

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 26 February 2003

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE HUI CHEUNG-CHING, J.P.

THE HONOURABLE CHAN KWOK-KEUNG

THE HONOURABLE BERNARD CHAN, J.P.

THE HONOURABLE CHAN KAM-LAM, J.P.

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

THE HONOURABLE HOWARD YOUNG, J.P.

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE YEUNG YIU-CHUNG, B.B.S.

THE HONOURABLE LAU CHIN-SHEK, J.P.

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

DR 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., J.P.

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, J.P.

MEMBER ABSENT:

THE HONOURABLE CHAN YUEN-HAN, J.P.

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE DONALD TSANG YAM-KUEN, G.B.M., J.P.
THE CHIEF SECRETARY FOR ADMINISTRATION

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

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

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

THE HONOURABLE MRS REGINA IP LAU SUK-YEE, G.B.S., J.P.
SECRETARY FOR SECURITY

DR THE HONOURABLE SARAH LIAO SAU-TUNG, J.P.
SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

THE HONOURABLE FREDERICK MA SI-HANG
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

THE HONOURABLE STEPHEN LAM SUI-LUNG, J.P.
SECRETARY FOR CONSTITUTIONAL AFFAIRS

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>
------------------------------------	-----------------

Security and Guarding Services Ordinance (Amendment of Schedule 2) Notice 2003	48/2003
Village Representative Election (Registration of Electors) (Appeals) Regulation.....	49/2003
Telecommunications (Telecommunications Apparatus) (Exemption from Licensing) Order (L.N. 4 of 2003) (Commencement) Notice 2003	50/2003

Other Papers

- | | | |
|---|---|---|
| No. 63 | — | Audited Statement of Accounts together with the Director of Audit's Report and Trustee's Report on the Administration of the Education Scholarships Fund for the year ending 31 August 2002 |
| No. 64 | — | Hong Kong Council for Academic Accreditation Annual Report 2001-2002 |
| No. 65 | — | Li Po Chun Charitable Trust Fund Annual Report for the period from 1 September 2001 to 31 August 2002 |
| No. 66 | — | Audited Financial Statements and Programme of Activities of the Hong Kong Examinations and Assessment Authority for the year ending 31 August 2002 |
| Report of the Bills Committee on Dutiable Commodities (Amendment) Bill 2002 | | |
| Report of the Bills Committee on Inland Revenue (Amendment) (No. 2) Bill 2001 | | |

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Regulation of Listed Companies

1. **MR MARTIN LEE** (in Cantonese): *Madam President, early this month, at the request of the Stock Exchange of Hong Kong Limited (SEHK) and the regulatory authority in the United Kingdom, the Pacific Century CyberWorks Limited (PCCW) responded to press reports about its plan to make a takeover offer for the Cable and Wireless plc in the United Kingdom by issuing two public announcements with different contents one after another. However, the first announcement submitted to the SEHK did not make full disclosure of the matter. In this connection, will the Government inform this Council :*

- (a) *whether it has assessed if the regulatory standards and requirements of the local regulatory bodies for listed companies are lower than those of the United Kingdom, and if this is the reason for the PCCW's failure to make timely and full disclosure of the matter in Hong Kong;*
- (b) *whether it knows if the local regulatory bodies have investigated this incident to ascertain whether the PCCW has violated the provisions of the Listing Rules and the relevant legislation; and*
- (c) *how the Government and relevant regulatory bodies will follow up this incident?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, the Government does not comment on individual cases, especially those which are being dealt with by regulators. The PCCW is a company listed in Hong Kong. Listed companies are under the independent regulation of the SEHK and the Securities and Futures Commission (SFC), and the Government plays no part in specific cases. In fact, the SEHK has earlier on issued a press release stating that it is seeking clarifications and further details from the PCCW on the matter. The SFC will monitor the follow-up actions

taken by the SEHK. The Government respects the independence of the regulatory bodies provided for under the law and believes that they will handle the case concerned with competence and impartiality.

As to Mr LEE's specific points in his question, I shall reply as follows:

- (a) Since the case of disclosure of information by the PCCW in relation to its takeover offer for the Cable and Wireless plc is being followed up by the SEHK, we are, at this stage, unable to comment on "PCCW's failure to make timely and full disclosure of the matter in Hong Kong" as stated in the question. As to the regulatory requirements of our local regulatory bodies in respect of disclosure of listed companies, I have sought clarification from the SFC and the Commission confirmed that in this regard we are on a par with international standards, including those of the United Kingdom. In particular, the requirements for listed companies in both Hong Kong and the United Kingdom relating to disclosure of price-sensitive information, mergers and takeovers are closely similar.

In fact, to maintain and enhance our competitiveness as a leading international financial centre, the Government, together with the SFC, the Exchange and other concerned parties, has all along been keeping our corporate governance and regulatory standards under review so as to ensure they are in line with international standards.

- (b) As the front-line regulator, the SEHK has earlier on issued a press release stating that it is seeking clarification and further details from the PCCW. The SFC will discharge its statutory functions and monitor the follow-up actions taken by the SEHK.
- (c) I just mentioned above that the SEHK is following up the case and that the SFC will monitor this. Under the three-tiered regulatory framework, the Government distances itself from the day-to-day work of the regulatory bodies, and does not interfere with individual cases. Only when there are cases which may have policy implications will the Government look into them from the policy angle, so that necessary follow-up actions could be taken. It is from this angle that I have enquired of the SFC whether there is any significant difference between the regulatory standards of Hong

Kong and the United Kingdom regarding corporate disclosure. The SFC has confirmed that Hong Kong's regulatory requirements in this regard are closely similar to those of the United Kingdom.

