perspective of security?*

PRESIDENT (in Cantonese): Miss CHOY, is this part of the supplementary you have just asked? You can only repeat the part that has not been answered.

MISS CHOY SO-YUK (in Cantonese): *Madam President, I asked the Secretary if a timetable would be worked out, for instance, from the perspective of security. Does the Secretary think that the FCA can be opened?*

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

SECRETARY FOR SECURITY (in Cantonese): Madam President, the relevant timetable should not be determined by the Security Bureau but the Planning Department. At present, the Security Bureau has not yet reached a final conclusion on the matter and we are only participating in the study.

MR ABRAHAM SHEK (in Cantonese): *Madam President, the Honourable CHOY So-yuk has already asked the supplementary I wish to ask. As the 2 600 hectares of land would be developed in future, does the Security Bureau have any solutions to the security problems?*

PRESIDENT (in Cantonese): Mr SHEK, the Secretary has already answered the question raised by you.

MR HENRY WU (in Cantonese): *Madam President, it is stated in the main reply of the Secretary that since the police have made use of advanced technological equipment, the numbers of IIs intercepted at the FCA have decreased year after year. But the information in the Annex shows that, though the number of IIs intercepted in SAR waters has decreased, it accounts for more than 50% of the total number. Has the Secretary considered making use of similar advanced technological equipment within SAR waters to further combat illegal immigration activities?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, IIs have arrived in Hong Kong via the SAR waters all along, and the Marine Police are responsible for intercepting IIs in SAR waters. On the one hand, we rely on intelligence, for instance, information on the black spots where syndicates would land IIs; on the other hand, we have to be equipped with high-powered speedboats. The police and the Customs and Excise Department (C&SD) are equipped with additional high-powered speedboats for the interception of IIs.

MR HENRY WU (in Cantonese): *Madam President, the Secretary has still not answered my supplementary. She has just mentioned speedboats but my question is about advanced technological equipment. The Secretary has mentioned thermal imagers and infra red detectors installed on land, would she consider acquiring these equipment for use in SAR waters?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, I do not have the details on hand, but all our advanced speedboats and police launches should have been installed with such advanced equipment as infra red detectors and night vision devices. The aeroplanes of the Government Flying Service also have such equipment.

MR CHAN KAM-LAM (in Cantonese): *Madam President, the information in the Annex shows that the numbers of IIs intercepted on land have obviously decreased but the numbers intercepted in SAR waters have conversely increased. Although the Secretary has said that the C&SD and the police have acquired additional speedboats in recent years, we know that some mainland fishing boats and small vessels from the Mainland do not need to make declaration before entering Hong Kong, and some even do not need to make advance reports with the Hong Kong port. Would the Secretary negotiate with the departments concerned and require vessels to make advance declarations before entering Hong Kong so that law enforcement officers could further understand and monitor these vessels and thereby intercept IIs as soon as possible?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, the Honourable CHAN Kam-lam is right. Many vessels are plying to and from Hong Kong, some are fishing vessels registered both in the Mainland and Hong Kong that would operate in both places and some vessels need to make declaration beforehand. Given the shortage of resources, it is impossible for the Immigration Department and the C&SD to search every one of these vessels. As Members may know, at such locations as the Western Anchorage, we can stop vessels for searching when we encounter suspicious vessels or on receipt of intelligence. We would not search each and every vessel because it is basically impossible. Even if we can do so, we would cause serious traffic congestion at

sea. Therefore, we mainly rely on intelligence. Given intelligence, tip-off and the information collected during searches, we would concentrate on searching a certain type of vessels such as river trade vessels. The police, the Immigration Department and the C&SD would continuously step up the relevant efforts.

MR LAU KONG-WAH (in Cantonese): *Madam President, members of the North District Council also reflected the problem when they met with Members a few days ago. In their view, it seemed as though residents living within the FCA were under arrest and a lot of business and trade activities were restricted; even Hong Kong people could hardly visit the FCA. Madam President, I learnt that you had recently visited the FCA and said that it was very beautiful. However, other people do not have a chance to visit the FCA. The Secretary has said that three to four IIs are intercepted within the FCA per day on average but the 30 000 to 40 000 residents within the FCA are affected every day. The Secretary has just said that they would adopt an open attitude and participate in the study but she has also said that the Planning Department will have the relevant planning only by 2030. There are almost 30 years to go before 2030; do the tens of thousands of people living within the FCA have to continue to be under arrest? Would the Secretary exchange views with other Policy Bureaux? Does it mean that the Secretary would not oppose gradually or partially relaxing restrictions that are out of keeping with the times?*

SECRETARY FOR SECURITY (in Cantonese): *Madam President, we cannot merely base on the numbers of IIs intercepted to determine whether the FCA should be abolished. Apart from intercepting IIs, we also have to intercept goods. I have some papers on hand and I pass them to Members after the meeting if necessary. For example, the C&SD has continuously intercepted duty-not-paid goods, counterfeit goods, meat, endangered species, drugs and dangerous drugs at the boundary, so it is necessary for us to maintain the FCA.*

The Honourable LAU Kong-wah has said that the residents within the FCA feel as though they are under arrest. Just as its name implies, the FCA is meant to reduce people flow and other activities as far as possible. It serves as a buffer zone to facilitate law enforcement by the Government and maintain the

integrity of the land administration boundary. It is essential to establish the FCA under the Basic Law. I have also pointed out that we successfully controlled the numbers of IIs in recent years because there are buffer zones both in Hong Kong and the Mainland and the results have been satisfactory.

Even so, the Security Bureau is willing to consider relaxation if security as a whole would not be affected. Putting it simply, it is impossible for us to abolish the FCA, but we can consider suitable adjustments. However, Members should not forget that though there are 2 600 hectares of land, many parts within the FCA have been designated as conservation areas, some may be flooded, some are villages and some are hilly areas. How much land can be developed? In fact, the relevant land use planning should be led by the Planning Department. If Members have any views, they can reflect them to the Planning Department and the Policy Bureau to which it is subordinated.

PRESIDENT (In Cantonese): This Council has spent more than 16 minutes on this question. This is the last supplementary.

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, the Secretary has earlier referred to the equipment for combating illegal immigration activities at the boundary, which is hardware. Recently, there were a few cross-boundary armed offences. Besides hardware, does the Government have software such as "informants" to target at people who cross the boundary carrying firearms although they have not committed any offences?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, since the police in the FCA district patrol the FCA round the clock, if people carrying firearms enter Hong Kong on land at locations other than the border crossing points, they would most probably be intercepted. They may also be intercepted if they enter the territory by "tai fei" (high-powered speedboats).

To combat cross-boundary crimes, apart from boundary control, we also need to exchange information and especially co-operate with the Public Security Bureau of the Mainland. The police have already stepped up the relevant efforts.

PRESIDENT (in Cantonese): Sixth question.

Regulation on Alternative Treatment Modalities

6. **DR LO WING-LOK** (in Cantonese): *Madam President, regarding the regulation of alternative treatment modalities, will the Government inform this Council:*

- (a) *whether it has defined and classified alternative treatment modalities;*
- (b) *whether it has conducted surveys on the popularity of alternative treatment modalities at present, and collected statistics on the number of persons who were injured, fell ill or died as a result of receiving alternative treatment over the past five years, and the details of such cases; and*
- (c) *of the other mechanisms, apart from the strict regulation on the utilization of alternative treatment modalities imposed on registered medical practitioners under the Professional Code and Conduct made by the Medical Council of Hong Kong (MCHK), for regulating the utilization of alternative treatment modalities by other persons and the legal basis for such mechanisms; if there are no such mechanisms, of the reasons for that?*

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

- (a) There is no internationally agreed definition of the term "alternative treatment modalities". This term, or other terms such as "complementary and alternative medicine", may be used to refer to a diverse group of health-related therapies which are not considered to be a part of conventional or mainstream medical care. It may be even extended to therapies which are not health related. One distinct category are traditional systems of health care, many of which are long-established and have their own theoretical basis. Chinese medicine is one such discipline which is recognized by the

World Health Organization as based on systematical knowledge, a comprehensive methodology and real clinical experience and in our context is recognized as a parallel discipline and regulated by the Chinese Medicine Ordinance.

Another category covers the more organized alternative therapies which have an individual diagnostic and treatment approach, such as chiropractic, osteopathy and homeopathy. Formal training programmes are usually available for practitioners of these therapies.

In addition to the above, there has evolved over the years in different parts of the world a variety of therapies or techniques, some of which do not purport to embrace diagnostic skills but may claim to improve the users' general state of health or complement conventional medicine, such as aromatherapy and reflexology. These therapies or techniques are heterogeneous in terms of scope of practice, mode of intervention and vary in their appeal to potential users in different cultures at different time points.

- (b) As far as the organized alternative therapies are concerned, there are about 50 chiropractors and a few osteopathy practitioners in Hong Kong. Moreover, registered medical practitioners can carry out alternative treatment modalities subject to the conditions stipulated in the Professional Code and Conduct issued by the MCHK. Because of the diverse nature, no survey has been conducted to ascertain the number of patients seeking treatment from practitioners of the other varieties of alternative treatment modalities.

We have on record one case where the patient has received alternative therapy in addition to conventional medicine. It has been the subject of the Coroner's Court inquest where the verdict is death from natural causes to which neglect contributed. Based on the information on a limited survey conducted in the public hospital system, there were no other deaths or serious injuries arising from alternative therapies in the last five years. There were a few isolated adverse events, all of which did not require hospitalization.

- (c) There are many factors to be considered in deciding whether practitioners of alternative treatment modalities should be regulated. The factors include whether the alternative treatment practice covers a discrete area of activity displaying some homogeneity, whether the practice involves applying a defined body of knowledge and practice based on evidence of efficacy, the prevalence of such practice and the risk incurred when a patient receives such treatment modalities. Other relevant factors are whether the practitioners have in place an established professional body and that training and education of the discipline is well defined. We need to strike a balance between the benefits of regulation and the costs of regulation to be imposed on the consumers.

Among the second category of therapies mentioned in part (a) above, chiropractic practice is regulated under the Chiropractors Registration Ordinance (Cap. 428) in Hong Kong. While practitioners of other alternative treatment modalities may not be regulated under specific legislation, they are subject to controls under various ordinances, as follows:

- (i) The Undesirable Medical Advertisements Ordinance (Cap. 231) prohibits advertisement of treatment modalities for certain diseases. The purpose of this Ordinance is to prevent the public from being misled by advertisements of treatment modalities resulting in delay in seeking proper medical attention for diseases that carry serious consequences.
- (ii) The Public Health and Municipal Services Ordinance (Cap. 132) requires that manufacturers and sellers of food or drug ensure that their products are fit for human consumption.
- (iii) The Consumer Goods Safety Ordinance (Cap. 456) stipulates that a person shall not supply, manufacture, import into Hong Kong consumer goods unless the goods comply with the general safety requirement for consumer goods or the approved standard for the particular consumer goods.
- (iv) As for pharmaceutical products, they are registered under the Pharmacy and Poisons Ordinance (Cap. 138).

Moreover, under common law all practitioners have a duty of care towards their patients, that is, they are required to exercise the care and skill reasonably expected of the competent practitioner practising in their field.

We are also devising a system to regulate health claims. The system will cover orally consumed products initially and, in the long run, would be extended to cover both products and services.

Based on surveillance intelligence in the public sector in addition to any possible legal recourse, we will issue health advice to the public if any treatment is found to pose imminent risk to consumers. Members of the public who wish to receive alternative treatment have the personal responsibility to exercise due care by ascertaining the risks involved before receiving treatment.

DR LO WING-LOK (in Cantonese): *Madam President, in the last paragraph of part (c) of his main reply, the Secretary mentioned the issue of surveillance. He said that action would be taken based on surveillance intelligence in the public sector. Would the Secretary inform this Council of the organizations in the public sector involved in such work, the kind of surveillance being undertaken and whether or not the Government will use information provided by the private sector?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, of course we welcome medical practitioners from the private sector to provide information to us, for this will make our surveillance system more effective. The surveillance system in the public sector is divided into two systems respectively for contagious diseases and non-contagious diseases. Under the surveillance system for non-contagious diseases, emergency wards or hospitals will send information concerning cases of diseases which may endanger public health to the Hospital Authority (HA). The HA will then discuss the information with the Department of Health (DH). The DH has a similar system and if we come across any improper methods of treatment, such as those which may pose a hazard to the public, we will report to the DH.

The third surveillance system is the MCHK. In the case to which I have referred earlier, a registered medical practitioner administered alternative treatment on the patient in addition to the main treatment. The MCHK keeps information in this respect and this will help make the system more effective.

MR LAU PING-CHEUNG (in Cantonese): *Madam President, may I ask the Secretary what members of the public should do when they have any doubts about alternative treatment modalities? In addition, is there a government department which entertains such enquiries from the public?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, alternative treatment modalities encompass many kinds of therapies, three of which I have mentioned in my main reply. Overseas countries regard traditional systems of health care as alternative therapies, but in Hong Kong, they are considered a mainstream medical care. The second category is more organized and it covers chiropractic, and so on. We have information on this category of therapies and it is available to the public. As for the third category, it includes treatment approaches which cannot be classified. It is because these change with the trends and may take on different forms. Some of these treatment approaches may have persons who administer the therapy. Some may have patients administering the therapy on themselves, or test its effectiveness among a group of friends. Members of the public who wish to try alternative treatment modalities have the personal responsibility to exercise due care on the source of related information. The mainstream medical care as practised in the West puts much emphasis on studies to prove the therapeutic value of treatments. If members of the public are equipped with general knowledge, they will be able to know the source of the proofs of these studies, irrespective of the therapies in question. Of the many kinds of therapies which I have mentioned earlier, some of these utilize flowers and crystals. These therapies will change with the times and the persons who receive treatment. For some therapies, there may be a few hundred people who are interested in them, and sometimes there may be a few thousand people and even several thousand people. Since there are so many varieties of therapies in existence, it is simply impossible for us to know what are the proofs of their therapeutic value. If it is proved that certain therapies are effective, then they may be incorporated into the mainstream treatment

approaches. There are research centres over the world which carry out researches on alternative treatment modalities. Some are systematic researches that employ modern science. If members of the public are interested in trying alternative treatment modalities, I would recommend them to be careful about the source of the relevant research information and the kinds of risk involved before they consider receiving such treatments. It is simply impossible for the Government to provide them with the information on this.

MISS CYD HO (in Cantonese): *Madam President, I would like to thank the Secretary for the clarification he has made. He has briefed us on the subject and has distinguished orthodox homeopathy from other therapies, for courses in homeopathy are offered by colleges in a systematic manner. His approach is particularly helpful because I notice Honourable Members may mix up a lot of things which are so different in nature.*

Madam President, there was a case in which a practitioner of Western medicine reported to the police that a doctor using natural therapies was practising medicine illegally. The doctor concerned was arrested but was subsequently acquitted by the Court for lack of evidence. Since there is such a great misunderstanding among doctors of allotherapy with doctors of homeotherapy, how can the Government ask them to help regulate doctors of homeotherapy? Should the Government consider the views of doctors of homeotherapy and allow them to be registered, and enact legislation in this area for regulation so as to avoid the occurrence of a situation whereby the laymen will lead the experts and one profession interfering with another profession?

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, in fact, professionals using homeotherapy can practise on their own. The most important thing is that these persons cannot call themselves as medical practitioners. As long as they do not call themselves medical practitioners, they are free to practise. As to whether their practice should be regulated by the Government, that will depend on whether this form of therapy is popular in Hong Kong, otherwise there is no need to enact legislation specifically for this purpose. Apart from that, we will consider whether this form of therapy has developed

into a professional body that is capable of self-regulation. The regulation of the profession of alternative treatment modalities is subject to many conditions. Those who use homeotherapy may practise the profession, but they must not contravene the law.

I think there are lots of studies on homeotherapy carried out by western countries. It remains of course that findings of these studies do not offer convincing proofs that it should be incorporated into the mainstream forms of therapy. Presently a lot of researches are being done in many countries on alternative treatment modalities. If it is proved that they are really effective, that may be beneficial to the public at large or the patients.

MR ABRAHAM SHEK: *Madam President, a form of medical treatment known as chelation therapy is being administered to heart patients in some private clinics in Hong Kong. Is it a form of alternative medical modality? If it is, does it need to be regulated and how many casualties have been reported after people have received such treatment?*

SECRETARY FOR HEALTH AND WELFARE: Madam President, the difficulty with the definition of the term mentioned is that there is a whole spectrum. The therapy that Mr SHEK talks about, that is, chelation therapy, is in fact an application which is used to treat heavy metal poisonings in our mainstream medical treatments. But I should say that in the last decade, it had been very popular, and this was usually used by doctors as part of the medical treatment to treat patients with other types of illnesses. Of course, with any treatment, especially if it involves intravenous infusion, there is a risk. Doctors have to be accountable to the Medical Council of Hong Kong (MCHK) for the treatments that they give. Hence, the questions that followed will be: Is the treatment given in the best interests of the patients? Is there any clinical evidence to suggest that this is effective? Will there be any harm done to patients? When the doctors actually give the new treatment, are they being properly trained? Surely, doctors have to be accountable to the MCHK for the different treatments that they give. In the context of chelation therapy, I should say that it is a standard practice, but it is not intended for the type of treatments that Mr SHEK refers to, because I am aware that it is used for treatment of

patients with heart disease, and so on. It is supposed to chelate out some of the arteriovenous plaque from the blood vessels. Nevertheless, this is something that the MCHK needs to look at. The MCHK will see whether there is any basis for that kind of therapy, whether doctors should be practising it, and whether the doctors practising it have informed the patients of any evidence for it.

I guess that among the many medical treatments that we have in our daily practice, some of them have not been subject to good clinical studies and there is no research evidence. Many of them come from traditional practice. And sometimes it is very difficult to do clinical trials on human beings. So some treatments have only been assumed to work, and they are not orthodox. So these are things that we as professionals have to look at, and decide on the conditions for giving such treatments. The MCHK has issued guidelines on using alternative medicine, and those guidelines should be adhered to when doctors use non-orthodox method of treatments. Hence, in this context, the long answer to Mr SHEK's short question is that, it should probably be regulated by the guidelines on alternative medicine.

PRESIDENT (in Cantonese): This Council has spent more than 16 minutes on this question. Now the last supplementary question.

MR NG LEUNG-SING (in Cantonese): *Madam President, according to reports, public hospitals have used qi gong to treat cancer patients. May I know if the Secretary has collected any information on this and the efficacy of this treatment?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, I am aware that public hospitals have made a study on the effectiveness of *qi gong* in treating cancer. However, I have not read a report on the efficacy of this kind of treatment. Once the report on this treatment is available, I would let the Honourable NG Leung-sing know.

PRESIDENT (in Cantonese): Oral Question Time ends here.

WRITTEN ANSWERS TO QUESTIONS**Apprenticeship Scheme Run by Vocational Training Council**

7. **MISS LI FUNG-YING** (in Chinese): *Madam President, regarding the Apprenticeship Scheme run by the Vocational Training Council (VTC), will the Government inform this Council whether it knows:*

- (a) *the new trades which were added to the Scheme in the past two years and the number of inspectors of apprentices newly appointed by the VTC as a result; if no new trades were added, the reasons for that; and*
- (b) *the trades being considered by the VTC for addition to the Scheme?*

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

- (a) No new trade has been designated under the Apprenticeship Ordinance in the past two years while the VTC has been undertaking a review of the Apprenticeship Scheme.

As a result of this review, the VTC is in the process of proposing amendments to the Apprenticeship Ordinance to put in place a more flexible and competence-based Apprenticeship Scheme. It is hoped that when the new Apprenticeship Scheme is introduced, more trades could at the same time be identified for designation under the Apprenticeship Ordinance. Designation of new trades is planned to be packaged with the legislative processing of other amendments to the Apprenticeship Ordinance for the sake of smooth administration.

- (b) "Audio-visual Frequency and Radio Mechanic" and "Building Services Mechanic" have already been identified as likely candidates for designation. Apart from these two trades, however, the VTC is taking steps to consult its training boards for proposals for more trades to be designated under the new Apprenticeship Scheme.

Civil Service Regulations and Terms of Employment of Serving Civil Servants

8. **MR LEE CHEUK-YAN** (in Chinese): *Madam President, regarding the Civil Service Regulations (CSR) and the terms of employment of serving civil servants, will the Government inform this Council of:*

- (a) *the present legal status of the above Regulations; and*
- (b) *whether, according to the present legislation and the above Regulations, the Government can unilaterally change the terms of employment of serving civil servants, including their salaries and fringe benefits?*

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

- (a) The employment arrangements for a civil servant are governed by the provisions set out in the letter of offer of appointment and the memorandum on conditions of service (MOCS) attached to the letter. The provisions therein are binding on both the Government and the appointees. In accordance with the MOCS, the appointee would be subject to Executive Orders issued by the Chief Executive for the administration of the public service and to regulations and directions made under these orders; and also subject to Government Regulations and Circulars, Departmental Instructions and any Ordinances or Regulations which apply to the office or to the department to which he is appointed. On assuming duty, the officer should acquaint himself with all such regulations and instructions. The CSR are made by or with the authority of the Chief Executive for the administration of personnel matters in the Civil Service. The CSR may be supplemented by Civil Service Bureau Circulars and Circular Memoranda issued by the Secretary for the Civil Service from time to time. The instructions in these circulars and circular memoranda are of equal application and force to the CSR. They form part of the employment arrangements by virtue of the provision in the MOCS accepted by the appointees.

- (b) It is relevant to note that the Employment Ordinance does not apply to the Government. The MOCS applicable to the civil servants provides that the Government reserves the right to alter any of the officer's terms of appointment, and/or conditions of service set out in the MOCS or the letter of appointment should the Government at any time consider this to be necessary. That said, as a good employer, the Government has put in place a well-established staff consultation mechanism and it is our policy to conduct staff consultation on any proposals that may have significant implications for staff. The mechanism has worked effectively on a wide range of proposals relating to the employment arrangements of serving civil servants.

Employment of Young Persons to Work at Fast Food Shops at Night

9. **MR CHAN KWOK-KEUNG** (in Chinese): *Madam President, under the Employment of Young Persons (Industry) Regulations (Cap. 57, sub. leg.), employers shall observe the following stipulations regarding the employment of young persons aged between 15 and 17 in any industrial undertaking: the young persons shall not work for more than eight hours in a day, their work shall not end later than 7 pm, and they shall be allowed a meal or rest break of not less than half an hour after working continuously for more than five hours. As the definition of industrial undertaking includes "the preparation of food for consumption and sale on the premises where it is prepared", fast food shops are within the ambit of the Regulations. Nevertheless, it is learnt that some multinational fast food corporations have employed young persons below 18 years of age to work on shifts until late at night in fast food shops. In this connection, will the Government inform this Council:*

- (a) *of the number of inspections carried out by the Labour Department (LD) at workplaces last year for enforcing the Regulations, together with a breakdown by the type of such workplaces;*
- (b) *whether the LD discovered in the past two years cases in which employers had contravened the above stipulations; if so, of the number and details of such cases broken down by each stipulation; and*

- (c) *of the specific actions taken by the LD targeted at the employment of young persons below 18 to work at fast food shops at night?*

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

- (a) The Employment of Young Persons (Industry) Regulations govern the employment of young persons under 18 years of age in industrial undertakings. However, Regulation 3 of the Regulations stipulates that the Regulations shall not apply to premises where food is prepared for consumption and sale. Therefore, young persons working in fast food shops are not covered by the Regulations.

Notwithstanding the above, the Factories and Industrial Undertakings Ordinance and the Occupational Safety and Health Ordinance provide that it is the general duty of every employer to ensure the health and safety at work of all his employees, including those under 18 years of age. In this regard, Occupational Safety Officers of the LD conduct frequent inspections to workplaces including restaurants and fast food shops to ensure that the safety of employees at work is well protected.