MR MARTIN LEE (in Cantonese): *Madam President, as we all know, before Secretary Frederick MA assumed office as the Secretary for Financial Services and the Treasury, he was employed in the PCCW. Hence, does it seem proper for him to answer this question today? Is there a need for him to avoid arousing suspicion in such a capacity? Anyhow, the Secretary has stated in part (a) of his main reply that the requirements for listed companies in both Hong Kong and the United Kingdom relating to disclosure of price-sensitive information, mergers and takeovers are closely similar. If that is the case, why does the information disclosed by the PCCW in Hong Kong differ from that disclosed in the United Kingdom? Does the PCCW think that it could get away by doing so in Hong Kong?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I must stress that neither me nor the Financial Services and the Treasury Bureau would interfere with this matter, because we are not regulators. The PCCW is a listed company subject to the regulation of the SEHK and the SFC.

Though I had formerly been employed by the PCCW, I have severed any ties with the company once I was appointed as a principal official. Therefore, there is no question of any conflict of interest. Furthermore, as Members all know, I have already sold all PCCW shares I have. Thus, I do not see any question of conflict of interest.

Regarding the difference between the two announcements mentioned by MR LEE, I have stated in the main reply that the SEHK is now following up the case. Therefore, I am not going to comment on it.

DR PHILIP WONG (in Cantonese): *Madam President, the Securities and Futures Ordinance will come into effect on 1 April. Will the Secretary inform us whether a requirement on information disclosure of listed companies would be added to the Ordinance?*

PRESIDENT (in Cantonese): I am sorry, Dr Philip WONG, would you tell me how is the above Ordinance related to the main question?

DR PHILIP WONG (in Cantonese): *Madam President, since there will be some new changes to that Bill, I would like to know if such changes will lead to higher requirements on information disclosure of listed company. This is related to the PCCW and other listed companies.*

PRESIDENT (in Cantonese): Dr WONG, I understand that you would like to know the future situation in this regard through asking this supplementary question. However, I think your supplementary question is beyond the scope of the main question.

MR HOWARD YOUNG (in Cantonese): *Madam President, the main question is on the two different versions of announcements issued by the PCCW in disclosing information on the same issue. The Secretary mentioned just now that the Government would examine the relevant system to see if there is any room for improvement. The PCCW is a company listed in Hong Kong, while the Cable and Wireless plc is a company listed in the United Kingdom. There is a time lag of seven, sometimes eight, hours between the United Kingdom and Hong Kong. And the time lag between New York and Hong Kong is even as long as 12 hours. The question I would put to the Secretary is, under the existing mechanism, each country has to regulate their respective locally listed companies, but apart from this, given the time lag between major markets, will consideration be made to impose certain requirements on ensuring that investors in different countries would be fairly treated in respect of the contents of the announcements, as well as on the timing of making announcements, or should there be some co-ordination among the different markets?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, in this connection, the SFC has all along maintained good communications with the regulators of various countries, hence, there is consensus on various laws and consultations. Concerning the situation cited by Mr YOUNG, I believe this depends on the practice of individual company. Laws related to such regulation are already in place.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, in parts (a) and (c) of the main reply, it is stated that requirements relating to disclosure of information in Hong Kong and the United Kingdom are closely similar. However, in this incident, the difference may be on some details. Will the Secretary tell us whether the Bureau would examine the information disclosure requirements of both the United Kingdom and Hong Kong — in particular listing rules for listed companies, I am not referring to the rules in the Ordinance but the listing rules of the SEHK? Should there be any differences in details, will the Bureau consider making relevant amendments? (Some noises from the public gallery)*

PRESIDENT (in Cantonese): Secretary, I am sorry, would you please wait. Will persons in the public gallery please keep their voices down if they want to talk. The audio facilities in the Chamber are so effective that we can hear very clearly every word you say.

Secretary, please continue to give your reply.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I have pointed out earlier when I answered Mr Martin LEE's question that the SFC had confirmed the standards on information disclosure in both Hong Kong and the United Kingdom were closely similar. I think Mr SIN is concerned about the details of the requirements. I would reflect Mr SIN's views to the SFC. If the SFC find certain actions necessary, the SFC will do so.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, I am not asking the Secretary to reflect my views*

PRESIDENT (in Cantonese): Mr SIN, you only need to state which part of your supplementary question has not been answered by the Secretary.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, the Government is at the top of the three-tiered regulatory framework. In comparing the standards of the two places, apart from knowing that they are closely similar, it should also*

pay attention to the details, for a minor difference will lead to a great discrepancy. Will the Government request regulators at the second and third levels to submit a report on whether there are specific differences, to conduct reviews afterwards and to order the lower levels to make consequential amendments?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, as I said earlier, this is the work of the SFC, and it has confirmed with me that the standards applied in both places are closely similar. If the SFC finds the details of the requirement inappropriate, I believe the SFC will certainly follow up the matter and do whatever necessary.

MR JAMES TO (in Cantonese): *Madam President, in part (c) of the main reply, it is stated that under the three-tiered regulatory framework, the Government would not interfere with individual cases. Is the Secretary responsible for making the policy decision on "not interfering with individual case"? Will the Government inform this Council, whether the Secretary who is responsible for making such a decision, knew of the PCCW's plan to takeover the Cable and Wireless plc when he was working in PCCW?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, firstly, "not interfering with individual case" is a standard practice of the Government. This is not something that I have invented. Secondly, I can assure Members that during my employment with the PCCW, there was no discussion about this case.

MR HENRY WU (in Cantonese): *Madam President, in part (a) of the main reply, the Secretary mentioned two aspects, firstly, the disclosure of information; secondly, corporate governance. He stated clearly that the SFC, the Exchange and other concerned parties, have all along been keeping the corporate governance and regulatory standards of Hong Kong under review so as to ensure they were in line with international standards. Notwithstanding that the requirements on information disclosure in Hong Kong and the United Kingdom are the same, a problem has now arisen, will the Secretary tell us whether or not the problem was caused by the difference in corporate governance between Hong Kong and the United Kingdom? Was it because the corporate governance*

requirements of the Government and the concerned organizations differ from those of the United Kingdom? Has the Government, as stated in part (c) of the main reply, drawn any comparison in this respect with the United Kingdom?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, it is widely known that the Government attaches great importance to corporate governance. In January this year, I have explained to the Panel on Financial Affairs of the Legislative Council our work and plan in corporate governance. This showed that we pay very much attention to corporate governance. As an official of the Financial Services and the Treasury Bureau, I will consider the matter from the policy aspect and manage corporate governance at the policy level well. However, the details will all be left to the SEHK and the SFC to follow up. If the SFC tells us that our regulatory standard and corporate governance is in line with international standards, we will follow up the matter along this line.

MR HENRY WU (in Cantonese): *Madam President, I think the Secretary has not yet answered my supplementary. In part (c) of the main reply, it is clearly stated the SFC had confirmed that Hong Kong's regulatory requirements in corporate disclosure were closely similar to that of the United Kingdom. Will the Secretary inform us, have the authorities drawn any comparison, as stated in part (c) of the main reply, to confirm that Hong Kong's requirements in corporate governance are closely similar to those of the United Kingdom?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I have said earlier that the governance standard of companies in Hong Kong was in line with international standards. I think I have answered Mr WU's supplementary question.

MS EMILY LAU (in Cantonese): *Madam President, in the main reply, the Secretary stated that the SFC has been investigating the PCCW/the Cable and Wireless plc incident. Madam President, it has been almost one month since the incident occurred. Does the Secretary know why the SEHK has still unable to complete its investigation for such a long time and thus to release its findings? Moreover, is the Secretary aware that, in the past, the SEHK tended to take a*

long period of time to complete investigations and its efficiency has been very low?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, regarding Ms LAU's question, I have said earlier that we would not interfere in this incident. Therefore, I do not know about the progress that Ms LAU asked for. I have no idea about this. As for Ms LAU's question on the speed of the investigation, because the Bureau will not interfere in individual cases, I cannot explain it to Ms LAU. However, if Ms LAU would write to the SEHK, I believe they will give her a reply.

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

MR ALBERT HO (in Cantonese): *Madam President, this incident has aroused concern from international investors, and I would like to ask the Secretary a question. He being the Secretary for Financial Services and the Treasury, does he think that he has the responsibility to give the public an impression that this incident will be handled independently and properly? Does it mean that even if the SEHK fails to explain the incident after a long period of time, still the Secretary will not take follow-up actions or request the SEHK to explain the incident to the public at an early date? Does the Secretary think that he does not have the responsibility to do so to uphold the international reputation Hong Kong enjoyed?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, the SFC will follow up this. I believe the SFC will certainly pay attention to the concerns raised by Ms Emily LAU and Mr Albert HO.

MR ALBERT HO (in Cantonese): *Madam President, I am asking whether the Secretary thinks he has the responsibility to follow up the matter. Is he saying that he does not have such a responsibility? I hope the Secretary will tell us clearly whether the Secretary for Financial Services and the Treasury will have no responsibility whatsoever to follow up this matter?*

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

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I just like to add that we would monitor the regulatory work on corporate governance from the policy aspect, but we would not follow up individual cases.

PRESIDENT (in Cantonese): Second question.

Selection of Railway Corporation to Operate Sha Tin to Central Link

2. **MR ABRAHAM SHEK:** *Madam President, in early 2001, the Kowloon-Canton Railway Corporation (KCRC) and the MTR Corporation Limited (MTRCL) were both invited to submit bidding proposals for the operation of the new Sha Tin to Central Link (SCL). Subsequently, the new rail project was awarded to the KCRC in June 2002. In this connection, will the Government inform this Council:*

- (a) *of the respective categorized expenditures incurred by the two railway corporations in conducting the studies on the operation of the new rail link and preparing the bidding proposals, as well as the categorized expenditures incurred by the Government in preparing the tender documents and assessing the proposals;*
- (b) *whether it has considered awarding the new rail project to either of the two corporations based on factors such as the overall planning of the railway networks in the territory and the two corporations' respective experience in operating cross-harbour rail links, thereby sparing the need for tendering and the costs so incurred; if so, of the details; and*
- (c) *whether the study on the merger of the two corporations had already commenced when they were invited to submit their bidding proposals; if so, of the reasons for not waiting for the outcome of the study before making a decision on the new railway project?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS:

Madam President,

- (a) The Government used in-house resources to draw up the Project Brief for the SCL and in assessing the technical aspects of the proposals submitted by the KCRC and the MTRCL. A financial consultant provided independent financial advice for assessing the financial aspects of the two corporations' proposals. The consultancy cost was \$8 million.

Similar to the assessment of other tenders from the private sector, the costs incurred by the two corporations in developing their proposals and preparing their tenders were not part of our assessment. Therefore, we do not have information on such costs. We believe that the two corporations should have operated on prudent commercial principles in putting forward their proposals.

- (b) The Railway Development Strategy 2000 (RDS-2) published in May 2000 recommended the SCL to be subject to competitive bids because it would not be a natural extension of the existing KCR or MTR rail system. The Executive Council decided to invite the two corporations to submit competitive proposals in January 2001. The RDS-2 indicated that the performances of the SCL, as operated by the MTRCL and the KCRC, would be comparable taking into account all relevant factors.
- (c) At the time of inviting the two corporations to submit proposals for the SCL, the Government had no plan to conduct a merger study. We do not consider it appropriate to hold back its planning as the SCL is needed regardless of whether the two corporations would merge or not.

MR ABRAHAM SHEK: *Madam President, in part (c) of the main reply, the Government has advised that at the time of the invitation, it had no idea that the merger between the two corporations would take place. But surely at the time of award, it did have information and was planning for the merging of the two*

corporations. My question is: Why should the Government spend the \$8 million in this economic climate, and has it assessed the impact on the MTRCL share price after it has made a decision of awarding the project to the KCRC?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS:

Madam President, the consultancy study which costed the Government \$8 million was conducted prior to the award of the tender, so that was actually before the time that the merger was actually ever contemplated.