In 2001, Labour Inspectors of the LD conducted a total of 30 232 inspections to enforce the Employment of Young Persons (Industry) Regulations. These inspections covered 16 528 manufacturing factories (for example, garment factories and semiconductor factories) and 13 704 workshops of service industries (for example, motorcar repair shops and photo finishing shops). The LD only maintains general statistics of inspections according to the manufacturing and service sectors. A detailed breakdown of inspections by individual trades/industries is not available.

- (b) In 2000 and 2001, Labour Inspectors detected altogether 14 cases in contravention of the Employment of Young Persons (Industry)

Regulations. The LD has successfully convicted all the employers for the contraventions. The cases involved breaches of the provisions that young persons should not be allowed to work overtime (8 summonses) and work on rest days (6 summonses).

- (c) As explicated above, the Employment of Young Persons (Industry) Regulations do not apply to young persons aged between 15 and under 18 working in fast food shops.

On the other hand, the Employment of Children Regulations prohibit the employment of children under 15 years of age in any industrial undertaking. Children under 13 years of age are not allowed to engage in any employment.

Under the Employment of Children Regulations, children between 13 and under 15 years of age and having completed Form Three secondary education may be employed to work in non-industrial undertakings, subject to stringent controls, including production of written parental consent to the employment and evidence of the children's completion of Form Three secondary education. The major provisions are that these children can only be employed from 7 am to 7 pm and for not more than eight hours on any day. They must be given a meal break or rest break of at least one hour after working continuously for five hours.

Subject to more stringent controls, children aged between 13 and under 15 years of age but have not completed Form Three secondary education can also be employed in non-industrial undertakings as part-time workers. In addition to production of written parental consent to the employment and valid school attendance certificates, there are strict requirements governing the work arrangements for these children. These children cannot be allowed to work during school hours and there are restrictions on their daily working hours during the school term and the summer holidays. They are also prohibited from working in occupations

specified in the Schedule to the Employment of Children Regulations, including work in the kitchen of any hotel, boarding house, cooked food shop, cafe, restaurant or any establishment of a similar kind.

The LD has been rigorously enforcing the Employment of Children Regulations. In 2001, Labour Inspectors carried out 162 153 inspections to enforce the Regulations. No irregularities were detected involving the employment of children in fast food shops outside the hours specified in the Regulations.

In 2002, the LD will continue to conduct proactive inspections to ensure that the safety and health at work and the rights and benefits of employed persons under 18 years of age are protected. New leaflets on the Employment of Young Persons (Industry) Regulations and the Employment of Children Regulations will be published to give wide publicity to the statutory rights and benefits of employees under 18 years of age.

Number of Staff and Staffing Expenditure of Public-funded Organizations and Statutory Bodies

10. **MR ERIC LI** (in Chinese): *Madam President, will the Government inform this Council of the current total number of staff in all public-funded organizations and statutory bodies of which the Government is the major shareholder, and the gross amounts of their monthly salary and personal emolument-related expenditure, and provide a comparison of these figures with those for the Civil Service?*

SECRETARY FOR THE TREASURY (in Chinese): Madam President, the total number of staff of subvented organizations and statutory bodies of which the Government is the shareholder and the gross amounts of their monthly salary and personal emolument-related expenditure are listed below together with those in respect of government bureaux and departments:

	<i>Total number of staff (as at 31 December 2001)</i>	<i>Average gross amounts of salary and personal emolument-related expenditure per month ^(Note1) (\$m)</i>
Subvented organization ^(Note2)	14,807	5,787.2
		(Based on 2001- 02 Estimates of expenditure of individual organizations)
Statutory bodies which the Government is the shareholder ^(Note 3)	9,285	203.6
		(Except specified, average of last financial year)
Government bureaux and departments	171,667 ^(Note 4)	5,347.8
		(Average of 1 April 2001 - 31 December 2001 actual expenditure)

As explained in Note 1, subvented bodies, statutory bodies of which the Government is the shareholder, and government bureaux and departments use different standards to suit their own circumstances in calculating their monthly staff salary and personal emolument-related expenditure. It is not appropriate to make comparisons just based on the information listed above.

^(Note1) Personal emolument-related expenditure includes all fringe benefits such as cash allowance, housing allowance, job-related allowance, contribution to the Mandatory provident Fund, and so on. In respect of the Government, the figure does not include payments of pensions and gratuities to those who have left the Civil Service. As subvented organizations, statutory bodies and the Government have their own human resources policy, they may have different definitions regarding "salary" and "personal emolument-related expenditure". They may pay the same category of allowances or benefits in different forms (for example, in real form or in cash). They may also use different methods in valuating these personal emolument-related items that are not in cash form. For example, the expenditure figures given by some organizations may include commitments made for existing staff's retirement schemes but pensions to be paid by the Government when existing pensionable civil servants retire some time in the future are not included in today's expenditure figure.

^(Note2) They refer to organizations receiving recurrent subvention.

^(Note 3) They refer to Airport Authority, Kowloon-Canton Railway Corporation, Urban Renewal Authority, Hong Kong Export Credit Insurance Corporation and Hong Kong Science and Technology Parks Corporation. The figure for salary and personal emolument-related expenditure in respect of Hong Kong Science and Technology Parks Corporation is the total expenses for December 2001.

^(Note 4) The number includes civil servants in all government bureaux and departments but excludes temporary staff, non-civil service contract staff and civil servants seconded to subvented or other organizations (such as the Hospital Authority).

Practice Restrictions of Optometrists

11. **DR DAVID CHU** (in Chinese): *Madam President, the register for optometrists is divided into four parts and different restrictions are imposed on the practice of optometrists registered in different parts of the register. In this connection, will the Government inform this Council of:*

- (a) *the number of complaints received over the past three years about optometrists violating the practice restrictions applicable to them;*
- (b) *the measures in place to ensure that optometrists do not violate the practice restrictions applicable to them; and*
- (c) *the measures in place to assist consumers in distinguishing optometrists who are subject to different practice restrictions?*

SECRETARY FOR HEALTH AND WELFARE (in Chinese): Madam President, optometrists are regulated under the Supplementary Medical Professions Ordinance (Cap. 359) (the Ordinance) and the Optometrists (Registration and Disciplinary Procedure) Regulation (the Regulation). The register for optometrists is divided into four parts, with restrictions on the practice of Part II, Part III and Part IV optometrists. Optometrists are registered under respective parts of the register on the basis of academic qualification and professional experience.

- (a) The Optometrists Board (the Board) was established under the Ordinance to promote the standards of professional practice and conduct among registered optometrists. The Board is responsible for issuing the Code of Practice and investigating into any complaints of professional misconduct or contravention of the Ordinance. The Board has not received any complaints against registered optometrists relating to failure to comply with the restrictions of practice during the past three years.
- (b) The services provided by registered optometrists must be commensurate with the training they have received and with the part of the register on which their names appear. Any optometrist who is suspected of contravening the restrictions on their practice may be

subject to inquiries conducted by the Board and liable to disciplinary actions, including issuance of warning letter and removal of name from the register.

- (c) In accordance with section 18 of the Ordinance, it is an offence if a registered optometrist fails to display his/her certificate of registration or a certified copy of such certificate in a conspicuous position in any premises where he/she practises the profession. Particulars shown on the certificate of registration include name and photo of the optometrist, part in which the person is registered and the relevant restrictions of practice imposed by the Board. With these measures in place, the public should be able to tell whether an optometrist is registered and what are the restrictions on his/her practice.

The names and addresses of registered optometrists under respective parts of the register are published in the Gazette every year. Members of the public who wish to know more about matters relating to the regulation of optometrists are welcome to make enquiries at the Board Secretariat office.

Re-tendering of Public Works Projects

12. MR ABRAHAM SHEK: *Madam President, severe competition in the construction industry in recent years has resulted in the award of some public works contracts at unrealistically low price. As some of these projects were poorly executed and did not conform to the contracts, the Government had to re-tender them. In this connection, will the Government inform this Council:*

- (a) *of the number of projects re-tendered by the Government in the last 24 months;*
- (b) *of the additional costs and time involved; and*
- (c) *whether it has assessed how the community has suffered due to the delayed completion of these projects; if so, of the details of the assessment?*

SECRETARY FOR WORKS: Madam President,

- (a) In 2000 and 2001, there are 11 public works contracts re-entered by the Government.
- (b) The estimated additional cost for these 11 re-entered contracts ranges from \$4 million to \$183 million. The total estimated additional cost amounts to \$306 million. The additional time involved is different from contract to contract but the average statistics is in the region of nine to 12 months.
- (c) For each contract, the Government specifies the completion date before which the contractor shall complete the works. We will also assess the likely loss to the Government if the contractor fails to complete the works before the completion date. Such loss, if not recovered, will eventually be shouldered by the community at large. We have long established a mechanism to assess the amount of such loss which is stipulated in the contracts in the form of liquidated damages.

Liquidated damages are enforceable if the amount fixed is a genuine pre-estimate of the loss likely to arise from the anticipated delay in completion of the works. According to legal principles, the amount cannot be extravagant or unconscionable in comparison with the greatest loss which could conceivably be proved to have followed from the breach of contract. Otherwise, it will be regarded as a penalty, which is not enforceable under the public works contract.

Opening Hours of Premises Providing Internet and Computer Games

13. **MISS CHOY SO-YUK** (in Chinese): *Madam President, currently, according to the licensing conditions of the amusement game centre licence issued under the Amusement Game Centres Ordinance (Cap. 435) (AGCO), amusement game centres (AGC) which may only admit persons aged 16 or above are not permitted to operate beyond midnight. On the other hand, some premises providing Internet games or computer games are operating round the clock as they are not subject to the provisions of the Ordinance, and attract a lot*

of teenagers to hang around there all night. In this connection, will the Government inform this Council whether it plans to restrict the operating hours of such premises and bring them in line with those of the AGC; if so, of the details; if not, the reasons for that?

SECRETARY FOR HOME AFFAIRS (in Chinese): Madam President, the AGCO was enacted in 1993 to provide for an appropriate regulatory framework for AGC. Under the AGCO, licensees must comply with the licensing condition on operating hours, which was determined with reference to the views of public consultations at that time.

The services provided by the Internet service establishments and their modes of operations are quite diversified. For instance, people may browse the websites, send and receive e-mails, receive different kinds of information (including those on finance) and play games. They are different from those establishments under the AGCO which only provide arcade machines for entertainment.

Therefore, in considering policy issues relating to the regulation of Internet service establishments, the Government has to take into consideration various factors, such as its policy commitment on the development and wider use of information technology, the impact of the operation of these establishments on the public and the issues of building and fire safety. The Home Affairs Bureau, in collaboration with relevant government departments, is actively working on an appropriate regulatory framework (including operating hours) for these establishments and will consult the public on any proposals once available.

Tenants of TPS Estates Not Permitted to Replace Metal Gates

14. **MR FRED LI** (in Chinese): *Madam President, I have learnt that householders who have purchased, under the Tenants Purchase Scheme (TPS), the public housing flats they occupy may replace the metal gates of their flats at their own expense, provided that the new metal gates comply with the fire safety regulations, whereas other tenants in the same housing estates who have not purchased their own flats are not permitted to do so. In this connection, will the Government inform this Council of the reasons for not permitting these tenants to replace the metal gates at their own expense?*

SECRETARY FOR HOUSING (in Chinese): Madam President, all owners of flats in TPS estates and public rental tenants in these estates are allowed to replace the metal gates at their own expense, provided that the new metal gates comply with the Housing Department (HD)'s guidelines on fire safety and other requirements.

In the current phase of the TPS, four other block type designs have been included for sale for the first time. The HD needs time to draw up guidelines on replacement metal gates for these flats. Requests from such tenants to replace metal gates will be considered from March 2002 onwards.

Services Provided by Child Assessment Centres of Department of Health

15. **MR ALBERT CHAN** (in Chinese): *Madam President, members of the public have reflected to me that although their young children were assessed as having optometric problems during check-ups at the child assessment centres of the Department of Health (DH), the centres made no ensuing arrangements to further examine the children or refer them to other service units and only told the children to return one year later to receive check-ups again. Regarding the services provided by these assessment centres, will the Government inform this Council:*

- (a) *of the average waiting time for optometric services for children in each assessment centre at present, and the average annual number of children provided with optometric assessment services by each optometrist in the assessment centres; and*
- (b) *whether there are specific measures to improve the services of the assessment centres; if so, of the details; if not, the reasons for that?*

SECRETARY FOR HEALTH AND WELFARE (in Chinese): Madam President, the Student Health Service (SHS) of the DH was established since the 1995-96 school year. All students of primary and secondary day schools are eligible to join the SHS and receive services at its 12 student health services centres (SHSCs) free of charge. Services provided by these centres include physical examination; screening for problems related to growth, nutrition, blood pressure, vision, hearing, spinal curvature, psychosocial health and sexual

development; individual counselling and health education. Students found to have health problems are referred to the special assessment centres (SACs) at Lam Tin, Western or Chai Wan, or appropriate specialist clinics for further management.

- (a) Students who are suspected to have refractive error in the vision screening test conducted at SHSCs will be referred to SACs for further management, or they may choose to use the service of private optometrists. The waiting time for optometry service at SACs is generally longer for Saturday sessions, as follows:

weekday morning sessions — within 13 weeks;
weekday afternoon sessions — within 24 weeks; and
Saturday sessions — within 35 weeks.

Students are offered the choice to attend the examination at SAC with a shorter waiting time.

Each optometrist at SAC provides service to around 7 200 students per year.

- (b) With the recruitment of two additional optometrists in November and December 2001, the DH has been reducing the waiting time for optometry service at SACs as shown in part (a) above. We will monitor and review the need for such services.

Structural Problems of Market Buildings

16. **DR RAYMOND HO** (in Chinese): *Madam President, it has been reported that cracks have been found in some of the main columns in the Fu Mau Street Market of the Housing Department (HD). In this connection, will the Government inform this Council:*

- (a) *of the causes of the cracks in the main columns in the above market and the remedial measures to be taken;*
- (b) *of the market buildings of HD which have similar structural problems in the past two years and the details of such problems; and*

- (c) *whether the HD plans to inspect the structural conditions of all its market buildings within this year so as to ensure public safety?*

SECRETARY FOR HOUSING (in Chinese): Madam President, Fu Mau Market is structurally safe. Cracks found in some of the columns are due to overloading of flower-beds along the perimeters of the podium garden above the market, and also due to substantial wind loads caught by rows of trees planted in the flower-beds.

The HD has taken the following remedial action:

- (i) soil and trees in flower-beds have been removed. Smaller plants will be planted instead;
- (ii) the affected columns will be strengthened with reinforced concrete; and
- (iii) as a temporary measure, steel props were installed next to the affected columns. These props will be removed after the completion of works.

The problem besetting Fu Mau Market is unique. No other market buildings in public housing estates have a similar problem.

Under the "HomeCARE" programme which commenced in mid-2001, in addition to repair services for individual flats, preventive maintenance is carried out through regular inspections of all estate common areas, including the markets. These inspections include daily patrols by estate staff, half-yearly technical inspection by maintenance staff and annual maintenance appraisal by professional staff.

Infrastructural Project of Ma On Shan to Tai Wai Rail Link

17. **MR LAU KONG-WAH** (in Chinese): *Madam President, regarding the infrastructural project of the Ma On Shan to Tai Wai Rail Link (MOS Rail) being undertaken by the Kowloon-Canton Railway Corporation (KCRC), will the Government inform this Council if it knows:*

- (a) *the latest progress and the estimated completion date of the project, and how they compare with the original plan;*
- (b) *the total number of complaints concerning the project received by the KCRC so far and the details of such complaints; and*
- (c) *whether the project in progress has affected the buildings, streets and facilities in the vicinity of the construction sites; if so, of the details?*

SECRETARY FOR TRANSPORT (in Chinese): Madam President, construction works of the MOS Rail commenced in November 2000. According to information provided by the KCRC, as at the end of 2001, about 75% of piling works and 10% of pier construction works of the viaduct at the various stations had been completed. Furthermore, excavation works for laying two tunnels underneath the existing Tai Wai Station had been completed. Other works which had commenced include the construction of a subway at Tai Shui Hang Station, the construction of the superstructure of the depot at Tai Wai Maintenance Centre and those of City One and Wu Kai Sha Stations, and the assembly works of precast bridge deck units near the site at Tsang Tai Uk.

Overall, 32% of the civil works of the MOS Rail have been completed so far. It is expected that the whole project will be completed according to schedule at the end of 2004.

Between November 2000 and early 2002, the KCRC had received 484 complaints arising from the MOS Rail project, the majority of which were about cracks on houses suspected to be caused by the construction works in Wu Kai Sha Village. The rest of the complaints were mainly about the noise produced, as well as the tidiness of and the arrangements at the construction sites. A breakdown of the complaints is shown in the Annex. Upon the receipt of such complaints, the KCRC has taken prompt follow-up action and introduced improvement measures where necessary.

As a project of such a sizeable scale, the construction of the MOS Rail would understandably have impact on the facilities and traffic in the vicinity of the construction sites. Government departments concerned and the KCRC have

been taking appropriate measures to reduce such impacts, the major ones include:

- (i) the section of On Lai Street between On Ming Street and On Kwan Street needs to be closed permanently to facilitate the construction works at Shek Mun Station. The KCRC has built an extension of On Kwan Street between On Yiu Street and On Lai Street for traffic diversion;
- (ii) the tennis and basketball courts in Tsang Tai Uk Playground have to be closed for some time to make room for the railway works. The KCRC has provided temporary tennis and basketball courts in Area 24D (near Chun Shek Estate), Sha Tin; and
- (iii) temporary traffic diversion arrangements have been made to cater for the temporary closure of one lane each on a section of the following roads — Tate's Cairn Highway southbound and northbound near Shek Mun Roundabout; Sai Sha Road southbound and northbound near Heng On Estate and Ma On Shan Town Centre; and Ma On Shan Road southbound and northbound near Tai Shui Hang.

Annex

Complaints concerning the Construction Works of the MOS Rail November 2000 to January 2002

1	Noise		
	Construction noise outside normal construction hours	15	
	Noise from construction works	61	
	Noise from construction site vehicles	1	
		Total	77
2	Air quality		
	Dust from excavation works	3	
	Exhaust air emitted by machinery	5	
	Odd smell	4	
	Others	2	
		Total	14

3	Water quality		
	Fuel, oil and lubricants discharged from work sites	1	
	Foul water produced by site staff	1	
	Drainage water from construction sites	3	
		Total	5
4	Vibrations caused by the construction works		33
5	Cracks suspected to be caused by the construction works		206
6	Traffic		
	Temporary traffic arrangements implemented to accommodate the construction works	14	
	Inconvenience caused by traffic diversion	7	
	Insufficient/Unclear signs	3	
	The operation of spoil vehicles and construction site vehicles	4	
	Temporary parking of construction site vehicles	3	
		Total	31
7	Work site supervision		
	Hoarding/Fencing arrangements	6	
	Conditions of pedestrian walkway	19	
	Lighting	16	
	Tidiness	16	
	Storage of machinery	2	
	Foul water flowing out of work site	12	
	Sludge, dust and gravel	11	
	Arrangements for work site exits/entrances	12	
	Others	4	
		Total	98
8	Construction safety		13
9	Drainage		
	Blocked drains	2	
	Lack of maintenance for the drainage system	1	
	Others	1	
		Total	4
10	Loss of property suffered by a third party as a result of the construction works		3
		Total	484

Public Access to Private Land Traversed by Designated Hiking Trails

18. **MISS EMILY LAU:** *Madam President, with regard to the public's access to private land traversed by four designated hiking trails, will the executive authorities inform this Council:*

- (a) whether owners of private land have the right to block the public's access to their land traversed by the trails, or levy a charge for such access;*
- (b) of the respective locations of various pieces of private land traversed by the MacLehose Trail, the Wilson Trail and the Lantau Trail; and*
- (c) whether the executive authorities are required to enter into agreement with the relevant land owners before the designation of a hiking trail which traverses private land?*

SECRETARY FOR PLANNING AND LANDS: Madam President,

- (a) Under the common law, if a trail has been used for a long period of time by the public without objection from the landowners, then the public may presume to have a right of way over the trail, that is, a right of passing over the land. When a public right of way exists over the trails, the landowners cannot block the public's access to the trails which traverse their land, nor can they levy a charge for such access.
- (b) The MacLehose Trail, the Wilson Trail and the Lantau Trail were established mainly by linking existing footpaths, including traditional footpaths passing through villages. The private lots crossed by these three trails are mainly located around traditional villages in Sai Kung, the North District and the southern part of Lantau Island.
- (c) Since the three hiking trails were established mainly by linking existing footpaths and many of these footpaths have been used by

villagers and the public for a very long time, the executive authorities have, therefore, not entered into any agreement with the landowners concerned in respect of these hiking trails.

All-night Drop-in Activity Centre

19. **MR AMBROSE LAU** (in Chinese): *Madam President, it was reported that the Social Welfare Department has commissioned a non-governmental organization to set up an all-night drop-in activity centre in Kwun Tong in the middle of this year for young people, to provide services to young people who regularly hang around in the streets or in places of entertainment late at night. In this regard, will the Government inform this Council:*

- (a) of the estimated number of young people that can be served by the centre each day and the estimated expenditure incurred each year;*
- (b) whether it has conducted surveys or studies on the activities that are appealing to these young people and suitable for these centres; if so, of the details; and*
- (c) whether, as a complement to the setting up of the centre, it will increase the staffing for the outreach social work teams serving these young people?*

SECRETARY FOR HEALTH AND WELFARE (in Chinese): Madam President, in response to the Report on Evaluation Study of Youth Mobile Team Service for Young Night Drifters (1999) and suggestions from the community and the welfare sector, the Administration plans to set up an all-night drop-in centre for young people, on a pilot basis. The first centre will be located in Kwun Tong where suitable government premises are readily available. The objective is to provide a safe place for young night drifters to meet their friends and social workers, to stay the night, and so on, so as to minimize the chance of these youngsters falling prey to negative influences on the streets. The all-night drop-in centre will provide support to existing Integrated Teams and Outreach Social Work Teams, in particular the 18 extended Integrated Teams who provide

outreach services to young night drifters. Social workers in these Teams can make use of the facilities at the drop-in centre to organize activities and provide counselling services, and so on.

- (a) The all-night drop-in centre is a three-year pilot project. Funding for the project will be sought from the Lotteries Fund and the centre is expected to commence operation in July 2002. Like other youth centres, the all-night drop-in facility does not have a capacity quota for admission. The Administration will closely monitor the utilization rate and collect users' feedback as reference for future service development. The estimated expenditure is:
 - (i) capital expenditure of \$3.3 million for the three-year period; and
 - (ii) recurrent expenditure of \$4.3 million a year.

- (b) The Report on Evaluation Study on Youth Mobile Team Service for Young Night Drifters (1999) recommended that such a venue be set up equipped with certain facilities to support social work teams dealing with young night drifters. The study suggested that a drop-in centre could be used as a place where young night drifters could rest, receive counselling and stay overnight, if necessary.

The Centre will become a focal point for these young people as it will provide a comfortable and appealing place where they can talk and eat; be provided with some inexpensive entertainment/activities; provide personal space with minimum control (although under social workers' supervision); and where staff can counsel them and provide support to meet their emotional and other needs. The facilities to be provided include counselling rooms, cyber cafe, karaoke and band rooms, function rooms for recreational and cultural activities, garden with barbecue facilities, crisis residential unit as well as open space for basketball games and rock climbing.

- (c) Under the initiatives to support young people announced in the 2001-02 Budget, the service hours and services focus of 18

designated Integrated Teams for Young Night Drifters have been extended with effect from September 2001. These focus on providing an overnight outreach service to young night drifters. Each of these Integrated Teams will be provided with three additional social workers making 54 additional social worker posts in total.