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

MR ABRAHAM SHEK: *Madam President, the Secretary has not answered the question whether the Government has assessed the impact on the MTRCL share price after awarding the project to the KCRC.*

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

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS:

Madam President, the impact on the MTRCL shares is subject to many factors. I think it is well understood that at the time of IPO (Initial Public Offerings), there was competition in the operation of the rail link in the future. There has never been any promise to the privatized company that it will have the sole right to do anything, and I think this is well understood by the shareholders. In regard to whether this would affect the share price or not, it is out of the Government's control.

MR LAU PING-CHEUNG (in Cantonese): *Madam President, may I ask the Secretary that though no decision has yet been made in relation to the merger of the two Corporations, as regards to the rail links under construction, such as the SCL or the Lok Ma Chau Spur Line, has any provision been made for future changes in their designs once the two Corporations are merged?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, now that the studies are still underway, all our construction plans and designs will continue to be carried out as scheduled. It is certainly necessary for the two Corporations to try to work together on common issues. Members may have heard a lot about the two Corporations' unwillingness to co-operate, but in fact, though both parties may have different views in relation to all the projects or different aspects, they have to develop the projects through consultation with a co-operative attitude. We will not particularly wait for the two Corporations to decide whether the merger should take place before we decide on the direction of certain issues.

MS MIRIAM LAU (in Cantonese): *Madam President, it was pointed out in part (b) of the main reply that the SCL is not a natural extension of the existing KCR or the MTR rail system, therefore its operating rights should be awarded by means of tender. I would like to point out that the West Rail is also not a natural extension of the KCR rail system but it is put under the charge of the KCRC; whereas though the recent South Hong Kong Island Line is also not a natural extension of the MTR rail system, the Government has negotiated with the MTRCL with the intention of putting the project under the charge of the MTRCL. May I ask the Secretary whether there is actually a policy in this area, or is it that each case will be handled in a different manner? If yes, what is the relevant policy?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, Ms Miriam LAU's supplementary question covers certain historical factors. I understand that the authorities had once asked the MTRCL whether it was interested in bidding for the West Rail project but it indicated that it was not, so the project was handed over to the charge of the KCRC. As for the South Hong Kong Island Line, the factor of connectivity is involved because the Hong Kong Island Line will be linked up with the West Hong Kong Island Line and then be further linked with the South Hong Kong Island Line, so we could see its connectivity.

MS MIRIAM LAU (in Cantonese): *Madam President, my supplementary question was whether the Government has got a policy and whether the factor of*

natural extension is taken into account under that policy, or that each case is handled differently? I would like the Secretary to state clearly what is the policy of the Government in this area?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, as regards the new rail policy, the Hong Kong Government does have a policy and that is, if the project is a natural extension of a rail system, then the project will be awarded to the charge of the relevant Corporation; but if the extension is not part of the existing rail system, then the Government will invite the two Corporations to bid in a fair and open manner. In this respect, the Government certainly hopes that more than two Corporations will join in the bidding. If, apart from the two existing Corporations, there is a third railway company in the market, it can also make a bid. This is the policy of the Government and it is hoped all railway corporations can operate in a level playing field.

MR ANDREW CHENG (in Cantonese): *Madam President, the Secretary pointed out in the last two sentences of part (b) of the main reply that the performances of the SCL, as operated by the MTRCL and the KCRC, would be comparable; the Secretary also talked about fair competition in her earlier reply to Ms Miriam LAU's supplementary question. As regards the so-called comparable performances and fair competitions as mentioned by the Secretary, does it mean that if the two Corporations continue to exist, with a level playing field being maintained, it will bring about better services or cheaper fares for passengers? Is it due to these circumstances that the Secretary has come to the conclusion that since the performance of the rail link is comparable, it is not necessary to wait for the findings of the study on the merger of the two Corporations, or that this study actually should not have taken place, because the two Corporations would continue to have a level playing field and can bring better services to their passengers?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, just now I explained the long-standing policy of the Government. Of course, when the authorities concerned considered the merger, it has already taken the issue of competition into consideration. We have not arbitrarily pushed through the merger without giving thought to other

issues just because we are now conducting a feasibility study. In fact, no conclusion has yet been made in relation to the merger. Within the scope of the merger, I have also said many times that there would be advantages as well as disadvantages in so doing, therefore, we must balance the interests of all parties, before we could decide what to do next.

As regards what I said in part (b) that the performances of the two Corporations are comparable, it is based on the analysis made by our colleagues on the performances of the two Corporations in terms of their operations and other aspects. They think it is hard to say which Corporation has surpassed the other, so both Corporations are allowed to make a bid.

MR NG LEUNG-SING (in Cantonese): *Madam President, will the bidding of the SCL change the timetable of the sale of the second batch of the MTRCL's shares?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, Mr NG asked about the delay in the sale of MTRCL's shares but I personally do not know about such a timetable. The Government has always tried to find a suitable time to sell those shares. We may sell the shares when their prices go up or when it is necessary. I do not know about such a timetable and since there is no such a timetable, I do not know whether or not the delay is deliberate.

MR LAU KONG-WAH (in Cantonese): *Madam President, there were some twists and turns at the latter stage of the two Corporations' bidding. Will the Secretary please review whether it is necessary to ask two companies to submit tenders for this type of rail links, what are the advantages and whether this is most cost-effective?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, based on our analysis of the tenders, we may know which Corporation has an edge in its operations and also learn about their fare levels and their self-financing positions under tender conditions. Since we have information on the two Corporations, we could certainly have a clear

picture of the relevant circumstances. However, many disputes have occurred in the course of the bidding, therefore, I agree with Mr LAU Kong-wah that there are also disadvantages; but the good thing is the operations of the two Corporations will also be highly effective under competition.