At the same time, the Administration has earmarked an additional \$70 million in annual recurrent expenses to expedite the formation of Integrated Teams. The service of Integrated Teams include youth centre service, school social work service and outreach social work service. The Administration will also restructure existing Outreach Social Work Teams into District Youth Social Work Outreach Teams to address the needs of high risk youth.

Statistics on Appeal Cases Heard at Various Levels of Courts

20. **MS AUDREY EU** (in Chinese): *Madam President, regarding statistics on appeal cases heard at various levels of Courts in the past three years, will the Government inform this Council:*

- (a) *of the respective numbers and percentages of criminal and civil appeal cases heard in the Court of Final Appeal, Court of Appeal of the High Court and Court of First Instance of the High Court, which were allowed (including those allowed in part), together with a breakdown by appeals against final judgements and those against interlocutory judgements; and*
- (b) *of the respective numbers of application for leave to appeal which were granted by the Court of Final Appeal and Court of Appeal of the High Court?*

CHIEF SECRETARY FOR ADMINISTRATION (in Chinese): Madam President, the Administration has consulted the Judiciary on the requested statistics, which are now set out as follows:

(a) Statistics of appeal cases at various levels of Courts

Court of Final Appeal

	<i>Criminals Appeals</i>			<i>Civil Appeals</i>		
	1999	2000	2001	1999	2000	2001
(i) Number of Cases Heard	9	10	6	21	28	21
(ii) Number of Appeals Allowed	7	8	4	10	11	6
(iii) % of Appeals Allowed	78%	80%	67%	48%	39%	29%

Court of Appeal of the High Court

	<i>Criminal Appeals</i>			<i>Civil Appeals</i>			<i>Applications by Department of Justice for Review of Sentence</i>		
	1999	2000	2001	1999	2000	2001	1999	2000	2001
(i) Number of Cases Heard	398	362	523	138	206	238	3	14	21
(ii) Number of Appeals Allowed	22	24	55	36	53	48	3	11	2
(iii) % of Appeals Allowed	6%	7%	11%	26%	26%	20%	100%	79%	10%

Court of First Instance of the High Court

	<i>Magistracy Appeals</i>			<i>Small Claims Tribunal Appeals</i>		
	1999	2000	2001	1999	2000	2001
(i) Number of Cases Heard	843	1 032	1 359	9	15	21
(ii) Number of Appeals Allowed	131	171	231	6	2	2
(iii) % of Appeals Allowed	16%	17%	17%	67%	13%	10%

	<i>Minor Employment</i>			<i>Labour</i>			<i>Inland</i>		
	<i>Claims Appeals</i>			<i>Tribunal Appeals</i>			<i>Revenue Appeals</i>		
	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>
(i) Number of Cases Heard	2	4	6	41	35	68	2	1	3
(ii) Number of Appeals Allowed	0	0	1	4	2	14	0	1	0
(iii) % of Appeals Allowed	0%	0%	17%	10%	6%	21%	0%	100%	0%

The Judiciary does not keep the breakdown of the appeal cases into appeals against final judgement and those against interlocutory judgement.

(b) Statistics on applications for leave to appeal granted by the Court of Final Appeal

	<i>Applications for leave</i>			<i>Applications for leave</i>		
	<i>(Criminal Appeals)</i>			<i>(Civil Appeals)</i>		
	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>
(i) Number of Cases Heard	35	31	38	23	42	28
(ii) Number of Leave Granted	9	9	6	6	4	2
(iii) % of Leave Granted	26%	29%	16%	26%	10%	7%

The Judiciary does not keep statistics on applications for leave to appeal granted by the Court of Appeal.

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

PRESIDENT (in Cantonese): Bill: Second Reading. We will resume the Second Reading debate on the Mandatory Provident Fund Schemes (Amendment) Bill 2001.

**MANDATORY PROVIDENT FUND SCHEMES (AMENDMENT) BILL
2001****Resumption of debate on Second Reading which was moved on 23 May 2001**

PRESIDENT (in Cantonese): Mr Ambrose LAU, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report.

MR AMBROSE LAU (in Cantonese): Madam President, as Chairman of the Bills Committee on Mandatory Provident Fund Schemes (Amendment) Bill 2001 (the Bill), I would like to give a brief report on the deliberations of the Bills Committee.

The Bill seeks to enhance protection for scheme members and effective operation of the Mandatory Provident Fund (MPF) System and to facilitate the Mandatory Provident Fund Schemes Authority (MPFA) in its regulation of the MPF schemes.

During the course of scrutiny, the Bills Committee was particularly concerned about the powers proposed to be conferred on the MPFA, notably the powers to borrow money, to add or amend conditions on approved trustees, MPF schemes and approved pooled investment funds (APIFs); and to require the guarantor of an APIF to maintain adequate reserves so as to provide investment guarantees.

As the MPFA was already given a capital grant of \$5 billion by the Government at its inception, members of the Bills Committee queried the justification for empowering the MPFA to borrow. To provide against possible abuse, members have requested that the MPFA's powers should be circumscribed by stipulating the temporary nature of such powers and the limited circumstances under which such powers can be invoked (such as for providing bridging facilities). With a view to addressing members' concerns, the Administration has agreed to introduce provisions to the effect that the MPFA may borrow money temporarily for the purposes of the settlement of securities transactions, acquiring an overdraft banking facility, dealing with an emergency, or dealing with other unforeseeable circumstances.

All the depositions which have submitted views to the Bills Committee object to empowering the MPFA to impose additional conditions or amend existing ones on approved trustees and MPF schemes. Some members questioned whether it is appropriate or necessary to make the relevant amendments. Moreover, the Bills Committee has examined whether the proposed powers for the MPFA are newly created powers, or are existing powers already available to the MPFA by virtue of the relevant provisions in the Interpretation and General Clauses Ordinance. In the opinion of the legal adviser to the Bills Committee, it would appear that the MPFA does not have the relevant powers by virtue of the said Ordinance. An express provision in the legislation will be required to confer on the MPFA such power.

After listening to the comments of the Bills Committee, the Administration has agreed to provide for a definition of "conditions" to mean "reasonable conditions" so as to ensure that the new conditions added or amended existing conditions must be reasonable. Furthermore, the Administration has accepted the suggestion of the Bills Committee to limit the MPFA's power to impose or amend conditions in respect of the "marketing" of MPF schemes to the ambit of the guidelines issued by the MPFA.

The Bills Committee understands that if any party feels aggrieved by the decisions of the MPFA, it can lodge an appeal with the MPF Schemes Appeal Board. To allow more time for trustees to make the consequential adjustments resulting from decisions by the MPFA, the Administration has agreed to extend the timeframe for the MPFA to notify the approved trustee of its decision in advance from seven working days to 30 calendar days.

The Bills Committee notes the industry objection in respect of a proposed amendment to empower the Chief Executive in Council to make regulations requiring the guarantor of an APIF to maintain adequate reserves. The Bills Committee agrees with the need to protect scheme members' interest but, in view of the concerns expressed by the industry, has also urged the Administration to work closely with the regulators and the industry to prevent any inconsistency in the standard of regulation. In response, the Administration has explained that any regulation made under the proposed provisions is subsidiary legislation that must be approved by the Legislative Council. The Administration has assured the Bills Committee that the MPFA will continue to work together with the Hong Kong Monetary Authority, the Insurance Authority and the Securities and Futures Commission to ensure consistency in regulating MPF guaranteed funds. The Administration has also assured the Bills Committee that the Secretary for Financial Services will address the concerns about duplication in regulation in his speech during the resumption of the Second Reading debate.

The Bills Committee has described in a written report the concerns and views expressed about other proposed provisions in the Bill. The Administration has proposed a series of Committee stage amendments to address the concerns raised by the Bills Committee.

Madam President, I so submit.

MR BERNARD CHAN: Madam President, since it was established just over a year ago, the Mandatory Provident Fund (MPF) system has generally worked very well. However, as we would expect with such a major project, not everything has been perfect. As a result, service providers, employers and other interested parties have all suggested various ways in which the system could be improved. Those of us in the industry broadly welcome these amendments. We believe that they will enhance the smooth running of the MPF system.

However, there is one thing that we must make very clear. This Amendment Bill is really just the beginning. There is a wide range of issues that still need to be addressed. These are not necessarily major issues. But, taken together, they represent unnecessary administrative burdens and other forms of inefficiency.

The MPF providers strongly encourage the Mandatory Provident Fund Schemes Authority and the Administration to move ahead and continue this process of making a good system better.

Thank you.

DR DAVID CHU (in Cantonese): Madam President, I rise to speak on behalf of the Hong Kong Progressive Alliance (HKPA) in support of the passing of the Mandatory Provident Fund Schemes (Amendment) Bill 2001 (the Bill) and the amendments to be put forward by the Government at the Committee stage. We think the MPF System has enormous impact on the interests of employers and employees alike and it therefore must be improved continuously in the light of the actual circumstances. During the process, the Government must conduct comprehensive consultations with the industry and professional bodies.

The Bill proposes a number of measures to enhance protection for scheme members. The amendments involve certain powers conferred on the Mandatory Provident Fund Schemes Authority (MPFA) to add or amend conditions on approved trustees, registered MPF schemes and APIFs. Industry participants indicated that they were against the proposals because uncertainties in the market would be created, confusions would be caused and additional costs incurred. The HKPA is of the opinion that the Bill would certainly confer more regulatory powers on the MPFA as a regulatory authority to meet the demands of the market. However, the Government and the MPFA must also address the concerns of the industry squarely. We hope the MPFA can step up communication with the industry and exercise the powers to amend existing conditions or impose additional conditions in a reasonable manner. The Government and the MPFA should take care not to impose unnecessary interference on or create additional uncertainties to the industry. The Government should also create a favourable business environment for the industry.

Another area of concern about the Bill is the conferral of the power to borrow on the MPFA. The HKPA welcomes the proposal by the Administration to move amendments with a view to addressing members' concerns so that the purposes of borrowing are stipulated. We believe the borrowing activities of the MPFA will be adequately supervised. Madam President, I so submit.

MR LEUNG FU-WAH (in Cantonese): Madam President, Chinese people have always looked forward to a "secure old age". In order to ensure that local workers could spend their old age in happiness, back in 1981, the Hong Kong Federation of Trade Unions (FTU) already proposed that a retirement, medical and unemployment insurance scheme should be set up with tripartite contributions from employees, employers and the Government. Of course, we did not receive any response from the Government at that time. Later on, in 1986, we again proposed that a central provident fund system should be established. And, on the basis of the mandatory old age retirement fund scheme proposed by the Government in 1994, we once again put forward a proposal on a comprehensive retirement protection scheme, in the hope of securing maximum retirement protection benefits for employees. During the 10 years or so before the passage of the Mandatory Provident Fund Schemes Bill, local labour organizations, welfare groups and academics also made a lot of insightful suggestions.

Though the Mandatory Provident Fund Schemes Bill may not be perfect, the FTU still supported this Bill since it marked the commencement of a retirement protection scheme in Hong Kong. As regards the inadequacies of the Bill, we would urge the Government to endeavour to plug the loopholes in the interests of employees. In fact, during the year or so since the implementation of the Mandatory Provident Fund (MPF) Schemes, employers have caused the greatest harm to employees by failing to make contributions. According to figures provided by the MPFA, as at the end of December last year, a total of 1 932 000 employees, including 185 000 of those under the industry schemes, have participated in various schemes. The MPFA has described the registrations as becoming gradually stabilized, but complaints in relation to the schemes are steadily on the increase. The MPFA has issued 255 summons in total, out of which about 70% are related to default on contributions. The MPFA has issued 48 000 demand notes for first payment and 21 000 demand notes for second payment to defaulting employers. About 10 000 employers are involved each month.

Furthermore, disputes over employee and self-employed person status are also problems that have arisen after the implementation of the Ordinance. This is particularly evident in the construction industry. The Census and Statistics Department pointed out in its report that the number of casual employees in the construction industry had decreased by more than 25 000 in the second quarter of

last year as compared with that of the year before. However, the number of self-employed persons increased by 11 900 during the same period. When I asked the Secretary for Education and Manpower about this situation at a meeting two weeks ago, she replied that "the construction industry might have contracted-out some jobs on a continuous basis in order to cut costs and increase the flexibility of its work, thus creating more job opportunities for self-employed persons". In fact, members of the trade and those who have a discerning eye would know what is actually happening by looking at the relevant figures. In fact, the Secretary should also be aware that employers have shirked their responsibilities of making contributions for employees to the MPF schemes by terminating the employment relation with their workers and replacing it with a contracting-out and sub-contracting system. Workers have yielded to the demands of employers and become self-employed persons in order to keep their jobs. To crack down on such activities, we certainly have to rely on employees to come forward and testify against their employers, but the authorities must also step up enforcement by tightening control under the Ordinance and clarifying ambiguities.

The Mandatory Provident Fund Schemes (Amendment) Bill 2001 has introduced amendments to the purview of the MPFA in the light of experience gained in implementation. We understand that approved trustees and members of the trade have doubts about the new regulatory powers of the MPFA. However, as the total amount of contributions to MPF schemes is very huge and it is related to retirement protection for about 2 million wage earners in the future, the MPFA has the responsibility of doing a good job as a regulator. We also believe that the relevant regulatory system must progress in keeping with the times, so that it can become sounder every day.

In introducing any amendments to the relevant Ordinance, we agree that the authorities should maintain adequate communication and consultation with members of the trade. We hope that various proposals made by the MPF Schemes Operations Review Committee, including those on adjusting the minimum income level for purposes of making contributions, enhancing protection for scheme members, streamlining administrative work and improving regulation of investments can be implemented at an early date.

Thank you, Madam President.

MISS CHAN YUEN-HAN (in Cantonese): Madam President, as my colleague, the Honourable LEUNG Fu-wah, said earlier when he spoke on behalf of the Hong Kong Federation of Trade Unions (FTU), we support the amendments to this Ordinance. The DAB also supports this Bill.

Madam President, the Mandatory Provident Fund (MPF) Schemes have implemented for more than a year and many problems have arisen during this period. This is due to economic and employment difficulties experienced by Hong Kong during the year. Given these problems, we are aware that in making contributions to the MPF, many employees have not only contributed 5% of their income as their own share, but employers have also deliberately deducted another 5% from their salaries. Apparently, it would seem that employers have made the contributions but in fact, all contributions are made by employees. And, many previously employed persons are forced by their employers to become self-employed persons. This problem is particularly serious in the construction industry. Furthermore, some employers even failed to make contributions or deliberately delayed payments after making deductions from the salary of their employees, so Hong Kong workers have suffered greatly in the past year after the implementation of the MPF Schemes. During this period, many employees have lodged complaints with the MPFA. However, unfortunately, I am not sure whether it is due to the shortage of manpower or red tape, the MPFA have invariably delayed the processing of complaints, and workers are most aggrieved.

Madam President, whenever I called a residents' meeting, they would often blame me and said "CHAN Yuen-han, you have done a bad deed out of good intentions by supporting the establishment of MPF." So, I had to give them a more detailed explanation. I am saying this because I hope the Government would understand that the incidents mentioned by me earlier are actually very common under the prevailing difficult conditions when workers do not have any bargaining power. As a regulatory authority, the MPFA must monitor such situations. We, therefore, support the provisions in the Bill on increasing the penalties for defaulting employers because we really think there is such a need. The establishment of a MPF is to offer retirement protection for employees and the labour sector has been fighting for this for almost 30 years, so

that our workers can spend their retirement years in security. However, since the implementation of the MPF Schemes happens to coincide with the downturn of Hong Kong economy, employees are made to face a lot of unfavourable situations.

Madam President, during this period, as a result of various problems, members of the community have repeatedly raised this question: Why we are implementing a MPF with private contributions instead of a central provident fund? In discussing this problem, we naturally have to mention the rate of return from MPF contributions in the past year. Many people find that they have suffered great losses in investments with MPF contributions and think someone should take the blame. They are also most unhappy about the situation. I believe the President would also recall that we did make a number of proposals on similar provisions at the meetings of the Provisional Legislative Council. In fact, we felt that if we were to offer better protection to Hong Kong workers (in particular, those at grass-roots levels), a government-run central provident fund would be the best solution. However, on each occasion, the Government simply rejected our proposal. Therefore, after numerous discussions in the Legislative Council during the time from 1991 to 1995, the establishment of a private contributory MPF was eventually passed, and such a scheme is now in operation. However, today, I think there are still certain issues that the Government should consider. Though there is a guaranteed fund under these schemes, that is, if the rate of return for MPF contributions made by workers failed to accrue benefits equivalent to that for a savings account, the relevant organization would make up the differences, so that the guaranteed fund account would receive a guaranteed return. However, what should be done when the interest rate for savings is so low at present? The MPF Schemes have been implemented for one year, and apart from enhancing its monitoring role, I think the Government should also look into some other problems that do exist.

Furthermore, as regards the sales plans of the fund industry, I think after the implementation of the MPF Schemes, the Government should reassess the situation in the light of various problems that have arisen. Madam President, many provisions of this Bill are related to the enhancement of the monitoring of the industry and they have the support of both the DAB and the FTU. However,

members of the industry have different views for they are worried that excessive monitoring and restrictions will lead to unsatisfactory circumstances. We note that a great number of employees are covered under the MPF and fund operators are controlling retirement contributions amounting to more than \$27 billion. Therefore, the MPFA should be vested with adequate supervisory powers under the Ordinance, otherwise, what could employees do if their retirement lives were not safeguarded? I think the Government should really consider this matter. Of course, the Honourable Bernard CHAN may not be happy to hear this, but from an objective point of view, we feel that the monitoring role of the Government has become all the more important as such a huge sum of capital is handed over to private organizations for investment to safeguard the future interests of all workers.

Madam President, let us take the pooled funds as an example. We can see that members of the industry have resorted to all kinds of methods to attract employees to join their schemes. Their publicity programmes have only dwelled on trivial issues while avoiding more important issues like various restrictions in the clauses. Such a practice smacks of misleading members of the public. This Bill provides that the guarantor of an APIF should maintain adequate reserves to support the investment guarantee. Though the enhancement of protection for scheme members is also one of the important amendments, we think that as long as it is to the benefit of employees, members of the industry should not be too sensitive about the amendments or have unnecessary ill feelings. In this connection, I also earnestly hope that the Government could continue to make suggestions as it had done at the time when we scrutinized the Bill or make suggestions that are outside the scope of the Bill, so that we can do better in the next review of the Ordinance.

Madam President, the FTU, the DAB and I support this Bill. Thank you.

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

(No Member responded)

PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Financial Services to reply.

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, the Mandatory Provident Fund Schemes (Amendment) Bill 2001 (the Bill) seeks to amend the Mandatory Provident Fund Schemes Ordinance (the Ordinance) and its subsidiary legislation to enhance the smooth operation and effectiveness of the system that affects over 2 million employers, employees, self-employed persons and service providers, and to enhance the protection of scheme members' benefits. The Bills Committee chaired by the Honourable Ambrose LAU held five meetings to scrutinize the provisions of the Bill and has offered many valuable comments. For this, I would like to thank Mr LAU and members of the Bills Committee. I would also like to take this opportunity to thank the relevant professional bodies and the industry for their comments on the Bill. Having considered the comments of the Bills Committee and the industry, we agree that some areas of the Bill would need to be amended and we therefore propose to amend the definition of "governing rules" in the Bill, and the provisions concerning the power of the Mandatory Provident Fund Schemes Authority (MPFA) to impose new or amend existing conditions as well as to borrow money. We also propose to make some technical amendments.

The Bill originally proposed to extend the definition of "governing rules" to include "offering document" and "participation agreement". However, the Bills Committee and the industry were concerned that such an arrangement might make the definition of "governing rules" too broad, and lead to duplication of functions between the MPFA and other regulatory bodies. To improve the provisions of the Bill, we propose to keep the existing definition of "governing rules" in the Ordinance, and add the definitions of "offering document" and "participation agreement" to the Regulation. Moreover, we also propose to specify the circumstances under which the trustees have to seek the approval of the MPFA before amending these documents. The revised arrangements will ensure that any amendments made will not affect the interest of scheme members, and that the definition of "governing rules" will not be too broad.

It is further proposed in the Bill to empower the MPFA to impose or amend conditions on approved trustees and registered Mandatory Provident Fund

(MPF) schemes. The provisions seek to ensure that the MPFA may impose appropriate conditions on the organizations and products under its supervision to meet any changes in the environment, thus protecting the interests of scheme members. As pointed out by Mr LAU when discussing the provisions, the Bills Committee and the industry have raised some queries. These include how the MPFA will perform its functions, the nature of the new conditions as well as whether the industry will be given sufficient time to consider the amendments proposed by the MPFA. In view of these, we decide to clarify in the Ordinance that any conditions imposed or amendments proposed have to be reasonable. Besides, if the conditions are related to the marketing of a registered scheme, they have to fall within the ambit of the guidelines issued by the MPFA after consultation. We also accept the proposal of the industry to extend the period within which the MPFA should give advance notice to an approved trustee of its decision to amend or impose conditions from seven working days to 30 days. This will give an approved trustee sufficient time to make changes or respond accordingly. In fact, the MPFA must carry out its regulatory power reasonably, and the existing Ordinance has already provided an appeal mechanism to handle the appeal cases relating to the using of such power by the MPFA.

The Bill proposes to empower the MPFA to borrow money, for instance, by acquiring overdraft banking facilities to meet cash flow needs or contingencies. As Members considered it necessary to spell out the nature of loans, we propose to amend clause 4 of the Bill to the effect that all loans should be short-term and for specified purposes, such as dealing with an emergency or unexpected delay in the settlement of securities transactions.

In the course of discussing the Bill, both members of the Bills Committee and representatives of the industry have expressed concerns over the possible duplication of functions among the MPFA and other regulatory bodies and the inconsistency in regulatory standards that may arise in the performance of their duties. Members put forth as examples, *inter alia*, the vetting of "offering documents" and the reserve requirements for guarantors of approved pooled investment funds. I appreciate Members' concern. In fact, there is very clear division of responsibilities between the MPFA and other regulators. For example, the division of responsibilities between the MPFA and the Securities and Futures Commission regarding vetting and approval of MPF products is set out clearly in the relevant Memorandum of Understanding. Similarly, the

MPFA will try to minimize duplication of efforts when co-operating with other regulators and to bring the MPF products under consistent regulatory standards.

The other amendments are mainly technical or consequential. All amendments have been examined by the Bills Committee. The Bill, as amended, will enhance the operation of the MPF legislation and better protect the interests of scheme members. I hope that Members will support the Bill and the amendments I will propose at the Committee stage.

Just now Mr Bernard CHAN and Mr LEUNG Fu-wah and Miss CHAN Yuen-han have all mentioned that both the Government and the MPFA should communicate more with the industry. We just could not agree more. And we also agree to the point raised by Members that we should review the implementation of the Ordinance from time to time. I think Members are all aware that upon the passage of the Bill, we will set up a review committee comprising representatives of employees, employers and the industry to review the implementation of the MPF System. I believe this is a sound mechanism. Certainly, I do share the view expressed by Mr Bernard CHAN that the Amendment Bill is just the beginning, and that there are still many issues calling for improvement. As Members all know, yet another Bill to amend the MPF legislation will be submitted to the Council for consideration within this Legislative Session.

I should like to thank Members for expressing their support for the implementation of MPF schemes. I am also grateful to Members for their other views on the MPF, and we will certainly take Members' views into careful consideration. Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Mandatory Provident Fund Schemes (Amendment) Bill 2001 be read the Second time. 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 of the Members present. I declare the motion passed.

CLERK (in Cantonese): Mandatory Provident Fund Schemes (Amendment) Bill 2001.

Council went into Committee

Committee Stage

CHAIRMAN (in Cantonese): Committee stage. Council is now in Committee.