DR RAYMOND HO (in Cantonese): *Madam President, the Secretary said there is no direct relations between the natural extension of the two Corporations' existing rail systems and the SCL. And, since the KCRC is wholly owned by the Government while the MTRCL is a publicly-listed company, the two Corporations have to carry out separate studies on this issue. May I know whether studies on the Hong Kong rail system is within the scope of responsibilities of the Government? Can the Government commission its own consultancy study with a view to awarding the project to one of the Corporations? Why has the Government not done so?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, a comprehensive report has been prepared by the Government on the railway development strategy. We think that in terms of policy, this is the responsibility of the Government. As for the two Corporations, though one of them is wholly owned by the Government and the majority of shares in the other are owned by the Government, both are Corporations with independent operations. Therefore, we also have to respect such principles as their freedom of operations and market-oriented economy. As such, we will only formulate policies, while their implementation is carried out independently by the two Corporations.

MRS SELINA CHOW (in Cantonese): *Madam President, the Secretary pointed out in part (a) of her main reply that in order to assess the financial proposals of the two Corporations, it is necessary to find a financial consultant to provide independent advice and the consultancy cost was \$8 million. In light of today's serious deficit problem, how come the Government itself cannot offer independent advice and is \$8 million a reasonable fee?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, a decision made by the Government then has

to be analysed by an independent financial consultant in the light of the tender. This consultancy project was conducted in 2000 and under the circumstances at that time, the authorities considered the consultancy fee reasonable.

PRESIDENT (in Cantonese): This Council has spent more than 15 minutes on this question. We shall now proceed to the last supplementary question.

MR ABRAHAM SHEK (in Cantonese): *Madam President, the Secretary is the Director of the two Corporations but she did not answer the question on how much money has the two Corporations spent on preparing their tender proposals. The Secretary has already spent \$8 million on assessing the two proposals. According to my estimate, each Corporation has spent at least \$30 million to \$40 million on preparing the tender proposals. Has the Secretary asked the people of Hong Kong to shoulder such great expenses just because she is in favour of competitions, and yet the two Corporations are in favour of annual fare increases? As regards this issue, how could the authorities strike a balance?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, though some government officials and I are the Directors of the two Corporations, government officials are not involved when the two Corporations submitted their tender proposals. Therefore, the decision as to the context of the tender proposal, investment strategy and the amount of investment is solely made by the management of the two Corporations.

Mr SHEK thinks it is not worthwhile to spend \$8 million, or he doubts whether this sum of money should be spent. I am still of the opinion that given the circumstances at that time, we have managed to obtain very good proposals by asking the two Corporations to submit tenders and both parties have done their best. So, it is worthwhile in this respect.

MR ABRAHAM SHEK (in Cantonese): *Madam President, I am not talking about the \$8 million but rather the several tens of millions of dollars spent by the two Corporations. Is it worthwhile to ask the two Corporations to spend several tens of millions of dollars to prepare a tender proposal?*

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

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, I cannot tell Members right now how much money has the two Corporations spent for this purpose. As regards the question whether it is worthwhile or not, we have to see whether the final proposal is really cost-effective, that is, whether it is the best design for the SCL that is to be constructed in the future; if so, then the money was well-spent.

PRESIDENT (in Cantonese): Third question.

Purchase of Dongjiang Water

3. **MR FRED LI** (in Cantonese): *Madam President, regarding the purchase of Dongjiang water, will the Government inform this Council:*

- (a) *whether it has reached an agreement with the Guangdong Authority on the price of water for 2001, 2002 and 2003; if not, of the reasons for that and the progress of the discussion on this issue between the two sides, and whether it has asked the Guangdong Authority to lower the price of water;*
- (b) *as the 1989 Water Supply Agreement is due to expire next year, whether it has assessed the annual water demand and made a forecast on the rainfall of Hong Kong over the next 15 years; if so, of the basis of the assessment and forecast and the results; and*
- (c) *whether it will consider changing the basis adopted for calculating the quantities of water to be purchased, which is "the rainfall in a serious drought of one in fifty years", with a view to reducing the quantities of water purchased and avoiding wastage?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President,

- (a) According to the 1989 Water Supply Agreement, the price of water is determined through consultation between the governments of Guangdong Province and Hong Kong. The adjustment range depends on the increase in operational costs and takes into account the relevant price indices of the two places and movements in the exchange rate between Hong Kong Dollar and Renminbi.

In the negotiations in recent years, we repeatedly and strongly urged the Guangdong side to lower the price of water on the grounds that both Guangdong Province and Hong Kong were facing deflation. However, the Guangdong side requested that the price be raised, believing that the continuous development of the Guangdong economy had led to a corresponding increase in operational costs. The Guangdong side also cited the persistent rise in expenditure on water resource protection as one of the factors of the increase in costs. We have not reached an agreement yet with the Guangdong side on the price of water for 2001 to 03.

Notwithstanding this, we will sustain our effort in negotiating the price of water with the Guangdong side. However, just as any other contracts, an agreement can only be reached if there is a consensus between the two parties. Furthermore, both sides agreed that the supply quantities and flexible supply arrangements should be considered together with the price of water. In discussing these matters, we will certainly bear in mind the overall interests of Hong Kong, and strive for a reasonable agreement acceptable to both sides on the price and supply quantities of water.

- (b) In 1998, the governments of Hong Kong and Guangdong Province agreed to reduce the annual increment in the supply quantity for 1998 to 2004, that is, a total reduction of 560 million cubic metre (mcm), and discuss the annual supply quantities from 2005 onwards through further negotiations. Based on the latest information on our population, industry and commerce and economy, the annual growth rate of water demand in the next 15 years is estimated to be a marginal 0.6% on average. In other words, the water demand will increase from 950 mcm in 2003 to 1 030 mcm in 2017.