MANDATORY PROVIDENT FUND SCHEMES (AMENDMENT) BILL 2001

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Mandatory Provident Fund Schemes (Amendment) Bill 2001.

CLERK (in Cantonese): Clauses 1, 3, 5, 6, 12, 13, 14 and 16 to 21.

CHAIRMAN (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CLERK (in Cantonese): Clauses 2, 4, 7 to 11 and 15.

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam Chairman, I move the amendments to clauses 2, 4 and 7 to 11 and the deletion of clause 15, as set out in the paper circularized to Members.

We propose to amend several items of interpretation contained in clause 2 of the Bill. These include deleting the amendment to the definition of "governing rules" to maintain its original definition, specifying that the term "conditions" should mean "reasonable conditions" and elucidating the handling of pre-paid contributions. It is also proposed to amend clause 4 of the Bill concerning the section "Authority may borrow money", which allows the Mandatory Provident Fund Schemes Authority (MPFA) to obtain short-term loans for the purposes specified in the provision with the approval of the Financial Secretary. Clause 7 of the Bill is amended in response to the advice by the Law Society of Hong Kong on the terms used in the Bill. This serves to make the provision clearer. It is proposed to amend clause 8 of the Bill to clarify that persons exempt under section 4(3) of the Ordinance may also join Mandatory Provident Fund (MPF) schemes on a voluntary basis and make voluntary contributions. It is further proposed to amend clauses 9, 10 and 11 concerning the MPFA's power to impose new or amend existing conditions on an approved trustee or a MPF Scheme to the effect that the period within which the MPFA will be required to give to the trustee advance notice of its decision to impose or amend conditions will be extended from seven working days to 30 calendar days. The amendments will also restrict the MPFA's power to impose or amend conditions on the marketing of a scheme to the ambit of the guidelines issued by the MPFA. We also propose to delete clause 15 of the Bill. Taking into account the comments of the industry, we consider it unnecessary to amend the existing provision of the Ordinance. Administrative measures can be employed instead to ensure that trustees will surrender the superseded certificates to the MPFA. The proposed amendments, endorsed by the Bills Committee, seek to ensure that the Bill will better meet the needs of the industry.

I hope that Members will support the amendments. Madam President, I beg to move the above amendments.

Proposed amendments

Clause 2 (see Annex II)

Clause 4 (see Annex II)

Clause 7 (see Annex II)

Clause 8 (see Annex II)

Clause 9 (see Annex II)

Clause 10 (see Annex II)

Clause 11 (see Annex II)

Clause 15 (see Annex II)

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendments moved by the Secretary for Financial Services be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CHAIRMAN (in Cantonese): As the amendment to clause 15, which deals with deletion, has been passed, clause 15 is therefore deleted from the Bill.

CLERK (in Cantonese): Clauses 2, 4 and 7 to 11 as amended.

CHAIRMAN (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CLERK (in Cantonese): New clause 2A Exemptions.

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam Chairman, I move that new clause 2A, as set out in the paper circularized to Members, be read the Second time. The new provision is related to the amendment under clause 8 of the Bill. It seeks to stipulate that the persons exempt under section 4(3) of the Mandatory Provident Fund Schemes Ordinance may join the Mandatory Provident Fund (MPF) schemes on a voluntary basis and make voluntary contributions under section 11 of the Ordinance. Section 2A seeks to clarify that the provisions regarding voluntary contributions (that is, section 11(1) and section 11(2)) are also applicable to these exempt persons. I hope Members will support this new provision.

Madam Chairman, I move that the above new clause be read the Second time.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 2A be read the Second time.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CLERK (in Cantonese): New clause 2A.

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam Chairman, I move that new clause 2A be added to the Bill.

Proposed addition

New clause 2A (see Annex II)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 2A be added to the Bill.

CHAIRMAN (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CLERK (in Cantonese): Schedule.

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam Chairman, I move that the Schedule be amended, as set out in the paper circularized to Members. The provisions of the Schedule to the Bill amend the Mandatory Provident Fund Schemes (General) Regulation. In the light of the above amendments to the Bill, we should also amend the provisions of its Schedule. These include setting out in the Regulation the definition of "offering document" and "participation agreement", and specifying that any amendments made to the "offering document" in relation to a registered scheme should first be approved by the MPFA. The amendments also stipulate the relevant penalties. As to amendments to the "participation agreement", no prior approval from the MPFA is required if they comply with the form pre-approved by the MPFA or are not related to mandatory or voluntary contributions. Other amendments to the Bill are technical or consequential. I hope that Members will support the above amendments.

Madam Chairman, I beg to move the above amendments.

Proposed amendment

Schedule (see Annex II)

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendment moved by the Secretary for Financial Services be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CLERK (in Cantonese): Schedule as amended.

CHAIRMAN (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bill

PRESIDENT (in Cantonese): Bill: Third Reading.

MANDATORY PROVIDENT FUND SCHEMES (AMENDMENT) BILL 2001

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

Mandatory Provident Fund Schemes (Amendment) Bill 2001

has passed through Committee with amendments. I move that this Bill be read the Third time and do pass.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Mandatory Provident Fund Schemes (Amendment) Bill 2001 be read the Third time and do pass.

PRESIDENT (in Cantonese): I now put the question to you as stated. 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 of the Members present. I declare the motion passed.

CLERK (in Cantonese): Mandatory Provident Fund Schemes (Amendment) Bill 2001.

MEMBERS' MOTION

PRESIDENT (in Cantonese): Members' motion. Motion with no legislative effect. I have accepted the recommendations of the House Committee as to the time limits on speeches for the motion debates. I wish to remind Members that I am obliged to direct any Member speaking in excess of the specified time to discontinue.

Waiving government rates.

WAIVING GOVERNMENT RATES

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

In September last year, the eight political parties of this Council reached a consensus on seven proposals. We hoped that the Government would reduce tax, create jobs to benefit various sectors and set people's mind at rest in view of the uncertain economic circumstances. The most important proposal is to waive government rates for all the four quarters in the next financial year, to directly ease the burden of people in different classes and reduce the operating costs of businesses. I wish to emphasize that the eight parties would give priority to fighting for these seven proposals on which we have reached a consensus for the consensus is at least reached by a majority of Legislative Council Members.

In his policy address 2001-02, the Chief Executive proposed waiving government rates and the maximum amount to be waived for each rateable tenement is \$2,000; the concession will cost about \$5 billion in lost revenue. If the government rates for next four quarters are reduced, the Government will

lose about \$14.9 billion in revenue. In other words, the difference between the proposal made by the eight parties and the Government is around \$10 billion. As we all know, the Government has pointed out on official and unofficial occasions in the past few months that Hong Kong is facing the problem of heavy fiscal deficits. If government revenue were reduced by \$10 billion, it would roughly be one twentieth of the revenue this year. Why do the eight parties still insist on proposing a motion to urge the Government to reduce government rates?

Financial data indicate that the economic situation of Hong Kong is very poor and bad news comes one after another. The Government adjusted the economic growth forecast this year downward to zero growth earlier on. In other words, the Gross Domestic Product in the third and fourth quarters will see negative growth, signifying that a period of economic recession has officially begun.

The recently published unemployment rate has increased from 5.8% to 6.1%, and the unemployment rate in such major industries as catering, transportation, property and retail and wholesale has increased.

The business cost in Hong Kong still remains high and our competitiveness continues to drop. On the basis of the *Global Competitiveness Report* published in October last year by the World Economic Forum in Switzerland, the ranking of Hong Kong fell from the third in 1999 to the 13th in 2001. The Intelligence Unit of the *Economist* also pointed out earlier that, in terms of living expenses, Hong Kong ranked third in the world, right after Osaka and Tokyo.

In the financial turmoil of 1997, we could put the blame on external speculators. However, this economic recession started before the "September 11 incident". Though it has not happened out of a sudden, it is more violent. Being besieged on all sides, the parties in this Council strongly urge the Government to put forward, as far as capable, more relief measures to ease the burden of the public and reduce the operating costs of the business sector.

Although the Government has proposed that the maximum amount to be waived for each rateable tenement is \$2,000, the policy address has proposed only two tax reduction measures, that is, reducing government rates and raising the ceiling of home loan interest reduction. Obviously, the relief measures adopted by the Government this time are not potent enough.

The Government has proposed that the maximum amount to be waived for each rateable tenement is \$2,000, and the rates charge is 5%, in other words, only flats at an annual rateable value of \$40,000 (a monthly rateable value of \$3,300) can have government rates waived for the whole year. How many flats have rateable values below \$3,300? I believe it is very unlikely for the residential flats of Members present to meet this very stringent criterion.

The Government has claimed that, after a \$2,000 reduction in government rates, 840 000 ratepayers will not pay any rates in the year. The number seems to be very large but there is indeed an abstrusity in it. Only one fifth of the 1.89 million properties on the valuation list in Hong Kong, that is, around 390 000 properties have rateable values below \$40,000. The remaining 450 000 properties to be exempted from government rates are public rental housing flats. Since evaluation is made on the basis of blocks of public rental housing, individual flats would not be set out on the valuation list. I also believe that the annual rent of most of the 190 000 parking spaces falls below the \$40,000 ceiling. In other words, most residential flats, offices, commercial shops and factories have to pay government rates. Yet, the higher the government rates payable, the less the proportion of reduction and around 1 million properties have to pay government rent, too.

Everybody knows that various trades and industries are operating in difficulty and are forced to lay off staff and reduce wages to control costs. However, they fail to control such operating costs as government rates that are controlled by the Government. Let me take the catering industry that I am more familiar with as an example. A medium-scale restaurant has to pay \$40,000 to \$50,000 government rates per quarter, that is, more than \$100,000 to \$200,000 a year. The same restaurant also has to pay Trade Effluent Surcharge at around \$100,000 annually. Hence, a reduction of \$2,000 per year is only a 1% reduction, which is nothing but nominal.

Various political parties in this Council approve waiving government rates for the most important reason that a reduction in government rates can extensively benefit most people, industries and businesses. Yet, in capping the reduction at \$2,000, the Government has blindly upheld equalitarianism. If we give a bun to a household of one person and we also give a bun to a household of 20, we will create another kind of inequality.

If the Government waives government rates for four quarters, the ratepayers of 2.68 million properties will be benefitted, so, the number of people

to benefit from waived government rates will exceed the number of people given a reduced salaries tax liability. A reduced salaries tax liability will only benefit one third, that is, 1.17 million working people who have to pay tax. But if the Government waives government rates for four quarters, the beneficiaries will include people from all walks of life, from investors to wage earners, from public housing tenants to those living in bedspace apartments, and from the proprietors of small and medium enterprises (SMEs), the self-employed to low income people who do not have to pay tax. Then, everybody will be happy. Waiving government rates will be even more helpful to the owners of negative equity assets who have the heaviest burden in terms of liabilities.

For SMEs employing 60% of our working population (around 1.5 million people), the middle class that pay large amounts of taxes but seldom enjoy social benefits, owners whose assets have greatly depreciated in recent years and old people who rely on rental income for living, waiving government rates would improve their lot.

No doubt, the Government has a heavy fiscal deficit, but it should not simply set the deficit problem against the relief measures. Suitable relief measures can not only relieve the pressure on the business sector to lay off staff, but also ease the burden of people from all walks of life. That the Government can take preventive measures to reduce future expenditures on social welfare is in fact paying out of its left pocket and later earning it back to its right pocket.

I believe all Members will understand that the Government has a heavy fiscal deficit and it will endeavour to solve the problem in the next few years. However, the proposals made by the eight parties are only short-term relief measures effective for one year. They are extraordinary measures to be taken during an extraordinary period and they would not impose long-term financial pressure on the Government. Conversely, they could be regarded as social investments.

Lastly, I would like to tell a story. During the Spring and Autumn Period, there was a lobbyist, FENG Xuan, in the Qi State. Once, MENG Changjun ordered FENG Xuan to collect the interests on debts from the Xue State before buying some daily necessities that they lacked. FENG Xuan burnt all the bills acknowledging the debts that he had failed to recover. Later, when MENG Changjun met with misfortune and escaped to the Xue State, the people there brought along the old and the young and lined the streets to welcome him.

In Hong Kong nowadays, what we need most is to work together with one heart and of one mind in times of difficulty. The Government would give the community such a positive message by waiving government rates. I urge the Government to make reference to the story of our forefathers and reduce taxes to put the people's mind at rest. With these remarks, I beg to move.

Mr Tommy CHEUNG moved the following motion: (Translation)

"That, in view of the sustained economic downturn and the persistently high unemployment rate in Hong Kong at present, this Council urges the Government to waive the government rates for all the four quarters in the next financial year, so as to alleviate people's hardship and reduce the operating costs of businesses."

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

DR YEUNG SUM (in Cantonese): Madam President, I speak on behalf of the Democratic Party in support of the motion proposed by the Honourable Tommy CHEUNG, which urges the Government to waive the government rates for all the four quarters in the next financial year.

The eight parties in this Council have reached a consensus on this relief measure and it represents the common aspiration of people from all walks of life in the community. A wide range of people would be benefitted by this measure. Regardless of the value of properties, the existing rates charge is the same, so it is fairer and more reasonable to waive government rates as a relief measure. Under the present economic situation, we earnestly hope that the Government would sympathize with the people's difficulties and adopt the proposal made by the eight parties.

The Democratic Party understands that the Government is under considerable financial pressure but it is not yet known whether the fiscal deficit is structural or cyclical. For four and a half years since the reunification, Hong Kong has experienced two economic downturns, coupled with inflation and the

reduction in the income of the public and enterprises, government revenue has naturally decreased, therefore, it is pretty normal for there to be a cyclical deficit. We need more data to prove that there is a structural deficit.

Before further discussion, it may be necessary for me to carefully define a structural deficit. As opposed to a cyclical deficit, a structural deficit is not only found during an economic downturn but also found after an economic cycle when the overall government revenue fails to meet government expenditure.

If what we have now is a cyclical deficit, the Government does not have to be excessively worried and even if there is a structural deficit, there is actually a difference in degrees. For instance, in an economic cycle of four to five years, there may be a total deficit of \$20 billion to \$30 billion. Compared to a reserve of \$380 billion, the deficit is still minor. Specifically, even without a tax increase, a reserve of \$380 billion will be enough to cope with around 13 economic cycles, that is, more than 60 years. In the face of such a structural deficit, it is unnecessary for us to regard it as great scourges as if we are faced with a formidable enemy and easily introduce a new tax that would generate over \$20 billion in revenue a year or largely reduce government expenditure.

To draw a conclusion, we need to further understand the trend growth forecast over the longer term, the effects on taxation brought about by changes in the economic structure as well as changes in expenditures rather than merely basing on a deficit of \$60 billion in a year or so.

In any case, what is more important is that the duties of the Financial Secretary and the functions of a fiscal policy are not only ensuring healthy finance but also making proper use of the fiscal policy as a tool to facilitate economic development. It is particularly important to Hong Kong now, for under the linked exchange rate system, Hong Kong has actually lost control of monetary policies and the fiscal policy is its only tool for regulating economic development. Looking forward, it seems that we will hardly be able to divorce from the financial difficulties this year. Yet, we seem to have exhausted the interest rate policy because the interest rate has dropped to almost zero. It is projected that the interest reduction period of the United States would come to an end later, so we can no longer expect Alan GREENSPAN to bring us more good news later this year. In that case, the fiscal policy is obviously more important.

If the Government fails to judge the times and size up the situation, and still tightly embraces its fiscal reserve and adopt anti-cyclical fiscal restraint measures such as tax increase or expenditure reduction, it would not in any way help the recovery of our economy and it may even cause the opposite effects. It may further reduce internal demand and affect the pace of economic recovery. In the end, government revenue will further decrease and the deficit may become even greater.

The Democratic Party thinks that it is really difficult for the Government to solve the deficit problem and help economic recovery within a short period of time, and it will not curry favour with either. On the contrary, the Government should make helping economic recovery its prime objective and put forward relief measures, including waiving government rates in the next financial year, to help expedite economic recovery.

Thank you, Madam President.

DR TANG SIU-TONG (in Cantonese): Madam President, there were 40 applications for bankruptcy on average every day in the past year and the total number for the year rose drastically to almost 10 times that of 1998. The unemployment rate has recently returned to a 6% high after a drop in 1999. The jobless population stands at over 200 000. The accumulated deflation rate over the past three and a half years is as much as 15%. This indicates that consumer sentiments are persistently weak. All these figures show that our economy is at its worst since the Asian financial turmoil in 1997. Despite forecasts that the United States economy will recover in the second half of this year, and that the SAR will forge closer links with the Mainland, hence providing a new momentum for our economic recovery, figures like the unemployment rate and the deflation rate are expected to continue for quite a long time and even worsen. So even though the Chinese New Year is around the corner, the economic prospects for Hong Kong are still grim at least for the first half of this year. The economy will not be revitalized with the onset of spring.

Madam President, as the saying goes, unusual means should be employed at an unusual time. The community demands that the Government should help the people in need right at this unusual moment. Waiving the government rates is a reasonable expectation. So I support the motion today.

Waiving the government rates to alleviate people's hardship will inevitably reduce public revenue and increase the deficits, but I believe if only the Government can adopt rigorous economizing measures, cut the unreasonable and unnecessary expenses, it is expected that outlays of this "life-saving" assistance given to the public can be offset. Take the example of the airport and the West Rail projects, the amount of unusual and unaccounted for compensation and claims is more than \$10 billion. Had the authorities drafted the details of the contracts better and closely supervised the projects, the amount of money in the messy accounts could at least be sufficient for waiving government rates for a quarter. Besides, 70% of the annual recurrent expenditure of the Government is used for the purpose of paying the salaries and related expenses of civil servants and employees of subvented organizations. A wide gap has appeared between expenditure in this regard and the prevailing market rates. If only the relevant expenses can be rationalized, and the divergence with the market rates reduced, it is believed that the reduction in government rates greater. Lastly, if government departments can exert stringent control over their expenses and raise their efficiency, the Audit Commission can save the trouble of compiling another report and the savings thus made can be used to offset the reduction in public revenue as a result of the waiving of government rates for the last quarter.

Madam President, the reduction in public expenditure and returning wealth to the people are only reasonable demands. However, it is a fact that tax revenue in recent years has dropped substantially and results of the "downsizing" exercise of the Government may not be seen in the short run. Therefore, the only workable option seems to be the compiling of a deficit budget to make possible the waiving of government rates. But where can we find the money to make up for the deficits?

Many scholars and groups in Hong Kong have suggested to the Government that it should issue bonds to cope with short-term deficits. They also suggest that the Government should continue to launch measures which aimed at alleviating the hardships of the people and stimulating internal demands on the premise of not touching the fiscal reserves. I think the suggestions merit consideration and study. The first reason is that the Japanese yen may further devalue and this may have an adverse impact on our linked exchange rate, so we should keep our reserves in case this happens. The reserves should be able to maintain the confidence of local and foreign investors in Hong Kong dollar.

The second reason is that now the interest rate is at an all-time low and capital in the market is looking for low-risk investment tools. The issue of government bonds is not costly and it will also divert the capital stranded in the banking system to liquid capital that can be used in the community. It is indeed killing two birds with one stone.

Madam President, despite the possibility of a \$60 billion deficit in this financial year, I believe this year may also be the most difficult year before our economy recovers. Waiving government rates is a workable option to take. Though this move may add to the deficits, it will bring more benefits to the people. I sincerely hope that as the Year of the Horse approaches, the Financial Secretary can give away red packets to the public instead of extorting money from their pockets.

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

MR HUI CHEUNG-CHING (in Cantonese): Madam President, at a time when the economic outlook remains bleak, the unemployment problem serious and business sluggish, the people long for more measures from the Government to alleviate their hardship and help them tide over their difficulties. The Hong Kong Progressive Alliance (HKPA) thinks that when the financial resources of the Government permit, the Government should do something to alleviate the burden of the people and the enterprises, so that the economy can recuperate and recover. This is what the Government should feel obliged to do. The HKPA also suggests that the Government should continue to freeze most of its fees and charges, and in the light of individual circumstances, also reduce those fees and charges which are related to the people's livelihood and business operations.

Government rates are an item related to the people's livelihood and the business environment. A reduction of government rates would relieve to a certain extent the financial straits of the tenants of public housing estates, residents of private buildings and the small and medium enterprises (SMEs). That is really a measure to help the people in need. The Chief Executive in his policy address proposes to waive the rates payable for the first to the fourth quarters, capped at \$2,000 for household. We support the Chief Executive's attempt to alleviate the hardship of the people. According to government estimates, the relief measure will enable 840 000 households to be able to have

their government rates for the year completely waived. About 85% of the tenants of public housing estates will not have to pay government rates for three quarters. About 75% of the residents of private buildings will not have to pay government rates for two quarters. More than 40% of the occupants of commercial and industrial buildings do not have to pay government rates for half a year. However, there are views that the \$2,000 cap will be very inadequate for those middle class people and business proprietors who have to pay government rates of more than \$10,000 a year. Likewise, the concession is not at all helpful to relieving the financial pressure of those owners of properties of negative equity. Admittedly, the middle class and SMEs are facing great difficulties and we agree that they should be given assistance, but we must consider the overall financial situation of Hong Kong when we hope that the Government should charge less.

Madam President, according to government estimates, for the year 2001-02, the rates income was about \$14.9 billion, which was 7.6% of the total revenue of the Government. The Government has indicated that if the rates for the following four quarters are to be waived, this would mean a loss in revenue of about \$15 billion, or \$10 billion more than the concession proposed by the Chief Executive would cause. As we have as much as about \$60 billion deficits this year and given the prevailing economic downturn, if I am only concerned about the interests of the business sector of which I am a member, I would naturally call for a complete waive of government rates, or even a tax cut. But as we have a low tax regime and a narrow tax base, how are we going to find enough funds to sustain an efficient government if we should frequently resort to such relief measures? So the HKPA thinks that as the deficits problem will damage the interest of Hong Kong in the long run, therefore it must be prevented from further worsening at an early date.

The HKPA hopes that the Government can adopt effective measures to achieve this objective. The ways to alleviate the fiscal deficits are maximizing income and minimizing expenditure. Under the present circumstances, it would be difficult to maximize income. Moreover, the relief measures proposed by the Government will mean a further reduction in income. So the Government must implement more effective measures to minimize expenditure, such as those which will enhance the effectiveness of the Enhanced Productivity Programme and expedite the review of the civil service structure with a view to streamlining it, streamline all public sector organizations, put the small government philosophy as mentioned in the fifth policy address into practice, control public

expenditure and keep it below 20% of the Gross Domestic Product, and continue to corporatize or privatize those departments or public sector organizations with potentials of development.

Madam President, I so submit.

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

MISS CHOY SO-YUK (in Cantonese): Madam President, the chilling winter of our economy still lingers, and the people are still struggling to survive the hard times. The SAR Government is overshadowed by a huge deficit and the daunting task faced by top officials is how to make good use of the limited reserves to alleviate the hardship of the people and to ensure that the Government can afford the resources it has committed, while preventing the emergence of a financial black hole that will add to the structural deficits which are beginning to surface.

In his policy address last year, the Chief Executive announced a waiving of government rates from the first quarter to the fourth quarter this year. This is a right direction to take. For in the first place, the move will benefit a wide range of people in society. A majority of the people of Hong Kong will benefit in some measure from the concession. This will make them feel that the Government is really doing something concrete to care for them. Moreover, the measure is extended to people from all classes in the community and hence it is able to answer the aspirations of different social classes in a relatively fair manner. It will not cause any division in society as a result of people from certain classes being neglected.

It is a pity that when the Chief Executive announced that government rates were to be waived, he capped the amount to a mere \$2,000. That has greatly undermined the effect of the measure. With this ceiling, 90% of the households in private buildings, especially those from the middle class and owners of negative equity properties, the so-called concessionary measure is only better than nothing. It can even be said that it is only a concession in name but not in reality, a mere gimmick made as a half-hearted response to popular demand. Despite the fact that the Chief Executive proposed some other measures to help property owners in last year's policy address, they did not benefit the middle

class and owners of properties of negative equity so much. For example, the raising of the tax deduction ceiling for housing loan interest to \$150,000 per year will only benefit a small number of owners of expensive properties, for they can fully use the tax deduction ceiling. The decision of the Hong Kong Monetary Authority (HKMA) to relax the mortgage loan limit to 100% of the value of the property can at most only help those owners of "zero value" property. It will not benefit those owners of properties of negative equity.

Madam President, there is a saying which says that it is a greater problem with unequal distribution than with insufficiency. The formulation of a policy should first take into account the impact on different classes in society. Only by doing so can the public unite and give their full support. If not, not only will the original policy objective unable to be met, it may even backfire, arousing discontent in a particular social class, hence causing social division. For the Government whose major task at hand is to foster unity to deal with the economic hardship, it will cause nothing but damage.

Madam President, I must declare that we are not asking the Government to provide direct financial assistance to the middle class or owners of negative equity properties to help them tide over their financial difficulties. However, we cannot accept the fact that when policies are formulated, the needs of this silent majority are often put in secondary priority. These people are often left uncared for and they can only bear the hardships alone. Are policies of such a nature not another form of discrimination?

The Government may as well explain and justify itself by saying that given the present financial situation of the Government, it cannot afford to have a concession of government rates which is uncapped. The Government may also say that the move must target at those who are most in need and it is believed that the lower classes may have a great need for the concession.

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

Madam Deputy, if an uncapped waiving of rates for one year is adopted, it will cost about \$15 billion in lost revenue, or about \$10 billion less than the concession which is capped. Undoubtedly, the move will produce a certain amount of burden to the Government which is financially tight. However, this

estimate is only a ledger and the positive impact of a concession in rates has not been taken into consideration. This will include factors like stimulating consumption and the positive impact on the business sector, and so on. Moreover, public money taken from the people should be used on the people. Our fiscal reserves are not supposed to remain intact forever, that not a single cent can be used. What matters is that prudence is needed and that public money is used in the right place and for the right purpose. At times of hardship like these, I hope that the Government can give full play to the idea that fiscal reserves should be used when the occasion calls for it.

More importantly, the motion only calls for a specific period of time within which rates are to be waived, that is, only one year. Therefore, even if the proposal made in the motion is to be adopted, it will not cause any long-standing impact on public finance.

I really hope that the voice of the public can be heard by a sincere and open-minded government and that the consensus reached by the eight political parties in this Council can be adopted so that rates for all the four quarters in the next financial year can be waived to alleviate the people's hardship.

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

MR LAU PING-CHEUNG (in Cantonese): Madam Deputy, in the face of the current economic downturn and the constantly rising unemployment rate, any measures that will alleviate the people's hardship are worth supporting. Mr Tommy CHEUNG has requested the Government to waive rates in the next financial year to benefit more than 2.6 million owners of different types of properties in Hong Kong. However, the Government will lose \$14.9 billion in rates revenue as a result.

In considering this issue, we should not simply infer on the basis of superficial data that the Government will only lose \$14.9 billion in rates revenue, which accounts for only approximately 7.6% of the total estimated annual revenue of \$194.7 billion. Instead, we should consider the impact of the loss of \$14.9 billion in rates income on the Government's overall finance.

Let me borrow the remarks made by the Chief Executive of the Hong Kong Monetary Authority, Mr Joseph YAM, during a meeting of the Legislative

Council Finance Committee days ago. He pointed out that there was no scientific base for the amount of reserves required to maintain financial stability. It will mainly hinge on the development of the global financial market.

I am not trying to raise alarmist talk here. I just wish to point out that it has often been the case that a number of countries encountered structural financial problems before their financial systems were subject to challenge. Once the confidence of their nationals was shaken, coupled with speculative challenges, they would find it hard to put up resistance however large the reserves they might have. Therefore, when seek to draw down our reserves, we must make it clear to the public and global investors that the reserves will be used just once. Alternatively, new tax sources will be explored or spending will be cut when the reserves reach a certain level in order to maintain the Government's long-term financial stability and to comply with the requirement of the Basic Law. As for the proposal of using the surplus in the foreign exchange reserves to alleviate the people's hardship or using it as an indicator to determine the total amount of rates to be waived (\$7 billion in 2001), I think it is worthy of support and deliberation.

I so submit.

MR LEUNG YIU-CHUNG (in Cantonese): Madam Deputy, over the past few months, the Government has been repeatedly stressing that this year's deficit may exceed \$60 billion. It has even warned that if the problems remain unresolved and the situation continues, the Government's reserves will probably be used up in a few years' time. For these reasons, Mr TUNG Chee-hwa has persistently emphasized in his recent election campaign that he would strive to achieve fiscal balance in his next term of office.

In spite of the fact that Mr TUNG has mentioned the need to achieve fiscal balance, he has failed to propose any specific solutions. What he has mentioned is not really a good or correct direction for tackling the problem of reviving the economy. He has only been reiterating how government spending can be cut to improve the situation. Nevertheless, Members should all know it very well who will bear the brunt if government spending is to be cut. Usually the civil servants — I believe the Government can hardly slash its spending without cutting manpower. If this is the only direction to take, Madam Deputy, I will definitely object because this approach may backfire. The spending power of

civil servants will surely weaken should they be affected by pay cut or layoff. We can definitely not achieve our goal of reviving the internal spending power. Therefore, I disapprove of this idea.

Mr TUNG may be thinking that achieving fiscal balance can help boost his popularity. Just as in the case of the former United States President Bill CLINTON, he was able to persistently boost his popularity because he managed to achieve fiscal balance. If Mr TUNG is thinking of doing the same thing, I hope he can consider it more carefully because the situation of Hong Kong is a far cry from that of the United States, which was at that time facing an "economic growth period". What happens to Hong Kong at the moment is precisely the opposite for we are now going through a period of contracted spending. If we cannot come up with some methods to stimulate the economy, particularly to boost spending, Hong Kong will eventually be led down a blind alley. The Government should not expect it can pinpoint the problems or identify the crux of the problem by merely asking the people of Hong Kong to continue "tightening their belts".

Actually, one of the ways to stimulate the economy is, as suggested in this motion today, to minimize exorbitant tax levies in order to store wealth in the public, boost their spending power and stimulate internal spending with a view to reviving the economy.

Perhaps someone (many colleagues have made such remarks earlier) might think that a reduction of rates for one year will only aggravate the deficit since the coffers will lose \$15 billion as a result. Though apparently so, can we look at this suggestion from another angle? This is because if we fail to look at the matter from a long-term angle, the situation might get even worse.

Actually, the United States has entered a period of recession since March 2001. Worse still, the "September 11 incident" took place in September in the same year. However, starting from January this year, the situation has been improving, with the economy registering a 0.2% growth and a rapid drop in the unemployment rate by 0.2%. This is precisely the effect of the tax-cut policy implemented by the Bush Administration because the policy has succeeded in boosting internal spending. Subsequent to increased public spending, internal spending will accelerate and achieve the abovesaid effect. As Members may be aware, Hong Kong economy is facing a market more or less dominated by

spending. If we cannot stimulate the economy as proposed, how are we going to solve the deficit problem?

Looking back at Hong Kong, we will find that the total sales value of the retail trade has kept on declining, with the value dropped 6.1% in October 2001 compared to the corresponding period of the previous year. The problem cannot be attributed solely to deflation because the real sales volume has been dropping persistently until it now reaches 3.7%, reflecting the constantly diminishing spending desire and power of the public. Against the background of a stagnant retail and consumption market, the crux of the problem affecting the entire market really stems from the diminishing labour force and rising employment rate. At this critical moment, if the Government can still not propose solutions to give impetus to and boost spending, how can the problem relating to coffers proceeds be resolved?

In the policy address delivered in October 2001, Mr TUNG proposed a rates concession capped at \$2,000. Benefitting very few people and giving middle-income earners limited benefits, the waiver has been unable to generate huge spending power. I therefore believe the waiver of the first \$2,000 in rates will not produce any substantial impact. We have actually been unable to see to what extent the retail and catering trades have so far been boosted by the rates concession. In my opinion, it is necessary for the Government to review this issue. It must understand that the trivial benefits it has offered cannot help much in actual terms. Can the Government listen to our proposal raised in the motion today and really introduce a marked improvement to address the problem from various aspects? Today's motion seeks to waive the government rates for all the four quarters in the next financial year. Should the Government be willing to freeze taxation for one whole year, our spending power will definitely rise.

Actually, members of the public generally have a very low expectation of the Government. All that they wish is a small spell of relief amid the financial hardship. They will accept it even if they are asked to tolerate longer working hours. Most of them have nothing more to wish for so long as they are able to keep their jobs. I do not think Mr TUNG can resolve the problem if his solutions are confined to wage reduction and layoff only. This explains why this motion today is trying to propose a solution to the Government for reference to resolve the prevailing difficulties. I sincerely hope Mr TUNG can really address the matter through tackling its deficit, instead of making considerations

through contraction. Mr TUNG should really give serious thoughts to the question of how best investments can be boosted so as to achieve his goal of reaping greater returns.

With these remarks, Madam Deputy, I support today's motion.

MR HOWARD YOUNG (in Cantonese): Madam Deputy, the Government announced a concession of rates of up to \$2,000 per property last year. I believe it is because this tax has the broadest tax base. A concession in rates can, relatively speaking, benefit people all strata of society.

Nevertheless, the Government's imposition of a \$2,000 ceiling is somewhat like "finishing half its work", or "finishing just a small portion of its work with a big portion left undone". To those ratepayers with the heaviest rates liability, a concession of only \$2,000 can be likened to "scratching an itch through one's boot".

If we project on the basis of the current rates charge rate, a concession of \$2,000 means that only flats with rateable value under \$40,000 can be exempted from rates payment for an entire year. But how many flats charge a monthly rent of less than \$3,300, or how many flats have a \$40,000 rateable value? With the exception of public rental housing units which are subject to block assessment, approximately 80% of properties in Hong Kong have a rateable value of higher than \$40,000 as at 1 April 2001. While owners of private housing estate units are required to pay a handsome amount of rates, shops, factories and offices similarly need to shoulder an extremely heavy burden for the rates charged may amount to tens of thousands of dollars per quarter. For these owners and tenants, a concession of \$2,000 is negligible for it merely represents 5% to 10% of the amount of rates payable by them.

I still remember during the previous debate on waiving public utilities charges, the Secretary for Economic Services quoted the findings of the 1999-2000 Housing Expenditure Survey conducted by the Census and Statistics Department to illustrate that water and electricity tariffs and fuel expenses represent a small proportion of the monthly household expenditure only. Nevertheless, it was pointed out in the same survey that private housing tenants spend up to \$10,539 on housing, five times more than the \$1,573 paid by public

housing tenants. This figure reflects the enormous housing burden of private tenants, many of whom are middle-income earners and negative assets holders.

The confidence of middle-income earners has hit the bottom over the past few years because of the dramatic depreciation in the value of their self-occupied properties and the uncertainty of their job prospects. The Government must treat all people on an equal basis in implementing its measure to alleviate people's hardship to effectively ease the financial burden of people from various sectors if it is to create a harmonious milieu.

Furthermore, rates are calculated on the basis of rateable values. In other words, all properties, whether rented or not, have to pay rates. Nevertheless, the vacancy rate of properties has become increasingly high because of the sluggish property market in recent years. Owners have to pay rates even though their properties are left vacant. It was recently pointed out by a surveyor firm that the vacancy rate of offices in Central was expected to climb to 10% shortly. Even the Housing Authority has recently considered awarding short-term tenancies to ameliorate the problem of high vacancy faced by shopping arcades in housing estates. A waiver of rates for four quarters will help owners, particularly owners of vacant flats, immensely.

Of course, the Liberal Party understands that the Government is working very hard to open sources of income and reduce expenditure to cope with its huge deficit. The proposal raised by the cross-party coalition will not only improve the economic and business environment of Hong Kong immediately, but also alleviate the financial hardship facing people from various sectors. In our opinion, a concession of rates is meant to be an interim contingency measure only. It is believed it will not impose long-term financial pressure on the revenue of the coffers.

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

DR RAYMOND HO (in Cantonese): Madam Deputy, the question of when the Hong Kong economy can recover remains doubtful in our minds. Our economy has continued slipping since the financial turmoil. Although economic growth has been recorded occasionally over the past few years, it was but a short-term illusion. Otherwise, there would not have been frequent breaks of news on company closure, layoffs, wage reductions, suicides resulting from losing of jobs

or fears of layoffs and a constant rise in the unemployment rate. Although Chief Executive TUNG Chee-hwa unveiled a series of measures to alleviate people's hardship in the 2001-02 policy address last year, the confidence of the people of Hong Kong remains extremely weak. Should this situation persist, the recovery of Hong Kong economy will not realize in the foreseeable future. In this connection, I would like to urge the Government to introduce more measures to boost people's confidence in the territory. In my opinion, a waiver of rates for one year is a feasible option.

Last October, Mr TUNG announced in the policy address a waiver of rates for four quarters in a row in 2002, subject to an upper ceiling of \$2,000, to benefit tenants as well as users of industrial and commercial premises. While I appreciate the Chief Executive's sympathy with public sentiments, I implore the Government to waive the levy of rates for one year to alleviate the financial burden on the public and operators from various sectors, so as to achieve its goal of stimulating the local economy.

We can see that the Hong Kong economy has remained sluggish in the past several years, partly attributable to weak spending power. The fact that it has become increasingly prevalent for various trades and industries to resort to layoffs and wage reductions has made every one of us feel strongly insecure. To prepare for a rainy day, consumers have become increasingly cautious too. As a result, the retailing industry is now suffering a disastrous decline. In order to strive for survival, many retailers dumped their goods by offering big discounts. It is really ironical that our economy seems to be enjoying prosperity during sale periods when shops are often packed with customers. This obviously shows that the people's reluctance to spend is mainly because they have no faith in Hong Kong's prospects, not because they have no means to spend. The waiver of rates for one year will give the public an extra sum of money. I believe this will help the growth of the retailing industry, and also bring hope to the recovery of our economy.

The waiver of rates for one year will naturally impact on the coffers. Nevertheless, I think the Government can resolve this problem by other means, such as implementing the policy of optimizing resources and strengthening its control systems. Last year, the Audit Commission discovered that the material stocked in government warehouses would not be used up in 100 years. Not only have government resources been wasted, taxpayers' money has been wasted as well. Now that there is a third outbreak of the avian flu in five years. The

Government made enormous compensations in the last two outbreaks. I wonder how much compensation will have to be made in future should the Government fail to prevent the spread of the bird flu again. Recently, the West Rail incident has stirred up heated discussions in the community. A \$100 million payment is definitely not a small amount. What is more, why should Siemens be offered a \$100 million payout even though it has failed to honour the contract? The matter is still pending investigation. I have cited these three examples in order to illustrate that government resources will not be drained away so easily if we have a proper control mechanism. By contrast, the impact on the coffers brought about by the waiver of rates for one year can be a lot more meaningful.

The lack of public confidence in Hong Kong's prospects is understandable. However, this is not a good sign, since the recovery of Hong Kong economy will thus be impeded. It is indeed imperative for the waiver of rates for one year to be implemented in order to alleviate people's hardship and reduce pressures on businesses. Should Hong Kong fail to speed up its pace of economic recovery, it will soon be overtaken by Shanghai. By then, it may even need to surrender its reputation of being the "Pearl of the Orient" to someone else.

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

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

(No Member responded)

SECRETARY FOR THE TREASURY (in Cantonese): Madam Deputy, in order to alleviate the predicament of the people, the Government of the Hong Kong Special Administrative Region (SAR) has implemented a series of extraordinary measures, which include a rebate of the rates for the second quarter in 1998, and the concession of one half of the rates for the third quarter in 1999. Furthermore, the Chief Executive announced in last October that in order to ease the burden of the public, rates payment for some 2.7 million individual and corporate ratepayers for 2002 would be reduced, and the maximum amount to be waived for each rateable tenement was \$2,000. The concession will cost \$5 billion in lost revenue, while 85% of public housing tenants will enjoy a waiving of the rates for three quarters, and 70% of occupiers

of private domestic properties and over 40% of tenants of commercial and industrial properties will all also be benefitted by a waiving of the rates for six months.

We consider a concession with a ceiling will be able to provide more significant alleviations to the recipients than a concession without a ceiling in view of the fact that the resources we have are rather limited. Some Members suggested to waive the rates payment for the entire year, but it will cost \$15 billion in lost revenue.

Rates is one of the most reliable source of government income with the broadest base, which is estimated to account for 8% of this year's total government revenue. As the present financial condition is quite stringent, we have to make prudent considerations and strike a right balance, so as to make the concession a real help to those people and small and medium enterprises who are in need on the one hand, and to make the concession affordable to public finance on the other.

I thank Members for their suggestions today. All the suggestions concerning taxation will be put forward to the Financial Secretary for his consideration in the course of drafting the Budget. Madam Deputy, I so submit.

DEPUTY PRESIDENT (in Cantonese): Mr Tommy CHEUNG, you may now reply and you have up to five minutes 53 seconds out of your original 15 minutes. This debate will come to a close after Mr Tommy CHEUNG has replied.

MR TOMMY CHEUNG (in Cantonese): I would like to thank the Deputy President and the eight Honourable Members who have spoken. As the response given by the Secretary was very brief, I will try to be as brief as possible in responding to her speech.

THE PRESIDENT resumed the Chair.

I was very pleased to hear the Secretary say that consideration would be given to our suggestions when formulating the Budget. The Secretary also pointed out that the Government would need to consider and balance two points, namely the financial situation of the most needy and small and medium enterprises, and the affordability of public finance. What I want to say is that a waiver of rates can precisely serve the purpose of helping all people.

As regards affordability, it reminds me of my own situation. Given the fact that my income has dropped because of deflation and dropped further as a result of the Liberal Party's decision to reduce remuneration by one tenth, does it mean that the money contained in the lai sees (red packets) I am going to give away this year should shrink proportionally, from \$100 and \$50 last year to \$80 and \$30 to \$40 this year? I believe I am a lucky one because there is still no need for me to give a "discount" on lai see money.

I wish to remind the Secretary of the fact that we still have a reserve of more than \$300 billion. Of course, we should prepare for the rainy day (the Government had already stressed the necessity of preparing for the rainy day when it still had almost \$70 billion in reserves). Nevertheless, I would still like to remind the Secretary and the Financial Secretary that it is not just "raining" at the moment or "the rain does not only fall throughout the night with the roof leaking". Hong Kong is actually being hit by a series of "rainstorms" of the black warning scale with its roof leaking as well. It is being hit by heavy snowfall plus avalanches, not just snow plus frost. Frankly speaking, \$10 billion is a huge sum, or an astronomical figure for many people. But against the background of having more than \$30 billion in reserves, the Government should still be affordable, even better than me when it comes to my affordability of wrapping lai sees.

I hope the Secretary for the Treasury and the Financial Secretary can discuss the matter seriously when formulating the Budget. I believe every member of the community will jump in joy if the Government really decides to waive the government rates for one whole year. In the long run, we will all have more money in our pockets as a result of the concession. If we can stay in Hong Kong to spend to fuel internal spending, we can perhaps even rebound from the bottom. I believe it will not be too difficult for the Government to recoup the \$10 billion.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Tommy CHEUNG 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.

REQUEST FOR SPECIAL LEAVE OF THE COUNCIL TO GIVE EVIDENCE OF COUNCIL PROCEEDINGS

REQUEST MADE UNDER SECTION 7 OF THE LEGISLATIVE COUNCIL (POWERS AND PRIVILEGES) ORDINANCE (CAP. 382) AND RULE 90 OF THE RULES OF PROCEDURE FOR SPECIAL LEAVE OF THE COUNCIL TO GIVE EVIDENCE OF COUNCIL PROCEEDINGS

PRESIDENT (in Cantonese): Request made under section 7 of the Legislative Council (Powers and Privileges) Ordinance for special leave of the Council to give evidence of Council proceedings.

(The request made by the Secretary for Justice is at Annex III)

PRESIDENT (in Cantonese): Rule 90(2) of the Rules of Procedure provides that upon the placing of the request on the Agenda, the Council shall be deemed to

have ordered that leave be granted, unless on a motion moved without notice at this meeting by any Member the Council determines to refuse it.

Does any Member wish to move the motion?

(No Member indicated a wish to move the motion)

PRESIDENT (in Cantonese): I declare that, under Rule 90(2) of the Rules of Procedure, the Council has granted the leave sought.

MOTION ON ADJOURNMENT

PRESIDENT (in Cantonese): Motion on Adjournment. The House Committee has recommended that the mover of the motion, Mr Martin LEE, has up to five minutes to speak and each of the other 28 Members who have, by last Saturday's deadline, given notice to speak has up to two minutes. I have accepted the recommendation of the House Committee and determined, under the Rules of Procedure, that the total speaking time for the 29 Members is up to 61 minutes.

After Members have spoken, I will call upon the Chief Secretary for Administration to reply. In response to the Chief Secretary for Administration's request, I have determined that his speaking time limit be extended, in proportion to the extended time limit for Members, to up to 20 minutes 20 seconds.

Members who have given notice to speak will please press the "Request-to-speak" button.

LOOKING BACK ON THE CHIEF EXECUTIVE'S ADMINISTRATION DURING HIS TERM OF OFFICE

MR MARTIN LEE (in Cantonese): Madam President, I move that this Council do now adjourn to enable me to raise an issue concerning public interest, namely "looking back on the Chief Executive's administration during his term of office",

and to elicit a reply from the Government. Madam President, the nomination period for the second Chief Executive Election will soon commence. I think Mr TUNG will surely succeed in securing a second term. It is therefore timely for us to review today Mr TUNG's administration during his first term of office.

Before the reunification, Hong Kong possessed some strengths that could not be found elsewhere in the Mainland — a clean government, a fair business environment and the rule of law. With these excellent attributes, we were convinced that Hong Kong could propel the economic development of the country after the reunification. Regrettably, Hong Kong took a sharp turn for the worse in less than five years after the reunification. It has swiftly turned from a "fat goose" that lays gold eggs every day to a "sick goose" that is totally lack of confidence, believing that it will no longer be able to lay any eggs very soon.

The crux of the problem facing Hong Kong actually lies in Mr TUNG Chee-hwa. Believing himself to be a top practitioner, Mr TUNG seems to be completely ignorant of the fact that he was only returned by a small-circle election, or even a puppet preordained by President JIANG. Owing to inherent deficiencies, he is absolutely lack of legitimacy and has failed to gain trust from the public. He can virtually be likened to an unregistered practitioner who prescribes medicine indiscriminately in the belief that he is doing it in the interest of Hong Kong. Unfortunately, he has prescribed the wrong medicine to disrupt the rule of law in Hong Kong: In 1998, Ms Elsie LEUNG, the Secretary for Justice, decided to prosecute the subordinates of Ms Sally AW Sian without prosecuting Ms AW at the same time, albeit there was sufficient evidence. As a result, the public was given the impression that people acquainted with Mr TUNG could stand above the law. In 1999, after losing a court battle concerning the "right of abode of illegal child immigrants" in the Court of Final Appeal (CFA), the Government of the Hong Kong Special Administrative Region (SAR) even went so far as to approach the Standing Committee of the National People's Congress (NPCSC) for a re-interpretation of the Basic Law in a bid to overturn the CFA's interpretation of the relevant provisions. This is tantamount to a stark act of inviting a "river" from the Mainland to interfere with the "well water" of Hong Kong to disrupt the "one country, two systems" arrangement. What is more disheartening is that Mr TUNG has all along refused to undertake that he will never seek interpretation from the NPCSC again following the CFA's interpretation of the provisions of the Basic Law.