It is impossible to forecast rainfall accurately. In assessing our long-term water resources, the average catchment yield (295 mcm per annum) has been adopted. The catchment yield, in turn, has been projected on the basis of the average annual rainfall (2 214 mm per annum) of a number of years. On the other hand, we need to adopt the scenario of a severe drought in determining the quantities of Dongjiang water to be imported since the occurrence of a drought cannot be predicted and the Hong Kong Government has the responsibility and need to ensure an adequate water supply to the community at all times. The catchment yield in a severe drought will be way below average, and the quantity of rainwater collected will be even smaller in a drought lasting for several years. To make provision against a severe drought, we therefore may not be able to fully utilize the water imported in a wet year.

- (c) The annual rainfall of Hong Kong fluctuates a lot. According to the rainfall records kept by the Hong Kong Observatory since 1884, the highest annual rainfall of 3 343 mm was recorded in 1997 and the lowest annual rainfall of 901 mm in 1963. Basing on the rainfall and surface runoff data, we estimate that in a serious drought of one in fifty years, the surface runoff gathered in a year may only amount to 110 mcm. This, together with the 810 mcm of Dongjiang water, will barely meet the existing demand of 950 mcm per annum. In the case of a serious drought of one in a hundred years, the surface runoff gathered in a year may only amount to 70 mcm. When this is added to the 810 mcm of Dongjiang water, there will only be 880 mcm of water available. To meet our demand, the shortfall of 70 mcm of raw water will have to be drawn from the reservoirs and their storage level may drop below the alert level as a result.

An adequate supply of water is important to Hong Kong as a cosmopolitan city. In theory, we can, of course, purchase less Dongjiang water if we lower our drought-relief standard. But in that case Hong Kong would run a higher risk of water rationing, which means that the public would not be provided with freshwater 24 hours a day, and the economy of Hong Kong would be dealt a heavy blow.

In negotiating with the Guangdong Authority for an agreement on future water supply, the Hong Kong Government will carefully review the annual supply quantities according to the latest estimate of our freshwater demand. We will also seek to incorporate more flexible provisions into the agreement so that the quantities of raw water imported may be reduced in wet seasons and suitably increased in dry seasons. We hope that such provisions can ensure a 24-hour supply of water while reducing the possibility of the overflow of our reservoirs.

MR FRED LI (in Cantonese): *Madam President, the Secretary mentioned in her reply that a total of 560 mcm of water supply had been reduced, but we still have to pay for this reduced quantities as agreed, which is the least inflexible part of the water supply agreement. The Government explained that an agreement on the price of water for 2001 up to the present had yet been reached with the Guangdong side, that is to say, negotiations have reached a deadlock. May I ask the Secretary whether a time limit is set for the negotiations, and whether we could default on the current payments in such a way that ultimately we need to pay no water charges at all?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, first of all, Mr LI misunderstood the reduction of 560 mcm, which was actually some kind of agreements between us and the Guangdong side. In the 1989 Water Supply Agreement, there were 560 mcm in excess of the original water supply quantities, but as the Guangdong side agreed to jointly construct the concealed piping with us, both sides carried out new negotiations. Eventually, it was agreed that the actual supply quantity for 1998 to 2004, that is, the quantity Hong Kong should pay, to be reduced by 560 mcm. For that reason, Mr LI could be reassured that there will be not wastage at all. As to the second part of Mr LI's supplementary, I am sorry, can Mr LI repeat that part again?

PRESIDENT (in Cantonese): Secretary, please sit down first. Mr LI, please repeat your supplementary again.

MR FRED LI (in Cantonese): *Madam President, my supplementary is: As both sides had not reached an agreement on the price of water for the period after 2001, that is, negotiations have reached a deadlock. Then, has the Government set a time limit for the negotiations, and could the water charges be waived until the negotiations are concluded?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, I wish to ascertain the relevant supplementary. At present, the Government pays the water charges by the month according to the 2001 price, that is, we are paying for water at a past price.

MR FRED LI (in Cantonese): *Madam President, my supplementary is whether the Government has set a time limit?*

PRESIDENT (in Cantonese): Secretary, Mr LI asked whether there was a time limit for the completion of the negotiations.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, there is no time limit for the negotiations. Members should not worry that the Guangdong side will stop supplying us with water once the agreement has expired, they will continue to do so. There is a mutual understanding between the two sides, that is, as long as the negotiations are still in progress, the water supply would continue.

MR CHAN KWOK-KEUNG (in Cantonese): *Madam President, in recent years, Hong Kong would often discharge fresh water into the sea. May I ask what quantity of water had been discharged into the sea? Has the Government ever looked for ways to utilize such water?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, as I have already explained earlier, in wet seasons, all the reservoirs in Hong Kong would be overflowed, therefore we would draw out as much water from our reservoirs as possible. With regards to

the water imported from Dongjiang, they would not be pumped in and then discharged into the sea, for that would waste a lot of electricity. For that reason, Dongjiang water would be discharged into Shenzhen River as soon as they reached Hong Kong. We would not pump them into our reservoirs, besides, such an action would also help to clean out the Shenzhen River. Part of the water being discharged into the sea were the spillage from our reservoirs, while others came from the Dongjiang water supply which was being delivered to Hong Kong, we would discharge them directly into the sea and would not pump them into our reservoirs. In 2001, about 160 mcm were discharged into the sea. In 2002, only about 35 mcm were discharged into the sea due to a decrease in rainfall.

MR CHAN KWOK-KEUNG (in Cantonese): *Madam President, the Secretary has not answered whether the Government would try every means to utilize the water being wasted.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, I have just explained that the overflowing water would be used to clean the Shenzhen River out.