At the same time, Mr TUNG has prescribed a super tonic to the bigwigs to "boost their wealth". For instance, the Cyberport and related property development projects were awarded by the Hong Kong Government to the Pacific Century Group without going through an open tender. In violation of the principle of fair competition, the Government has indeed put the business environment of Hong Kong in jeopardy. The sudden decision of the Government to announce the suspension of the sales of Home Ownership Scheme flats last year also showed that the Government had succumbed to the pressure exerted by major property developers, thus preventing members of the grassroots from "purchasing their homes". As the image of "collaboration between government officials and businessmen" has been rooted so deeply in people's minds, no wonder it is considered by some people that Hong Kong has since the reunification become "the city of the LI's family".

Mr TUNG's decision to perform an orthopaedic surgery on Hong Kong and bind the soles of its feet has also stifled Hong Kong's normal development of democracy, upset the balance of its entire system, and resulted in retrogression in democracy. In 1988, the SAR Government succeeded in removing the two elected assemblies in the name of "scrapping the two Municipal Councils". In a bid to minimize room for public participation in politics, municipal matters were brought under central administration. What is more, appointed seats were restored in the District Councils. The so-called "accountability system" advocated by Mr TUNG also represents another manifestation of retrogression in democracy for the appointment and dismissal of principal officials in future will be decided solely by the Chief Executive. Under the new system, principal officials will be accountable to the Chief Executive, whereas the Chief Executive will in turn be accountable to the Central Authorities. Such a "puppet accountability system" is a downright self-deceiving mechanism.

Mr TUNG's eyes can only look "upward" and "northward". Whenever the Mainland says "yes", he dares not say "no". We can evidently see from such cases as the "CHEUNG Tze-keung trial", the "LO Cheung-on incident" and the accusation that the Falun Gong is a cult that the culture of conjecturing the intent of the leadership and exercising self-censorship has started spreading rapidly across Hong Kong society.

All this indicates very clearly that the philosophy of governance of the SAR Government has changed dramatically from active non-intervention to

meddling in everything. Like a poor goose with shattering confidence, Hong Kong has not only failed to maintain its previous strengths, but also suffered from severe depression. No wonder the nationals of Taiwan, witnessing the transformation of Hong Kong from a "fat goose" to a "sick goose", are reluctant to accept the arrangement of "one country, two systems". Under such circumstances, the Basic Law might not last 50 years before it "comes to an end".

Now that Mr TUNG has declared his candidacy and is set to be elected again, we can only hope in despair that he can address the various mistakes committed by him in his first term of office and refrain from prescribing medicine indiscriminately. Otherwise, the "sick goose" symbolizing Hong Kong might never be able to lay eggs again in the next five years and play its role in line with the country's expectation.

I so submit.

Mr Martin LEE raised the following issue:

"Looking back on the Chief Executive's administration during his term of office."

DR RAYMOND HO (in Cantonese): Madam President, four years and seven months have sped past since Hong Kong was returned to the Motherland. The promises of "one country, two systems" and "a high degree of autonomy" are being successfully honoured in Hong Kong, and its social system and lifestyle have remained unchanged. Even those Western countries which were once sceptical about the development of Hong Kong after the reunification have to admit this fact now. As far as the smooth and stable transition of Hong Kong is concerned, the contribution of Mr TUNG Chee-hwa as the first Chief Executive of the Hong Kong Special Administrative Region should never be gainsaid.

Some are of the view that when the Chief Executive assumed office in 1997, the economy of Hong Kong was booming, but the erroneous policies of his administration have since dragged it into a state of downturn. However, have these people ever considered the fact that as early as 1997 when the Chief Executive had noticed that the bubble might burst at any time he already tried to bring our economy back to the normal course of development? It was most

unfortunate that at this very critical moment, Hong Kong was hit by external economic fluctuations caused, for example, by the Asian financial turmoil and the "September 11 incident". The economic restructuring of Hong Kong has thus been slowed down in pace.

It cannot be denied that the administration of the Chief Executive is still in need of improvement in some specific areas such as housing, lands and education, for which clearer policy objectives and more consistent implementation are required. Efforts on the part of Mr TUNG to enhance his public relations will help him implement his policies more smoothly.

If Mr TUNG is re-elected, I hope that he can draw lessons from the valuable experience of his current term and realize his grand objectives and plans for Hong Kong. Madam President, I so submit.

MISS MARGARET NG (in Cantonese): Madam President, Chief Executive TUNG Chee-hwa has set a precedent, whereby once the Government is not satisfied with any judgement of the Court of Final Appeal (CFA), it can refuse to implement the judgement, bypass the CFA and seek an interpretation of the Basic Law from the People's National Congress (NPC) in an attempt to override the judgement. Once a CFA judgement is overruled by the NPC's interpretation, the CFA will become bound immediately; all the basic rights which the original judgement can otherwise offer to other people will thus disappear, and only the original litigants are protected. These are the consequences of interpretation.

The Court can no longer exercise any independent judicial power, for the executive and political authorities can interfere at any time. How can there be any judicial independence in that case? The Government of the Hong Kong Special Administrative Region (SAR) can seek the NPC's interpretation of the Basic Law at any time, but to the people, this is simply a total impossibility. How can there be any equality before the law as a result? How can this be called "the rule of law"? Since the Chief Executive always vows that he will uphold the rule of law, he should really reflect on what he has done. But then, he has instead refused point-blank to promise that there will be no further attempts to seek the NPC's interpretation of the Basic Law. This is most regrettable.

Besides, since the beginning of his first term, the Chief Executive has rejected dissenting views, treated critics with hostility, shifted the blame to civil servants, openly favoured some individuals and groups, split the community and weakened our ability to cope with contingencies, thus making Hong Kong pay a very heavy price.

Forget not our past experiences, for they can be our edification in the future. With these remarks, I support the motion.

MR NG LEUNG-SING (in Cantonese): Madam President, any review of the Chief Executive's administration during his term of office will necessarily involve a period as long as five years and a wide range of policy areas covering politics, economics and the people's livelihood. In the past, this Council would spend two days debating the Chief Executive's annual policy address, and recently the Rules of Procedure has even been amended to lengthen the debate to four days. The Honourable Martin LEE even said that the longer the debate was, the better, and that the more such occasions, the better. "Do not unto others as you do not like them to do to you". Unfortunately, however, Mr Martin LEE has chosen to discuss this issue by way of an adjournment. Whatever the motive is, a debate like this, which is moved with the clear knowledge that Members of this Council will be unable to express their views fully due to the constraints imposed by the Rules of Procedure, will not do any justice to those participating in the discussions and the subject of criticisms.

As for the administration of the Chief Executive over the past five years, the results are evidently good, one example being the successful efforts of the SAR Government to ward off the Asian financial turmoil under the leadership of Mr TUNG. What is more important is the successful implementation of the unprecedented arrangement of "one country, two systems", under which Hong Kong's capitalist system and lifestyle are maintained, coupled with an increased degree of freedom for its people. In addition, the SAR Government has been able to maintain a cordial relationship of mutual trust and co-operation with the Central Authorities and the mainland Government, thus opening up more room of development for the community of Hong Kong and its people. To sum up,

the administration of the Chief Executive has been satisfactory and therefore merits our support.

Madam President, I so submit.

MR SIN CHUNG-KAI (in Cantonese): Madam President, during the five-year term of the Chief Executive, the ranking of Hong Kong rose in only two of the 15 rating surveys conducted by nine international institutions, and in six of them, the positions of Hong Kong dropped. Even in cases where Hong Kong managed to maintain its previous positions, other countries have caught up a great deal with us in terms of scores. Here are some examples:

- (1) In the Global Competitiveness Report of the World Economic Forum, the competitiveness of Hong Kong has dropped from the second position in 1997 to the 13th position this year.
- (2) In the Annual World Competitiveness Yearbook of the International Institute for Management Development, the competitiveness of Hong Kong has dropped from the third position to the 12th position this year.
- (3) In the business environment rating of the *Economist*, Hong Kong has dropped from the first position to the 10th position.

Although Hong Kong is still rated by the Heritage Foundation and the Fraser Institute of Canada as the freest economy in the world, they have already warned that if controversies over press freedom and judicial independence continue to emerge in Hong Kong, it will be overtaken by Singapore in due course. The scores of Hong Kong for individual items (such as government intervention, the rule of law, inward investments, and so on) have also dropped.

In general, the comments of various rating bodies about Hong Kong show that the most controversial aspects of the Chief Executive's administration include: deteriorating governance and leadership of the Government, damage to the rule of law, monopoly in some specific industries, high costs of living, serious environmental pollution, backward technological development, unsatisfactory manpower education, corruption and the unsatisfactory

performance of the SAR Government in balancing the respective interests of the Central Authorities and Hong Kong people.

I so submit.

MR AMBROSE LAU (in Cantonese): Madam President, when it comes to government administration and policies, different people will have different views. Members of this Council alone will already have vastly different views. But when it comes to implementation, there can be only one scheme.

As LU You said, "Book knowledge is always elusive", but we must also realize that he also said "practice is essential". The implementation of the historic principle of "one country, two systems" is certainly no easy task, nor is there any precedent either. Following the reunification, problems like the bursting of the bubble economy, the onslaught of the financial turmoil, economic restructuring, and so on, have emerged one after another, in turn leading to a myriad of other social and livelihood problems. But all these problems have not been the making of Chief Executive TUNG Chee-hwa. They are the legacy of the past. Faced so many problems which need to be solved, Mr TUNG has still led us through various crises, thanks to the support of the general public. The fact is that the economy of Hong Kong now is in a better shape than those of other Southeast Asian countries.

Before the reunification, many people wondered whether "one country, two systems" could be successfully implemented in Hong Kong. Today, we can tell others with great confidence that we have really done so successfully. Even the international community recognizes this and commends Hong Kong for its successful implementation of "one country, two systems" and "Hong Kong people ruling Hong Kong".

Madam President, even in these times of economic difficulties, we have still achieved substantial progress in social welfare, housing, health care, education and environmental protection. The waiting period for public housing has been shortened from seven years in 1997 to just three years and nine months now; and our expenditure on education has also increased from some \$30 billion in 1997 to \$50 billion or so.

What I have mentioned above are all indisputable facts, sufficient proof of the successful administration by Mr TUNG. I trust that the critics of Mr TUNG, if they could ever bother to speak really honestly, would say this to him, who is so hardworking and uncorrupt, "Mr TUNG, lucky that you agreed to take up this thankless job!"

Madam President, I so submit.

MR ALBERT HO (in Cantonese): Madam President, at the time when the incumbent Chief Executive is about to be re-elected, I wish to ask him 10 questions, all related to the issue of housing that has drawn most complaints from the public.

First, why are the Government and the Housing Authority still reluctant to lower public housing rents to comply with the requirements of the Housing Ordinance?

Second, given the poor economic conditions now, why is the Housing Authority still trying so hard to tighten the eligibility requirements for public housing, to deprive more grass-roots people of housing allocation?

Third, why are single persons earning just about \$6,000 monthly not qualified to apply for public housing?

Fourth, a good part of our reserves used to come from land sales, so why has the Government refused to offer any help to those with negative assets?

Fifth, concerning the very significant housing construction target of "85 000" units, why were Housing Bureau officials so ignorant of its abolition while property developers were able to know in advance?

Sixth, on many occasions, the Chief Executive and some top government officials encouraged people to buy their own homes, and many people thus became owners of negative assets later on, but the Chief Executive and the government officials concerned all refuse to admit their fault. Why are they so reluctant to apologize to the public?

Seventh, why does the Chief Executive still cling to the rigid target of a 70% home ownership by the year 2007. He knows only too well that this target is unattainable. But why does he insist that this target is still in existence, instead of telling the people the truth?

Eighth, regarding its commitment of constructing 50 000 public housing units, why has it shifted to the provision of a home loan quota of 50 000? Why has the Government unilaterally decided to suspend the sale of Home Ownership Scheme units, or even perhaps to stop the construction of these units in the future, without going through any reasonable consultation procedure beforehand?

Ninth, (*Laughter*)

I so submit.

MR IP KWOK-HIM (in Cantonese): Madam President, "the more difficult the current situation is, the more the leader has to pluck up his courage and make efforts to confront difficulties. I would serve Hong Kong with unflinching resolve." This is a quotation of what the Chief Executive, Mr TUNG Chee-hwa, said in one Question and Answer Session of the Legislative Council last year. I very much appreciate Mr TUNG's commitment and resolve. Over the past four years, Hong Kong has sustained severe impacts caused by such incidents as avian flu outbreaks, the Asian financial turmoil, right of abode disputes and the "September 11 incident"; and, the economy has also declined, leading to record-high levels of unemployment. People's mood has gone up and down like a roller-coaster, and grievances have never stopped. This is a fact, but we have to sit down and think about all this calmly. We must ask ourselves, "Is the current situation really the result of the 'incompetence' of the Special Administrative Region Government and Mr TUNG?"

One very important requirement which the Chief Executive must fulfil is that he must be able to command the trust and support of the Central Authorities. It is indeed no easy task to effectively implement "one country, two systems" and "Hong Kong people ruling Hong Kong". When it comes to the maintenance of a stable government and a peaceful society based on the rule of law in Hong Kong despite all the major and drastic changes in social and political circumstances, the efforts and contribution made by the Chief Executive should be recognized. Since 1997, many emigrants have returned to Hong Kong for

development; this is a strong proof that there are still plenty of opportunities here. Provided that the people can all maintain their confidence in Hong Kong and seek to struggle hard amidst the adversities, Hong Kong will certainly be able to turn crises into prospects and opportunities.

As a Member representing the functional constituency of District Councils, I wish to express my gratitude to Mr TUNG for upgrading the status of and increasing the concrete assistance for District Councils and their members.

Madam President, I so submit.

MR LEUNG YIU-CHUNG (in Cantonese): Madam President, as the Chinese New Year is drawing near, I guess people will like to hear less grievances but more good wishes. Therefore, I wish to sum up the administration of Mr TUNG so far with four Chinese New Year blessings: "Abundance of Wealth", "Knack of Making Money", "Blessing of the Star of Fortune" and "Harmony".

By "Abundance of Wealth", I certainly do not mean an abundance of money. What I refer to are in fact layoffs¹. My TUNG has been advocating civil service reforms. As we all know, however, civil service reforms are essentially nothing but continuous outsourcing and manpower cuts, and because of this, even organizations with sufficient financial resources have followed suit and resorted to "downsizing" and layoffs, thus leading to social instability.

The second Chinese New Year blessing is "Knack of Making Money". Put simply, this means the request for a re-interpretation of the Basic Law from the National People's Congress², a move that has dealt a severe blow to the spirit of judicial independence upheld by us in the past. Besides, there was the Sally AW incident, which has also dealt a severe blow to our judicial system and the principle of "equality before the law".

¹ "Wealth" can be translated as "財源", carrying the pronunciation of "choy yuen", which is the same as that of "裁員", meaning "layoff" in English.

² "Knack of Making Money" can be translated as "生財有道", which can in turn be translated as "識得發財" in colloquial Cantonese. "識得發財" can be written in short as "識發", carrying the pronunciation of "sik fat", which is the same as that of "釋法", meaning "re-interpretation of the Basic Law" in English, in the context here.

As we talk about inequality, we note that another feature of Mr TUNG's administration is "Blessing of the Star of Fortune". Mr TUNG was elected to office by a small circle election; he therefore lacks any popular support and must rely on the backing of consortia. As a result, he has accorded priority to large consortia and commercial interests, thus sacrificing the interest of the common people.

Finally, it is "Harmony". Mr TUNG never tolerates any dissenting voices. Within the Government, he asks for "one voice". This has led him to take on only those he likes. The new accountability system for principal government officials will only further stifle dissenting voices.

Madam President, however reluctant the people are, they can do nothing but accept a further term of five years for Mr TUNG. I hope that the original meanings of the four Chinese New Year blessings can become the true reflections of society in the future.

Madam President, I so submit.

MR JAMES TIEN (in Cantonese): Madam President, no one is perfect. I think if we are to look back at the Chief Executive's administration during his term of office, we should divide the matters we look at into two major categories, that is, those related to economic issues and others to political development.

The financial turmoil in 1998 started in Southeast Asia. Hong Kong was at the time undergoing transition after the reunification, but we still managed to deal with the situation quite well. The Chief Secretary for Administration (then the Financial Secretary) warded off the international speculators and led us through the crisis. Overall, the Government and the Chief Executive did quite well at that time.

It is true that the ratings of Hong Kong have dropped in recent years. But I think this is largely due to the dollar peg, and this has been the common view of the Hong Kong people and even the Legislative Council so far. Our costs, wages, rents, electricity tariffs and even government fees are all high as a result. Nothing much can be done to change all this. Our competitiveness is weaker than before, but economically, Mr TUNG has already done all that he can. For instance, the quota of visitors from the Mainland has been abolished; if not

because of the good communication between Mr TUNG and Beijing, this will not have come so easily. At present, we are discussing the concept of a free trade zone, and Mr TUNG and officials of the Special Administrative Region Government are holding negotiations with Beijing on this. I hope this concept can be materialized as soon as possible, for it will do good to our economy.

When it comes to political development, we were at first, years back, gravely worried that we might lose many of our freedoms, such as freedom of speech; some Honourable colleagues belonging to the democratic camp even feared they might be thrown into prison. But all these worries have not come true so far. Recently, many television news networks which interviewed me years ago, such as CNN and BBC, have admitted to me that the situation in Hong Kong now is different from what was depicted by some in the past, that nothing bad had happened. I replied that I agreed with them. Hong Kong has achieved a very smooth transition in the political context, and I think Mr TUNG has made a very unique contribution in this respect.

Therefore, the Liberal Party is of the view that overall, Mr TUNG has really done a very good job over the past four years or so.

MR WONG SING-CHI (in Cantonese): Madam President, first of all, let me dedicate a poem to the Chief Executive on behalf of the elderly — "Yumeiren" (The Yu Beauty). But I have modified its title as "Yulaoren", meaning making a fool of the elderly.

"When will there be an increase in fruit grant,
As promised ages ago?
The Chief Executive told us so,
But unbearable hardship still tortures the old.
Promise of security should still hold,
Only that indifference has made things go so slow.
How long will the review last, officials?
Endlessly, so the river flows."

Madam President, when the Chief Executive assumed office five years ago, he pledged to let the elderly enjoy "a secure old age". But the resources committed by the Government to them has been much too meagre so far, much too meagre to offer any substantial help to many old people. At present, many

old people are still leading a life of poverty. This is really an insult to an affluent society like Hong Kong.

The Democratic Party and many in the community have time and again reflected the needs of the elderly to government officials. Due to the time constraints, I cannot repeat their demands here. I hope that my modified poem can move our government officials, make them do something for the elderly as quickly as possible and increase the fruit grant to \$1,000.

Thank you, Madam President.

MR LAU PING-CHEUNG (in Cantonese): Madam President, although the debate moved by Mr Martin LEE on the administration of the Chief Executive during his term of office is an adjournment debate, and although Mr LEE has done the best he can to use neutral wordings in the motion, I must still say that I personally do not think very much of the idea of making any hasty comments on others' achievements or faults. And, I guess Mr LEE may not like this idea either, which explains the neutral wordings used by him. I am led to think so because on 23 June 1997, when the last colonial Governor answered Members' questions in the Legislative Council, Mr LEE did not ask Governor Chris PATTEN any other questions except the one on what business was left unfinished. Also, on 27 June, during the valedictory debate, while many Members commented on the achievements and faults of the colonial administration, Mr LEE simply did not say anything about the colonial administration when he spoke.

The first term of the Chief Executive is about to come to an end, and besides Mr TUNG, who has declared he will stand for re-election, we do not yet know whether there will be any other candidates. It is thus much too hasty to appraise the work of Mr TUNG now, and neither will this help the second Chief Executive in his work.

As rightly mentioned by Mr TUNG himself in his review, his administration over the past five years is certainly marked by inadequacies. But at this historic juncture, in the absence of any precedent for "one country, two systems", Hong Kong under the leadership of Mr TUNG has still managed to have a smooth transition, to cope with the Asian financial turmoil, to implement the Basic Law and to maintain the way of life in Hong Kong. This is certainly a rare achievement.

All this is not to mention the fact that in apt reflection of his vision as a leader, Mr TUNG has set a new position for Hong Kong in its future development: reaching for the entire world with the Motherland as its support, a goal to be achieved by enhanced investments in infrastructure and education.

With these remarks, I wish to express my recognition and appreciation of the Chief Executive's administration during his term of office.

MS AUDREY EU (in Cantonese): Madam President, two minutes are certainly not enough for us to comment on the administration of Chief Executive TUNG Chee-hwa in the past four years, nor is such a time limit fair. That is why I will focus on the democratization of our political system only.

In this connection, I must "praise" Mr TUNG, for he is so "frank" about his own shortcomings. If we look at the seven major achievements listed in his booklet entitled "My Pledge to the People of Hong Kong", we will see that there is not even one single word on democracy. It seems that even he himself admits that he has done nothing in this respect.

Under the governance of Mr TUNG, democratization in Hong Kong, instead of showing any progress, has actually back-pedalled. The restoration of appointed membership for District Councils is bad enough as a step against principles of democracy; the scrapping of the two Municipal Councils on the excuse of rationalizing the municipal services framework has also greatly reduced the opportunities for those aspiring to a career in politics and community services. The Basic Law provides that there shall be a review of our political development in 2007 to map the way forward, but Mr TUNG has persistently evaded this issue. Mr TUNG was once described by some critics as having a phobia about democracy. I cannot agree more to this diagnosis.

What is even more disappointing is that in this election platform of his, Mr TUNG only says, "I understand and identify with the importance that the community attaches to the democratic ideal (and) will lay the best possible foundation for the smooth development of democracy." Mr TUNG has obviously underestimated the political maturity of Hong Kong people, thinking that we are not yet "smart" enough to elect our own leader. Such a viewpoint was best exemplified by the remarks made by one apologist of coterie elections in the Legislative Council: "The election of the Chief Executive is just like

picking a durian — a job which can only be done well by experts." Madam President, now that "one country" is already in practice, I just wish to ask, "When can the people of Hong Kong really become the master of their own house?"

MR WONG YUNG-KAN (in Cantonese): Madam President, on behalf of the Democratic Alliance for Betterment of Hong Kong, I wish to say a few words on the improvements to food safety work over the past four years.

During the period immediately following the first outbreak of avian flu, people could all see on television and from the press the very chaotic manner in which the Government handled the incident. They could also notice that the serious problems caused by a lack of co-ordination among different departments, in particular, were largely responsible for the deterioration of the situation. Fortunately, since the Government took back the power of food safety management from the two Municipal Councils, the overall food safety management of the Government has become much more efficient and effective than before. The Government's handling of the avian flu outbreak last year was a good example; the various sectors of society all commended the Environment and Food Bureau for its decisive and appropriate actions, for the progress it had achieved since the first outbreak of avian flu.

In addition, since its establishment, the new Environment and Food Bureau has been making continuous efforts to reform the old systems, particularly the systems of food establishment inspection and licensing, which used to draw frequent criticisms from the industry and the public. With the consensus of the industry that "the easy should be tackled before the difficult", the Government has accorded priority to those matters for which there is already a consensus. This has laid a sound foundation for addressing the problems with the existing mechanisms.

Lastly, it must be pointed out that after some two years of contact, the Environment and Food Bureau, the Food and Environmental Hygiene Department and the Agriculture, Fisheries and Conservation Department have all started to attach importance to the views of the industry. Whenever there are any policy changes, they will always approach the industry proactively and assess the possible impacts. Although the Government may not always accept the views of the industry, its willingness to approach the industry and understand

their situation will definitely be useful in fostering joint efforts of improving food safety in the future.

Thank you, Madam President.

MR FREDERICK FUNG (in Cantonese): Madam President, philosopher Ren DESCARTES explored human existence on the basis of "I think therefore I am". The Chief Executive has sought to develop this into "That which I talk not more about therefore no longer exists", in an attempt to explain away the discontinued existence of the housing construction target of 85 000 units. The philosophy behind this is indeed beyond the comprehension of the ordinary mind. I am sure that if DESCARTES were still alive, he would have found it necessary to seek enlightenment from the Chief Executive.

Many people think that since the Chief Executive wishes to safeguard the interests of millionaires, he has instructed top government officials to do away with public housing through every possible means, such as a drastic downward adjustment of the income and asset ceilings for public rental housing and Home Ownership Scheme (HOS) applicants, suspension of HOS unit sales, introduction of a massive home loan scheme, and replacement of public housing construction by cash subsidy, without carrying out any consultation beforehand. I have heard that the Chief Executive has tried continuously to force people to buy private housing properties not so much because he wants to safeguard the interests of property tycoons but rather because problems of short-piles, hollow wooden doors and settlement of foundation and housing blocks have occurred with public housing. Well, in that case, I guess people's safety must have been the main consideration of the Chief Executive, and I also guess it is this consideration that has prompted him to act as swiftly as in the case of slaughtering chickens and move people out of public housing without any delay, and without any consultation. His actions are really well-intentioned.

The national soccer team of China has finally kicked its way into the World Cup Finals after many years of struggle; likewise, the Chief Executive has also kicked people into the private property market after many years of struggle. The Chief Executive has introduced many initiatives in the area of housing, only that we the common people are just not intelligent enough to understand all these initiatives. But in any case, we the common people will never support the housing policy of replacing public housing by private housing.

MR HOWARD YOUNG (in Cantonese): Madam President, I speak from the perspective of the tourist industry of which I represent and know so well.

With respect to the administration of the Chief Executive over the past four years, I am sure that in tourism, the people of Hong Kong, including the sector itself, would appreciate the efforts made. The Government of the Hong Kong Special Administrative Region (SAR) has affirmed the importance of tourism to the economy and changed its previous stand of non-intervention to proactive participation. The goal is to entrench the status of Hong Kong as the most popular tourist destination in Asia.

On inbound tourism, the Chief Executive has acceded to demands from the tourist industry and appointed a Commissioner for Tourism to promote the development of the tourist industry in Hong Kong.

Of course, we are most thrilled and encouraged when the territory succeeded in its bid to build a Disneyland here. That will be of great help in promoting the tourist industry here.

As for measures to relax restrictions on tourists coming to Hong Kong, the SAR Government has been engaging in talks with the Mainland to further relax the restrictions on mainland tourists coming to Hong Kong. The Government will soon launch the express visa scheme on the Internet to facilitate Taiwanese tourists coming to Hong Kong.

But progress has been very slow with respect to the building of tourist spots. For each project, it has to go through a number of departments as it proceeds from the stages of proposal, planning, consultation and finalization. For example, the construction of the cable car system on Lantau Island has to take as many as eight years. That may result in the loss of competitiveness of the territory.

In respect of outbound tourism, before the reunification in 1997, many people had worries about the freedom of entry and exit from the territory. Thanks to the efforts made by the SAR Government, the number of countries giving holders of the SAR passport visa-free treatment has surpassed that of the countries giving the same treatment to holders of the British Nationals (Overseas) passport. This extensive recognition of the SAR passport has given an impetus to outbound travel.

In sum, the efforts made by Mr TUNG Chee-hwa, the Chief Executive, in promoting the tourist industry in Hong Kong are evident to all. However, the bureaucratic system of the SAR Government has caused delays to the implementation of certain policies. In future we hope that the Government can streamline the related procedures to boost the growth of the tourist industry.

PRESIDENT (in Cantonese): Mr YOUNG, your time is up.

MR CHEUNG MAN-KWONG (in Cantonese): Madam President, in *Animal Farm*, the novel written by George ORWELL, there is a famous saying that "All animals are equal, but some are more equal than others." These are the best words to describe the latest education policy of TUNG Chee-hwa.

Prior to announcing his intention of running for a second term of office, TUNG Chee-hwa suddenly proposed the new elitism by directly naming that Direct Subsidy Scheme (DSS) schools are the hopes for the cultivation of top-notch talents. He is propelling the tide of turning prestigious schools into elite schools by introducing the class-segregating education system into Hong Kong, and this move of turning universal education into fee-charging education will reduce the opportunities of children of the grassroots to receive quality education.

At present, elite and prestigious schools are increasing in number, and charging increasingly expensive fees. According to the latest market information, the annual school fees for a primary pupil are \$40,000 and \$60,000 for a secondary school student. Some people have calculated that apart from other fees, a student has to pay \$660,000 in school fees to complete the education from primary to matriculation, and so along with other fees, \$1 million is the minimum charge. May I ask how a grass-roots family or a middle-class family in possession of negative assets and insecure employment can afford that?

The philosophy of education of TUNG Chee-hwa is becoming more and more commercialized. Besides prestigious DSS, the Government is planning to

curb the subsidies to university students and to require sub-degree programmes, master degree courses and pre-employment training programmes to be self-financing. It can be envisaged that education will become another heavy burden to families besides mortgage.

Madam President, education is a mechanism enabling class mobility, and elites should not be demarcated by their wealth or poverty. But education in Hong Kong is migrating from equal opportunities to privileges of the rich, a remake of the *Animal Farm*, a retrogression of education policy. It should be stopped immediately. Thank you.

DR DAVID CHU: Madam President, contrary to the 1997 *Fortune Magazine* cover story, "The Death of Hong Kong", now five years on, we are all alive and strong. And the magazine is selling as well as ever. This clearly shows that both Hong Kong and poor judgements in journalism are hard to eliminate.

No one ever claimed the transition from a hundred-year-old British colony to a Special Administrative Region of China is easy, but we Hong Kong people are used to doing the impossible. If we merely did what is possible, we could not have survived for over a century crowding on this tiny piece of rock in the South China Sea.

Mr TUNG Chee-hwa played a critical role and made a great contribution in this unique, complex and difficult transition. Could anyone else do better? I think even history cannot answer this question. But this is not the point. What is important is that we have already proved that we succeeded, succeeded in proving all critics wrong. So next time, before anyone even thinks of talking down Hong Kong, please remember that Hong Kong people under the leadership of Mr TUNG have made "one country, two systems" a rock solid reality, a reality that can withstand the challenge of time and history. Thank you.

MR ANDREW CHENG (in Cantonese): Madam President, because of the time constraint, I have prepared a doggerel on the labour policy as a gift to the Chief Executive to look back on his policy in the perspective of the labour policy:

"Mr TUNG is really incapable of solving the unemployment problem, Thinking the creation of new jobs would demonstrate his proactive momentum.

However, he ignored the growth figures in our labour population, And so the jobs created were nothing but slavery and exploitation.

Training expenses are huge but not good value for money,
And a job for non-skilled workers is still a search down the blind alley.
Taxi drivers work two shifts to make two meals,
But Mr TUNG still tells them to stuff English into fatigued limbs to add value.

Workers phoned in to tell Mr TUNG living is hard to make,
Only to be told to hang on by munching mooncakes.
Workers really lack the strength to protect their interests,
Whilst the median wage devaluates year after year.

And there is still the dreadful median work-hour unit,
With a 48 hour-week, how could that give you any benefit?
Frequently do we suggest the hours be capped, the Administration just wouldn't do it.
On the pretext of business environment, you have to work till you're flat out, till you're flat out."

Madam President, the word "you" in this doggerel is reference to the labour sector, not you.

Madam President, I so submit.

MISS CHOY SO-YUK (in Cantonese): Madam President, I will focus on the Chief Executive's efforts in environmental protection.

I believe any persons who care about the environmental protection efforts in Hong Kong will agree that Mr TUNG Chee-hwa has indeed made significant contribution to the area.

To begin with, before the reunification, the people of Hong Kong were unconcerned about not only environmental protection issues; they also remained silent in the face of the former Government's many erroneous environmental protection policies which were counter-productive to green efforts. In 1998, just one year after the reunification, the Chief Executive went to great lengths in his policy address to present his pledges in relation to environmental protection. These include measures like earmarking more resources for territory-wide publicity campaigns, making it an objective to improve air quality before 2005, setting up a Council for Sustainable Development, setting up an international expert panel to review the Strategic Sewage Disposal Scheme, expediting co-operation with the Mainland on protecting the environment, waste reduction, water quality improvement, and so on. As a result, environmental protection has become one of the issues of most concern to and often talked about by the people of Hong Kong.

Secondly, the Chief Executive has also rectified many mistakes made by the former Government before the reunification. The international expert panel which the people are most delighted to talk about now was advocated and set up by Mr TUNG Chee-hwa, and it has saved our so-called sewage disposal strategy. Otherwise, the dreadful consequences thus resulted would be inconceivable.

The waste recovery programme is another typical example demonstrating the Chief Executive's determination to put right the nasty mistakes made by the British-Hong Kong Government in the past.

Further still, the Chief Executive has also led the relevant government officials to implement the pledges he made in the policy address. Taking air quality as an example, more than 50% of the air quality objectives originally expected to take seven years to achieve have been attained in just three years' time. As for the other pledges and proposals, they have also been implemented one after another.

With these remarks, Madam President, I support the Chief Executive's administration over the past five years.

MR MICHAEL MAK (in Cantonese): Madam President, looking back on the past four-odd years, the Chief Executive's administration is like a report card filled with failing grades and poor remarks — terribly unsatisfactory! The

annual housing production target of 85 000 flats and the decision to request the National People's Congress to interpret the Basic Law have stirred up considerable resentment and discontent among the people. The undesirable consequences so caused are just too grave to be remedied!

On monitoring food safety, for example, avian flu is still menacing Hong Kong since its first outbreak in 1997, and it is very likely that we will not have any chicken to eat this year.

With regard to the public health care system, as the demand for public health care services has been on the increase in recent years, the market share of the system has expanded substantially to 94%, thereby giving rise to an acute shortage of manpower. The electors of my constituency are all faced with enormously heavy workload and work pressure, but the Government just keeps on turning a blind eye and a deaf ear to the situation. In insisting on implementing indiscriminately the so-called Enhanced Productivity Programme without paying any regard for the tremendous increase in demand, the Government has aroused great dissatisfaction among members of the sector and seriously injured their morale. As regards the Hospital Authority, its mechanism for appointment of members to the Managing Board is operating behind closed doors. Without any front-line officers and representatives of public opinions serving on the Board, more often than not this gigantic public body funded with nearly \$30 billion public money just indulges in its own arbitrary decisions regardless of others' opinions.

On top of that, the so-called reform proposals announced recently by the Medical Council of Hong Kong (MCHK), which always gives people the impression that it will never show remorse for its wrongdoings, are nothing new but old tricks for members of the medical circle to shield each other. Regrettably, however, the Administration has openly given support to the MCHK, paying no respect or regard for the basic rights and interests of the disadvantaged groups.

Madam President, even though life is precious, the number of people committing suicide in Hong Kong has been on the high side since the reunification. As the economy continues to remain in the doldrums, the number of people holding negative assets and those going bankrupt have risen to one

record high after another, while family tragedies keep on taking place from time to time. They reflect the fact that there are indeed many hidden problems in our society. But then, in replying to a motion on preventing and reducing suicide moved by me in this Council last year, the Administration only mentioned that the situation was not serious and thus did not call for any review. How can this "cold-blooded" Government win the support of the people?

Given that our incumbent leader's ability falls far short of his ambitions and his performance is far from satisfactory, he should have been dismissed quite a long time ago. But due to the stubbornness of those several hundred "eligible" electors who ignore the public opinions, he will be re-elected to the office again. Lastly, I must say that I am extremely disappointed by the Chief Executive's administration over the past four years, except the courage he has shown in putting forward the accountability system for principal government officials. I just hope he will do a better job in this respect in the future and not peter out towards the end. Thank you, Madam President.

MR LAU KONG-WAH (in Cantonese): Madam President, we were pursuing stability and prosperity before the Government of the Special Administrative Region (SAR) was established. Looking back on the past five years since the reunification, there are both experiences we can take pride of as well as lessons to learn by heart.

The first of my observations is that when certain members of our society talk about human rights, they only care about personal rights to the neglect of the rights of the general public. In other times, they just keep talking about rights but not responsibilities, or even advocate civil disobedience. I consider these persons who know the law but break it radicals.

As for some other people, whenever they talk about the rule of law, they will only support some of the provisions of the Basic Law but oppose the implementation of others. These people only choose to abide by the provisions of advantage to them and over-generalize things with their biased views. I consider these people radicals as well. Radical views may give rise to radical behaviour and even tragedies.

All along, the SAR Government has been implementing the provisions of the Basic Law to the full to resist the law-breaking radical behaviour and thus won the support of the public.

My second observation is that as the Government is still unable to make adjustment to its non-intervention policy, it can hardly help enterprises to enhance their international competitiveness effectively or put in efforts to improve the appeal of Hong Kong to overseas investors and entrepreneurs. What is more, some of the Policy Secretaries are still holding the view that there is no need for improvement measures because Hong Kong is investors' most sought after business centre. I consider such kind of mentality ossified.

There are also some other government officials who only mention two systems whenever they touch upon the concept of "one country, two systems". These officials only lay emphasis on the differences and contradictions between Hong Kong and the Mainland but neglect the need to co-ordinate and integrate with our partner. Some of them are even arrogant enough to alienate our partner or make light of the mutual benefits of good co-operation. I consider such attitudes ossified as well.

Ossified views may lead to ossified policies or even isolationism. In failing to fully re-adjust its mentality and views in the past, the SAR Government has encountered difficulties in facilitating the recovery and restructuring of the economy and thus invited condemnation from the public.

Madam President, the radical views in society and the ossified mentality of government officials are the factors that leave Hong Kong in dire straits. Thank you.

MR LEE CHEUK-YAN (in Cantonese): Madam President, today when Honourable colleagues look back on the Chief Executive's administration during his term of office, some have criticized the Chief Executive harshly while others sung praises of him. In any case, I wish to sum up Mr TUNG's contribution and faults over the past four years in a few most important words: political crisis and confidence crisis.

In fact, Mr TUNG has all along been earnestly advising the people of Hong Kong that it is most important to maintain their confidence. Nevertheless, this advice from Mr TUNG is partially correct only. This is because even though Hong Kong does have a confidence crisis problem under his rule. But the people of Hong Kong have not lost their confidence in themselves or the future of Hong Kong, they have only lost their confidence in Mr TUNG Chee-hwa and the Government of the Special Administrative Region under the leadership of Mr TUNG.

We may say that Mr TUNG is the origin of the confidence crisis in Hong Kong, bearing in mind that he is by no means any political figure capable of discharging the duties of the Chief Executive. He is appointed to the office simply because Beijing wishes to have an obedient person doing the job. So, after being handpicked by JIANG Zemin with a handshake, Mr TUNG was forcibly pushed to this high position, very much similar to the case of an ox being pulled to the top of a tree.

Mr TUNG says he was born in the Year of the Ox. Indeed, like an ox pulled to the treetop, he was promoted from the post of Managing Director of an enterprise to the office of the Chief Executive. The training Mr TUNG has received in his life is to prepare him as the Managing Director of an enterprise, not a politician. Upon the promotion, the Managing Director will very easily be biased towards consortia but against democracy. He also tends to employ those persons who are close to him, as he cannot tolerate people with dissenting views. All these, together with his over-ambitious ideas and the lack of political skills to communicate with the public, have eventually given rise to the confidence crisis facing Hong Kong today.

Perhaps Mr TUNG and his supporters also know it very well that Mr TUNG is but an ox forcibly pulled to the treetop. Hence, when singing praises of Mr TUNG, these supporters just can have nothing more to say than emphasizing that Mr TUNG is as hard-working and uncomplaining as oxen and horses. The speech made by the Honourable Ambrose LAU today is no exception. But then, what we need is "Hong Kong people ruling Hong Kong", not "oxen and horses ruling Hong Kong". We need a political leader capable of leading Hong Kong to move ahead into the future, not a plastic doll which people use to vent their spleen.

Madam President, now that the ox has been pushed up to the treetop, Hong Kong is like the tree pressed under that ox. If not for the perseverance of the people of Hong Kong, this tree would have been crushed by the ox and the heavy storms arising from the present economic recession for quite some time. An ox should be grazing on grasslands. For the sake of the ox and the tree, it is better not to pull the ox to the treetop anymore. Thank you, Madam President.

MR ABRAHAM SHEK (in Cantonese): Madam President, Hong Kong has been experiencing a severe economic downturn over the past four-odd years, so much so that the rate of unemployment just remains on the increase while property and land prices continue to plunge. Many other economic problems have also arisen as a result. Having said that, I wonder whether it has ever occurred to Honourable Members that if our society or political situation should be in an unstable state, the problems facing us would be even graver and the unemployment rate stands higher. Over the past four years, Mr TUNG and the Government under his leadership have given us a politically stable society and a sound foundation on which our future economic and political development may progress. In this connection, with the trust of the Central Authorities, Mr TUNG, our Chief Executive, has implemented the concept of "one country, two systems" to enable us to enjoy a high degree of autonomy. Besides, we can also enjoy fully the democratic political system, democracy and freedom we used to have before 1997. For this reason, Mr TUNG should indeed command our commendation.

On the other hand, as the Honourable James TIEN said earlier on, nobody is perfect and no policy is perfect either. Speaking of housing policy, I very much hope that Mr TUNG and his officials will refrain from intervening in the market anymore, so that the market can operate and make adjustments freely. Apart from that, the Government should also abandon the obsolete Home Ownership Scheme but construct more public housing units to enable the 90 000 households on the Waiting List to be allocated public rental housing expeditiously.

On the front of education, despite the considerable amount of public money spent on education expenses each year, the standard of our students still fails to meet our expectation. As such, I just hope the relevant government officials will do something to enable our students to enhance their performance in such subjects as Chinese Language, English Language, Mathematics, and so on.

Madam President, I and the sector I represent support very much the re-election of Mr TUNG to the office of Chief Executive.

MISS CYD HO (in Cantonese): Madam President, on the surface, the crisis facing Hong Kong today is the continual shrinking of our wealth and contracting economy. In reality, however, the problem remains that the people of Hong Kong have lost their confidence, and that we do not have any leader who is capable of uniting the people of Hong Kong to make a concerted effort to strive for a common goal.

Why is our community so divided nowadays and why are different groups rejecting each other? Actually, the Government has played a leading role in bringing about this situation. As such, it cannot shirk its responsibility in this connection.

To begin with, government officials from the Social Welfare Department always keep saying that the Comprehensive Social Security Assistance nurtures lazy bones. The labelling effect thus created has given rise to feelings of envy among the lower-income families. As the Government appeals to one group of impoverished people but attacks those who are even more poverty-stricken, an atmosphere of mutual distrust is therefore built up among these people. Secondly, regarding the right of abode issue, the Government has resorted to threatening the people of Hong Kong with that frighteningly huge figure of 1.67 million new arrivals, thereby causing the new arrivals and those who have arrived here earlier to hate each other. The resulting gap between the people of Hong Kong, which is indeed too wide to be filled, will certainly hinder the Government's administration in future.

For some short-term governing convenience, the Government has employed different tricks and devices to win over the support of a portion of the public. In exploiting the public opinion to rationalize its discriminatory policy, the Government has divided the community and sown seeds of disunity among the people. Today, the Government has to reap what it has sown. Regrettably, however, the people of Hong Kong also have to pay a price.

Actually, it is very easy for government decisions to win the people's support. So long as the political system is established by democratic means and

the public has a chance to participate in it, people will naturally support the Government. Under the present political system, the Chief Executive has to win the support of 800 electors, which means that he can at most unite only 800 people together. On the other hand, if our system requires the candidate to secure 3 million votes to win the election, the Chief Executive elect should then be able to unite 3 million people. A government with a popular mandate is a strong government; otherwise, it is just an overbearing and imperious government. In the past, Hong Kong did not have any democratic political system to handle and accommodate the different views in society. As regards Mr TUNG, I regret very much to say that he has just insisted on doing nothing to reform the political system during his term of office in the past four years.

MR TAM YIU-CHUNG (in Cantonese): Madam President, I should like to first respond to the speech made by Mr Martin LEE.

Mr Martin LEE misses the colonial rule of the British-Hong Kong Government very much and considers the present time not comparable to the old. To Mr LEE, Hong Kong used to be a "fat goose", but has now become a "sick goose". I should like to point out here that the "fat goose" was fattened artificially and would fall ill sooner or later, and now is the time to cure all those ailments.

Whereas there is no retrogression in Hong Kong's democratic development after the reunification, some academics and the public do consider that the Democratic Party indeed showed signs of retrogression in the election held in 2000. So, as far as retrogression is concerned, the problem of the Democratic Party is definitely more obvious and comprehensible.

During the term of office of Mr TUNG, major improvement in the services for the elderly has been recorded in the following three aspects.

Firstly, on the front of financial support for the elderly, the Government is now providing an annual payment of \$7.2 billion for elderly persons on Comprehensive Social Security Assistance, which is 53% higher than the amount paid in 1997.

Secondly, on accommodation, compared to the 1997 figure, the number of elderly persons provided with public housing by the Government has increased 23.7% to 78 800.

Thirdly, as regards residential, home and community care services for the elderly and other support services, the funding provided by the Government has increased to \$3.2 billion a year, 100% higher than the funding provided in 1997.

Certainly, it is just impossible to give a full account in just two minutes' time. But then, if we believe in opinion surveys, we can see in the various surveys conducted recently three phenomena which can be summed up as follows: the people have regained confidence, the Chief Executive's popularity is on the increase, and hence there is no market for the anti-TUNG activities.

Before 1997, Mr Martin LEE was already telling people overseas that Hong Kong would almost be "doomed" after 1997, and the long speech he made this evening is actually a replica of that idea. I believe members of the public will have even greater confidence when the Year of the Horse arrives, and that we will strive successfully for the future development of Hong Kong with the bounce and vigour of a horse. Thank you, Madam President.

MR MA FUNG-KWOK (in Cantonese): Madam President, over the past few years, the Government of the Special Administrative Region (SAR) under the leadership of Mr TUNG Chee-hwa has, in addition to implementing the concept of "one country, two systems", achieving smooth transition and enforcing the Basic Law to provide the people of Hong Kong with the various rights and protection specified therein, done a lot of other work in policy areas within its jurisdiction. These include expediting the supply of public housing, increasing substantially the investment in education, and so on, all of which are efforts worthy of approval.

Today, I only wish to particularly point out that during the period around the reunification, the performing arts industry was on the brink of collapse because of the severe blows dealt by the rampant pirating activities and the shrinking regional market. After the reunification, in view of the actual situation the SAR Government has abandoned the attitude of the former Government, which used to make light of the industry, and adopted active

measures to combat pirating activities with full vigour. Thanks to the supporting measures and legislation formulated by the SAR Government, the industry can have the support and breathing chance it needs to rise again in great vigour, recover expeditiously, and eventually bring glory to Hong Kong.

On behalf of the members of the performing arts industry, which is so unique, creative and has great potentials of development, I should like to express our heartfelt gratitude to the SAR Government for the good efforts it has made to save the industry from its desperate situation. The industry also hopes to continue to receive support from the Government.

Madam President, the administration of any government will certainly have room for improvement. As regards the SAR Government, due to the failure to fully understand the needs of the public and the changes in society, some of its policies have given rise to problems and thus attracted criticisms. I hope that the SAR Government can draw lessons from these experiences and do more consultation work in future to better understand the needs of the public and enhance the transparency of its administration, with a view to doing an even better job of serving the people.

I so submit. Thank you, Madam President.