MS CYD HO (in Cantonese): *Madam President, the Government was asked in the main question that whether it had assessed the annual water demand and made a forecast over the next 15 years, as well as the basis of the assessment and forecast. The Secretary replied that the estimated annual growth rate of water demand in the next 15 years was 0.6% on average. I believe water for industrial use is not a factor contributing to the growth, for that reason, other factors should include the economy, population and commercial activities. However, the Secretary did not mention the effluent-recycling scheme, water-saving campaign and other measures implemented by the Government in full swing. May I ask the Secretary, if we adopt these measures, should we be more confident to achieve a better result than the 0.6% marginal growth?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, I would like to thank Ms HO for raising this supplementary. It could be said that the 0.6% growth was indeed a rather

conservative estimate. That is to say, we have not calculated the present quantity of water that would possibly be used for our recycling plans. As to the water supply aspect, of course we have to adopt a more prudent estimate, since we should absolutely not allow a drought to take place in Hong Kong or allow the recurrence of the 1963 water rationing measures. However, we would try hard to keep the growth below 0.6%.

DR LUI MING-WAH (in Cantonese): *Madam President, viewing from the commercial perspective, Hong Kong is in an adverse position, no wonder the negotiations between Hong Kong and Guangdong Province on the price of Dongjiang water for 2001 to 03 has not been concluded. It is very regrettable. I believe the Government is also aware of the fact that for each ton of water, we have to pay HK\$10, which included the price of water offered by Guangdong Province and all our other charges. That is, the public has to pay HK\$10 for each ton of water. However, according to the statistics of the United States, the cost of filtrated water is only \$3 per ton. Since Guangdong Province is consuming more and more fresh water while the supply of Dongjiang water is on the decrease, will the Government consider or study seriously the possibility of using filtrated seawater or desalination?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, the \$10 mentioned by Dr LUI was the cost of water, but the public is not paying for water charges at that price, because the Government has subsidized about half of the water charges. I agree with Dr LUI that the price was quite high. We purchase Dongjiang water at a price of \$3.085 in addition to the treatment cost of \$4, then we have to use electrical energy to deliver them to each end-user. The total cost for that would come up to about \$10. I have been strongly campaigning for water resource control, because just as Dr LUI said, clean and fresh water supply in Guangdong Province is diminishing. In the meantime, water supply is something seasonal. There would be surplus rainfall during wet seasons, but we cannot store up all of the precipitation. But when the dry season comes, there would be drought. For that reason, we are considering the implementation of water recycling in a positive way. After our drinking water is being treated, it could serve different purposes other than for drinking. Besides the recycling programme, we have launched a pilot scheme in desalination on the reverse osmosis principle. We believe technological advancements and the decrease in production cost would

bring about steady decrease in the cost of desalination. We are not taking these actions deliberately to create impetus behind the negotiations between Hong Kong and Guangdong Province. In fact, Guangdong Province also agrees that we should jointly resolve the issue of water resources, otherwise, they would have to draw water from Xinfengjiang Reservoir in order to deliver water to Hong Kong. I believe the people of Guangdong would not let go of us in that case. For that reason, we should head towards that direction to explore more water resources, so that we could have more clean water to use. This is the common goal for the two sides.

PRESIDENT (in Cantonese): This Council has spent more than 15 minutes on this question. This is the last supplementary question.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, I am sorry, I would like to ask the Secretary very sincerely why was it so difficult to reach a flexible water supply agreement through negotiation and where does the resistance lie? As a purchaser, it would be a simple thing to purchase as much as he needs. Now the question is that even though we cannot use up all the water and have to discharge them into the sea, we still have to pay for the water. May I ask where does the resistance lie? Can the Secretary give us some enlightenment?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, this supplementary is very complicated. When Dongjiang water is delivered to Hong Kong, we have to ensure the water quality. For that reason, the Guangdong side would draw water from the upper reaches of Dongjiang and deliver them to Hong Kong. As soon as the Dongjiang water arrives at Shenzhen, it will be mixed with the water from Shima River in a mixing tank. Since the water from the upper reaches are cleaner than those from the lower reaches, a fixed quantity of water had to be drawn from the upper reaches, in order that our criteria in water quality could be met. Why are we still waiting? The situation would be improved in future when concealed piping is used, therefore we are waiting patiently. In fact, the works of concealed piping are almost completed. If concealed piping were adopted, this problem would be eliminated, as the problem of water of inferior quality from lower reaches would no longer exist. Accordingly, the quantities of water intake from upper reaches would be reduced. In the longer term, it would also

be beneficial to Guangdong Province because there is no need for them to pump water from the source, lest that the water at source would diminish. For that reason, just as I explained earlier, both sides are eager to have that goal achieved. Since the concealed piping works are nearing completion, we can move on with our negotiations once again.

PRESIDENT (in Cantonese): Fourth question.

Cancellation of a Scheduled Liver Transplant

4. **MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, it has been reported that in September last year, a liver transplant to be conducted in Prince of Wales Hospital (PWH) was cancelled right before the operation, and the liver in question was sent to Queen Mary Hospital (QMH). In this regard, will the Government inform this Council whether it knows:*

- (a) *the reasons for the sudden cancellation of the operation, and who should be responsible for the incident;*
- (b) *the respective numbers of patients who underwent liver transplants at the two hospitals last year, the average length of time for which they had waited, and the current number of patients on the waiting list; and*
- (c) *the progress of the establishment of a Central Registry for Liver Transplants by the Hospital Authority (HA)?*

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

- (a) The HA had conducted an investigation into the incident of cancellation of a liver transplant operation by the PWH on 10 September 2002. In essence, the liver transplant team of PWH had conducted one transplant operation on 9 September, and just finished another long and complicated liver surgery on the day of the incident. (By way of background, liver transplant is a highly specialized field in surgery which requires substantial support from

other multi-disciplinary teams of specialists, including physicians, surgeons, clinical psychologists, radiologists and staff from the operation theatre and the intensive care unit.) According to the assessment of the Chief of Service of the Department of Surgery in PWH, extra manpower would have to be mobilized that night to support an unscheduled liver transplant operation and this would necessitate the cancellation of six cancer operations already scheduled to be conducted on the following day. At the same time, the PWH management learnt that another patient in the QMH was in urgent need of a liver transplant. Having balanced the need for operation services of patients from other medical specialties, the hospital management decided not to allow the unscheduled liver transplant operation to proceed, and that the liver should be harvested by the QMH instead. In coming to this decision, the PWH management had explained in detail to the patient concerned the reasons for not proceeding with the operation. The HA concurred with the hospital management of PWH that the decision not to proceed with the unscheduled liver transplant operation was made in the best interests of patients overall.