MR JASPER TSANG (in Cantonese): Madam President, earlier on Mr Martin LEE mentioned that the many strengths Hong Kong had before the reunification had made him believe deeply that Hong Kong, upon reunifying with China, could give an impetus to the country's development. Frankly speaking, Madam President, I had never heard Mr Martin LEE said before the reunification that he trusted the principle of "one country, two systems" could be implemented successfully in Hong Kong after 1997. In fact, I have recently met with many people from overseas who had heard and believed in the words said by Mr Martin LEE before. Now that they are in Hong Kong, these people all tell me that they are really surprised to see the successful implementation of the principle of "one country, two systems" here.

Many of the foreign governments holding a critical attitude towards Hong Kong (including the British Government and the Government of the United States), also admit in their regular assessment of Hong Kong that the principle of

"one country, two systems" has indeed been implemented successfully in Hong Kong. If Mr Martin LEE compares Hong Kong's situation today with the prediction he made before 1997, he should believe that the present situation is no worse but a lot better than the situation conceived by him in the past.

Hence, we can hear many people say that because of the development over the past few years, many people of Hong Kong feel that before the reunification we were too pessimistic about Hong Kong's political future but too optimistic about the development of Hong Kong economy. In the face of the economic hardship Hong Kong is now suffering, Mr Martin LEE put all the blame on the SAR Government. Mr LEE said the SAR Government has changed the governance of Hong Kong from "active non-intervention" to "having a hand in everything". But then, Mr Martin LEE's fellow party members in this Council are asking the SAR Government to have a hand in just everything. Seeing that Hong Kong is now caught in an economic recession, they query the Government what it has done to tackle the situation; when they see that many people are burdened with negative assets, they then ask the Government what it has done for those people. Even for problems like the inability of non-skilled workers to seek self-enhancement and the difficulty taxi drivers have in making ends meet despite the additional shifts they work, they all say those are the responsibilities of Mr TUNG Chee-hwa. Does the Democratic Party really want the SAR Government to have a hand in everything?

PRESIDENT (in Cantonese): Members have already spoken. I now call upon the Chief Secretary for Administration to reply.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, I would like to thank the Honourable Martin LEE for proposing this adjournment debate and Members for their remarks. Timely review of our experiences over the past four years or so could provide useful guidance on our way ahead, enabling the SAR Government to have a better grasp of and be more responsive to people's sentiments and requests in future. We hope all these would contribute to building consensus within the community, and hope to consolidate people's support for the Government's work.

In the past four years or so, the Chief Executive has steered the SAR Government through three major challenges. First, we have implemented the

unprecedented concept of "one country, two systems". Second, we have defended our economy in the midst of the Asian financial turmoil, and established the strategy for the economic transformation of Hong Kong. Third, to pave way for the further development of Hong Kong, we have undertaken a series of reforms, including education reform, introduction of the accountability system and civil service reform. It is by no means an easy task to tackle any one of these challenges, let alone handling all three of them at the same time under the increasingly robust and sophisticated scrutiny of the Legislative Council and the media compared to that before 1997. The difficulties involved are not difficult to conceive. Immediately before and after our reunification with the Mainland, the innovative concept of "one country, two systems" were reckoned with doubt and skepticism. An authoritative international magazine went so far as to announce that "Hong Kong is dead". With the support of the Central Government and the determination of the people of Hong Kong in the past four years or so, we have successfully achieved this historic mission. While we turn the concept of "one country, two systems" into a reality under the stewardship of the Chief Executive, we preserve the best of everything Hong Kong stands for — governance by the rule of law, a free economy, a clean Civil Service, a level playing field, freedom of speech and the press. These advantages have maintained Hong Kong's position as the best place to do business. The successful implementation of the "one country, two systems" concept can best be demonstrated by the return of many Hong Kong residents who migrated overseas before 1997.

As both a SAR citizen, and an official of the SAR Government, I take pride in this achievement and I share this pride with my fellow citizens in Hong Kong. Let me now give an account of the key initiatives set by the SAR Government to carry out the Chief Executive's blueprint and the achievements we have made in the past four years or so.

On strengthening our financial system, in the face of the worst financial crisis the region has known in our lifetime during the past four and a half years, we saved not only our currency but also our economy. In the wake of that, we have made sure that the structure and operation of our financial system is up to world-class standards. We have further liberalized our banking system and deregulated interest rates; we have merged and listed our securities and futures markets; we have upgraded the e-infrastructure of our financial market. We have introduced payment-versus-payment settlement in US dollar, making Hong Kong the first place in the world offering payment-versus-payment settlement

between two different currencies. Furthermore, we have introduced the Mandatory Provident Fund system that not only has injected significant sums into our debt market, but will also provide protection for our ageing population. Our financial system has developed so remarkably during the period that we can indeed hold our own with New York and London.

At the same time, we continue to invest in our infrastructure and actively develop our transport networks for improving the overall business environment of Hong Kong. The completion of the Ting Kau Bridge and the Airport Railway provide well-connected transport facilities for our international airport. Route 3 and other trunk roads have also been put into use. The magnificent Hong Kong International Airport opened just over three years ago is now a regional hub of air transport. Meanwhile, we are hard at work on Container Terminal No. 9. When it is completed in 2004, our port will be handling the equivalent of one box per one-and-a-half seconds, 24 hours a day, seven days a week.

Progress on other major infrastructure projects is equally encouraging. Among them are the Penny's Bay Reclamation Works for the Disney Theme Park, the construction of Science Park Phase I and numerous school improvement programmes.

In the past four years, as much as \$25 billion to \$27 billion have been expended on our public works programmes annually and we managed to complete most of the projects on schedule. We have also mapped out the blueprint for our future infrastructure development, under which a new railway project will be completed in almost each of the five years to come, namely, MTR Tseung Kwan O Extension this year; West Link next year; Ma On Shan to Tai Wai Rail Link and KCR Extension to Tsim Sha Tsui in 2004; Penny's Bay Rail Link in 2005; and Sheung Shui to Lok Ma Chau Spur Line in 2007.

On enhancing and protecting our environment, our unrelenting efforts over the past two years are achieving good results. To date, 80% of the taxi fleet is powered by the environmentally friendly liquefied petroleum gas. Ultra low sulphur diesel is also available in the market. That is five years ahead of Europe's plan for the implementation of this standard, and the roadside air quality readings also confirm that the air quality in Hong Kong has become much cleaner. We will also be working more closely with the authorities concerned in the Mainland, with a view to reaching a consensus by end of April on a joint

plan to implement long-term measures to improve the air quality of the entire region. Stage One of the Harbour Area Treatment Scheme has been fully commissioned in late 2001 and is now treating 70% of the sewage from the urban areas on both sides of the Victoria Harbour.

On improving our human capital, education remains to be our top priority. We have consistently invested in human capital on a vast scale to build up a good quality and sizable base of brainpower to support a knowledge-based economy with high value-added economic activities. We have vastly improved the quality of teaching and learning in our basic education system, by greatly increasing the provision of facilities and resources for each and every primary and secondary school, cultivating a new culture of IT-aided teaching, enhancing teachers' flexibility over their teaching approach and curriculum design, and phasing out examination-based rote learning. In addition, the Government has approved over the past few years school sites and new school premises, which will house 26 Direct Subsidy Scheme schools and eight quality private schools, so as to achieve the goal of diversity in school operation. With a high degree of autonomy and flexibility in curriculum design, these schools are well equipped to meet the demand of both students and the community as well as the development of our economy.

We have further enhanced our tertiary education system and made more places available for our young people who have the ability and wish to pursue their studies. Our goal is to provide tertiary education options to 60% of our students within a decade. We also promote a spirit of lifelong learning. We have set aside \$5 billion to provide funding support to those who invest in their own development through continuing education. As education is a long-term commitment, we must proceed step by step with care and prudence. The SAR Government fully appreciates that insofar as education is concerned, it is only natural that people from different sectors may have different views, but it is next to impossible for us to be able to meet the aspirations of all. That is why we take each of the reform measures through a long process of careful deliberations and thorough consultation before putting them into practice. Schools, teachers and parents are also given reasonable options. I wish to appeal to educationists, parents and the community at large to set aside differences and join hands in support of the education reform in the long-term interest of Hong Kong, so as to create a better Hong Kong and a brighter future for our next generation.

Some Members have mentioned the interpretation of the Basic Law by the National People's Congress and the status of the Court of Final Appeal (CFA). The whole dispute appears to revolve around the handling of right of abode cases. I would like to reiterate here that the SAR Government fully respects the rulings of the CFA and has allowed 4 000 applicants of the right of abode to stay in Hong Kong, in accordance with the Court's ruling in January 1999. Likewise, the Government fully abides by the ruling of the CFA on the right of abode cases on 10 January this year. In the past few years, the participation of senior and respectable Judges from the United Kingdom, Australia and New Zealand in the work of the CFA is testimony to the full confidence the international judicial community has in Hong Kong's judicial system.

Madam President, looking ahead, the SAR Government will spare no effort in contributing to the continuous development of Hong Kong, in order to accomplish the major tasks that fall upon us. With more frequent interactions between Hong Kong and the Mainland after the reunification, some people predict the decline of Hong Kong on the basis of a diminishing role as a propellant to China's economic growth after China's accession to the World Trade Organization. Some pessimists even see Hong Kong being overtaken by other cities in the region. But to my mind, Hong Kong's unique position and the well-established win-win relationship between Hong Kong and the Mainland remain unchanged.

We are actively looking into our collaboration with the Pearl River Delta, hoping to find concrete ways to broaden our economic base, to open up more investment and employment opportunities for local businesses and job seekers, and to contribute to the economic development of the Mainland. So long as our businessmen display their legendary skills and adaptability in tandem with the hardware and software we are putting in place jointly with the Mainland, in particular the Pearl River Delta, Hong Kong has every opportunity to write yet another critic-confounding chapter in its unlikely history. It is up to us to seize the moment, or lose the day.

Now I want to talk about property prices. Some properties have devaluated in the wake of the Asian financial turmoil. Those who bought their properties at high price have now become negative equity owners. We fully understand and sympathize with their plight. To provide them with some reliefs, the Government has already increased the deduction for housing mortgage interest payment from \$100,000 to \$150,000. The Hong Kong Monetary

Authority has also relaxed certain restrictions, so that banks are allowed to provide a home mortgage loan at 100% of the market value of the flat when these owners apply for re-mortgage. We have actively liaised and communicated with all parties concerned. In consultation with us, the banking sector has introduced various measures to relieve the financial burden of the negative equity owners. At the same time, the Government has made the necessary adjustments to the policies on land supply and housing with a view to ensuring that housing resources are allocated in a more reasonable way and through a more transparent process. We believe that these moves would contribute to the healthy development of the property market.

On the issue of training and retraining, as a result of the economic downturn, private enterprises have been streamlining their operations and become more prudent in containing their establishments. The labour market has been slackening since the middle of last year. We understand Hong Kong people's pressure and anxiety arising from the unemployment problem. The Government has been tackling the problem by improving our business environment, creating jobs and enhancing vocational training and retraining. We have been proactive in creating jobs and have created over 15 000 new jobs since 2000. In his policy address last year, the Chief Executive announced the plan to create some 32 000 new jobs. So far, 3 600 new jobs have been created, and our target is to provide a total of about 8 000 jobs within this financial year. We anticipate that another 17 000 jobs or so will be created in the coming financial year.

In the past four years or so, the Government has introduced substantial reform to the Civil Service. Our objective is to create an environment more flexible and conducive to our strive for excellence. A number of these reform measures have been carried out, including the implementation of a new entry system. New recruits are now required to serve on a three-year probation term and another three-year agreement term before becoming permanent civil servants. We have introduced a Civil Service Provident Fund Scheme, under which new recruits are offered retirement protection. We conduct regular reviews on the starting salary to reflect the market situation. The Voluntary Retirement Scheme has also been implemented in 59 designated grades. Following the departure of some 9 400 applicants under the scheme by the end of 2002, the same number of posts will be deleted. This will bring about annual savings of about \$1 billion for the Government in the long run. With the streamlined disciplinary procedures, disciplinary cases will be handled more promptly. We

have also embarked on a comprehensive review of the civil service pay policy and system, with a view to making the Civil Service simpler and building into it more flexibility.

We will make reference to the best practices in civil service pay administration in other governments to facilitate better match of jobs, talents and pay. In proceeding with the review, we will ensure that our remuneration policy remains to be the cornerstone of our clean and highly efficient Civil Service.

Madam President, the Chief Executive and the SAR government officials have proactively tackled the various challenges since the reunification. I would like to take this opportunity to reassure the community at large that the SAR Government will draw on the experiences of its administration over the four past years. We understand our faults as well as success in the past. We will strive to preserve the values that have long underpinned Hong Kong's success, while building on our strengths to scale new heights in the future. If we could draw on our reserves of strength and spirit to see us through our present challenges, I am confident that a better Hong Kong and a brighter future is just ahead of us. Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That this Council do now adjourn. 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 3.00 pm on Thursday, 7 February 2002.

Adjourned accordingly at half-past Seven o'clock.

WRITTEN ANSWER**Written answer by the Secretary for Transport to Mr SIN Chung-kai's supplementary question to Question 2**

I refer to the Honourable Member's follow-up question regarding whether, for the Tseung Kwan O Extension (TKE) project, the MTR Corporation Limited (MTRCL), had:

- (a) entered into any Supplemental Agreement with its contractors; and
- (b) made any unusual extra payments or compensation to its contractors.

We have approached the MTRCL for the necessary information. The MTRCL has advised that it does enter into Supplemental Agreements with its contractors as a normal activity within its approved contract administration procedures.

The MTRCL has formalized 23 Supplementary Agreements for the Railway Works for Unforeseen Ground and Other Conditions (contractors entitlement under the contract conditions) (HK\$200 million), Programme Protection Measures (where contractors are entitled to extensions of time under the contract and additional resources are employed to protect the original programme) (HK\$161 million), and Remeasurement (where final measured quantities differ from the contract) (HK\$51 million). The total amounts to HK\$432 million, representing about 2.4% of the cost estimate of the TKE project (which is HK\$18 billion).

The MTRCL has confirmed that it has not made any unusual extra payments or compensation to its contractors on the TKE Railway Project.

Annex II

MANDATORY PROVIDENT FUND SCHEMES (AMENDMENT) BILL 2001

COMMITTEE STAGE

Amendments to be moved by the Secretary for Financial Services

<u>Clause</u>	<u>Amendment Proposed</u>
2(a)	<p>(a) In subparagraph (ii), in the proposed definition of "company", in paragraph (b)(i), by deleting "'oversea company", "</p> <p>(b) By deleting subparagraph (iv).</p> <p>(c) In subparagraph (v), in the proposed definition of "mandatory contribution" -</p> <p>(i) in paragraph (a), by deleting "paid or payable" and substituting "required to be paid";</p> <p>(ii) in paragraph (b), by deleting "5(1)(b)" and substituting "5(1)".</p> <p>(d) By deleting subparagraph (vii).</p> <p>(e) In subparagraph (x) -</p> <p>(i) by deleting the definitions of "offering document" and "participation agreement";</p> <p>(ii) by adding -</p> <p style="text-align: center;">"'conditions" (條件) means reasonable conditions;"</p>

ClauseAmendment Proposed

2(b) By deleting the proposed section 2(3) and (4) and substituting -

"(3) For the avoidance of doubt, it is hereby declared that an amount that is paid as a contribution to a registered scheme contingently on the basis that the amount will later constitute a mandatory contribution to the scheme shall for all purposes be treated as a mandatory contribution to the scheme (and the provisions of this Ordinance shall apply accordingly) unless and until it is certain that the amount will not constitute a mandatory contribution to the scheme."

New By adding -

"2A. Exemptions

Section 4(3) is amended by adding "and section 11(1) and (2)" after "(5)".

4 By deleting the proposed section 6QA and substituting -

"6QA. Authority may borrow money

The Authority may, with the approval of the Financial Secretary, borrow money temporarily, on such security or other conditions as it considers expedient, for the purposes of -

- (a) the settlement of transactions in securities;
- (b) acquiring an overdraft banking facility;

<u>Clause</u>	<u>Amendment Proposed</u>
	(c) dealing with an emergency; or
	(d) dealing with any other circumstances which could not have been foreseen."
7(a)	By deleting "subject to" and substituting "in accordance with".
8	(a) In paragraph (a) - (i) in the proposed section 11(1), by adding "or is exempted under section 4(3)" after - (A) "retirement age"; (B) "that age"; (ii) in the proposed section 11(2), by adding "or is exempted under section 4(3)" after "retirement age".
	(b) In paragraph (b), in the proposed section 11(7)(b), by deleting "5(1)(b)" and substituting "5(1)".
9	In the proposed section 20(12) - (a) in paragraph (b)(i), by deleting "7 working" and substituting "30"; (b) by deleting everything after "then the" and substituting -

ClauseAmendment Proposed

"Authority may, by written notice served on the approved trustee -

(c) amend any conditions imposed under subsection (8) or this subsection with respect to the conduct of the approved trustee's business; or

(d) impose conditions with respect to the conduct of the approved trustee's business."

10(d) (a) In the proposed section 21(12) -

(i) in paragraph (b)(i), by deleting "7 working" and substituting "30";

(ii) by deleting everything after "then the" and substituting -

"Authority may, by written notice served on the approved trustee -

(c) amend any conditions imposed under subsection (8A) or this subsection with respect to the administration or marketing of the scheme; or

ClauseAmendment Proposed

(d) impose conditions with respect to the administration or marketing of the scheme."

(b) By adding after the proposed section 21(13) -

"(14) The Authority shall not impose under this section any conditions with respect to the marketing of a registered scheme, or amend any conditions imposed under this section with respect to the marketing of the scheme, unless the imposition or amendment, as the case may be, falls within the ambit of the guidelines."

11(d)

(a) In the proposed section 21A(12) -

(i) in paragraph (b)(i), by deleting "7 working" and substituting "30";

(ii) by deleting everything after "then the" and substituting -

"Authority may, by written notice served on the approved trustee -

(c) amend any conditions imposed under subsection (8A) or this subsection with respect to the administration or marketing of the scheme; or

ClauseAmendment Proposed

(d) impose conditions with respect to the administration or marketing of the scheme."

(b) By adding after the proposed section 21A(13) -

"(14) The Authority shall not impose under this section any conditions with respect to the marketing of a registered scheme, or amend any conditions imposed under this section with respect to the marketing of the scheme, unless the imposition or amendment, as the case may be, falls within the ambit of the guidelines."

15 By deleting the clause.

Schedule (a) In section 1(d), by adding -

"offering document" (要約文件), in relation to a registered scheme, means a document -

(a) inviting participation in the scheme by prospective participating employers or prospective members of the scheme; and

(b) containing information relating to the establishment or administration of the scheme;

ClauseAmendment Proposed

"participation agreement" (參與協議), in relation to a registered scheme, means an agreement -

- (a) between a participating employer and the approved trustee of the scheme for the employer and his employees to participate in the scheme;
 - (b) between a self-employed person and the approved trustee of the scheme for the self-employed person to participate in the scheme; or
 - (c) between a person intending to maintain a preserved account in the scheme and the approved trustee of the scheme;"
- (b) In section 2(b), in the proposed section 6(3)(b)(i), by deleting "7 working" and substituting "30".
- (c) In section 5(b), by deleting the proposed section 63(2A) and substituting -

"(2A) In respect of an amendment proposed to be made or made to the governing rules in respect of or by a participation agreement of a registered scheme -

- (a) subject to paragraph (b), subsections (1) and (2) shall

ClauseAmendment Proposed

not apply unless the amendment relates to mandatory contributions or voluntary contributions;

- (b) subsections (1) and (2) shall not apply if the amendment is in a form approved by the Authority for the purposes of this section."

- (d) By adding -

"5A. Section added

The following is added -

"63A. Amendments to offering documents require Authority's approval

(1) An approved trustee of a registered scheme must notify the Authority in writing of any amendment proposed to be made to the offering document of the scheme and lodge with the Authority a copy of the proposed amendment.

(2) Any amendment to the offering document of the scheme shall not be made available to scheme members, prospective scheme members, participating employers or prospective participating employers until the Authority has given written notice to the trustee that the Authority has approved it.

ClauseAmendment Proposed

(3) In this section, a reference to an amendment to the offering document of a registered scheme includes a reference to addition of new provisions, or substitution or omission of existing provisions, of the document."."

(e) In section 8 -

(i) in paragraph (a), in the proposed section 78(6)(a)(iii), (b)(iii), (c)(ii), (d)(ii), (e)(ii) and (f)(ii), by deleting "5(1)(b)" and substituting "5(1)";

(ii) in paragraph (b), in the proposed section 78(7)(b)(ii) and (d)(ii), by deleting "5(1)(b)" and substituting "5(1)";

(iii) in paragraph (c), in the proposed section 78(8)(a)(ii) and (b)(ii), by deleting "5(1)(b)" and substituting "5(1)";

(iv) by adding -

"(d) by adding -

"(10) For the avoidance of doubt, it is hereby declared that this section does not operate to require the trustee to divide a member's sub-account into any further sub-accounts."."

ClauseAmendment Proposed

- (f) By deleting section 17 and substituting -

**"17. Circumstances in which
persons are exempted
from operation of the
Ordinance**

Section 203(1)(b) and (2) are amended by
repealing "12" wherever it appears and substituting
"13".

- (g) In section 18, by adding before paragraph (a) -

"(aa) by adding after item 23 -

"23A 63A Amendments 10,000 20,000 50,000";".
to offering
documents
require
Authority's
approval

Annex III
25 January, 2002

律政司
刑事檢控科
香港金鐘道66號
金鐘道政府合署高座7樓
圖文傳真：852-2869 0236



DEPARTMENT OF JUSTICE
Prosecutions Division
7/F., High Block
Queensway Government Offices
66 Queensway, Hong Kong
Fax: 852-2869 0236

本司檔號 Our Ref: WSCC 13512/2001
來函檔號 Your Ref:
電話號碼 Tel. No.: 2867 2274

Clerk to the Legislative Council
Legislative Council Building,
8 Jackson Road,
Central,
Hong Kong.

Dear Sir,

HKSAR v Leung Kwok-hung and Koo Sze-yiu
Case No.: WSCC 13512/2001

Application for Special Leave of the Legislative Council
for Officers and Employees of the Legislative Council
to Give Evidence of Council Proceedings

This is an application for special leave of the Legislative Council under section 7 of the Legislative Council (Powers and Privileges) Ordinance Cap 382 ("the Ordinance") for Mr Fung Choi-cheung Ricky, Secretary-General of the Legislative Council Secretariat, Security Assistants Messrs Cheung Chi-pun, Chan Sang, Hui Tack-ming and Kam Chun-yi to give evidence in the captioned case in respect of the contents of minutes, records of evidence or any document laid before the Legislative Council or a committee or sub-committee of the Legislative Council, and/or in respect of the proceedings held before the Legislative Council or committee.

The reason for the application is as follows. Leung Kwok-hung ("Leung") and Koo Sze-yiu ("Koo") were each charged with one count of Contempt, contrary to section 17(c) of the Legislative Council (Powers and Privileges) Ordinance. It is alleged that both Leung and Koo created a disturbance which interrupted the proceedings of the Legislative Council held on 11 October 2001 while the Legislative Council was sitting. The case is scheduled to be heard before a Magistrate at Western Magistracy from 12 March to 13 March 2002. Mr Fung is required to give evidence in relation to the incident and to tender the necessary records of the proceedings. The Security Assistants are required to give evidence in relation to the disturbance so created by Leung and Koo.

The witness statements of Mr Fung and Messrs Cheung Chi-pun, Chan Sang, Hui Tack-ming and Kam Chun-yi are attached herewith to this application.

Yours faithfully,



(Stanley Chan)

Senior Government Counsel

For and on behalf of the Secretary for Justice

Encl.