- (b) In 2002, the QMH conducted 60 liver transplant operations and the PWH, 15 operations. The average waiting time for liver transplant was 16 months for the QMH and 13 months for the PWH. At present, there are 75 patients on the waiting lists for liver transplant.
- (c) The HA has set up an independent team comprising a senior consultant surgeon and executives from the HA Head Office to establish a central registry for liver transplant by merging the two existing waiting lists separately maintained by QMH and PWH. A single set of criteria for entering patients into the waiting list for liver transplant and according priority for receiving liver transplant operation has been established by reference to international practices. The team is in the process of reviewing the clinical data of the patients concerned with a view to coming up with a merged list.

MR YEUNG YIU-CHUNG (in Cantonese): *Madam President, it can be seen from this incident that apparently the HA intends to make QMH the only liver transplant centre in Hong Kong. May I ask if the HA has any plan to re-organize all operations involving high costs and high risks while limiting all such*

operations to a small number of hospitals? If so, when will such a plan be implemented and what are the medical items involved?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, according to international experience, it is generally recommended that operations which are performed not so often should be centrally managed by one hospital. This is the best approach from the points of view of both patients and the training for health care personnel, since manpower and resources can be pooled together and the operations can be performed by experienced health care personnel. If only one or two operations are performed each year, Members can imagine that with a lack of experience, generally the quality of the operations will not be too high. This is of course not a major factor but still a very important one. Therefore, experts worldwide have conducted studies and generally consider that the more often certain types of major operations are performed, in particular several types of cancer and transplant operations, the better. Such operations should be performed several dozen times a year for sufficient experience to be accumulated. An international team of surgical experts has submitted a report to the HA to advise on the best approach in grouping different services together, however, I do not have the details on hand. If Mr YEUNG Yiu-chung is interested, I can forward Members' views to the HA in writing but the HA may not follow up fully on this. The authorities have already decided to make the QMH a liver transplant centre. Regarding the time for implementation and what the arrangements will be, these are still being examined and it will take a very long time.

MR JASPER TSANG (in Cantonese): *Madam President, after merging the lists containing a total of 75 patients awaiting liver transplants in the PWH and the QMH respectively, what is the estimated number of patients who will have to wait longer?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I believe that after establishing a central registry, the waiting time will not be lengthened, since patients still have to wait like this if the operations are performed by two hospitals. To establish a registry is simply being more systematic. Under the present situation in which there are two lists, if only one liver is available for transplant, it is necessary to determine which

patient is the most suitable candidate for the operation. If there is only one waiting list, a lot of things can be determined prior to the operation and priorities can be accorded beforehand. Hence, theoretically, the waiting time will not be prolonged. However, so far as individual patients are concerned, the waiting time for some of the patients may be lengthened while that for others may be shortened. This is because prior to the merger, they are assigned to two waiting lists and the decisions are made by two hospitals, but after the merger, the assessment will be made according to the same principle, which is a more reasonable approach. Although the time of operation for some patients may be advanced while that for others may be deferred, it is expected that the overall waiting time will not be prolonged.

MR MICHAEL MAK (in Cantonese): *Madam President, the Secretary has said that the waiting time for individual patients will be lengthened, but the aim of merging the waiting lists is to improve the quality of service so that patients waiting for liver transplants can undergo transplant operations earlier. In view of such a principle or rationale, how can this be considered an improvement in service? The Secretary has said that definitely, there would be individual patients whose waiting time will be longer, in view of this, I would like the Secretary to explain why the liver transplant centres have to be merged instead of adhering to the practice of having two liver transplant centres?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, perhaps let me explain in detail. Concerning liver transplant operations, of course it depends on whether it is suitable for a patient to undergo operation. If a patient is suffering from cirrhosis, the symptoms are often not very pronounced but at times they can be very serious. If the cirrhosis is only minor, the risk of performing a liver transplant operation is very great but the benefits derived from it are minimal. If the liver of a patient functions very poorly, the risk of an operation is great, but the benefit is also minimal because the death rate is high. Therefore, it is necessary to strike a balance between the two factors and determine what the best time to perform an operation is. The advantage of merging the waiting lists into one is that the same criteria can be adopted to assess every patient in need of a liver transplant in Hong Kong and sort out the priorities in operating on them. Generally speaking, it is the most appropriate course of action, in the patients' best interests and involving the least risk for the waiting lists to be merged into a central registry, so that the best time

of operation for each patient can be determined. It is for this reason that we make this clearer and better arrangement.

DR TANG SIU-TONG (in Cantonese): *Madam President, liver transplant operations are usually very urgent, since liver donors cannot wait. The Secretary said in part (a) of the main reply that the liver transplant operation concerned in the PWH would necessitate the cancellation of six cancer operations. In other words, it was not possible to put those operations on hold and they were more important than the liver transplant operation. May I know if this is really the case? If these operations had been deferred for a day or two, would there have been no major problem?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): *Madam President, two types of patients have to undergo liver transplant operations. One type of patients are those suffering from acute hepatitis and they must undergo operations immediately or their lives would be at risk; the other type is those suffering from chronic liver problems, of which I have already given an example, that is, patients suffering from cirrhosis. Although cirrhosis will affect liver function, this type of patients can still wait a little and this is the reason why waiting lists are established. Although I say that they can wait, they cannot wait for too long and it is necessary to strike a balance, since it is not suitable to operate on a patient when his condition has become too bad.*

In the case in question, the patient waiting in the PWH was not suffering from acute hepatitis but the more chronic type. If the six originally scheduled cancer operations had been cancelled, would this have been in the best interests of all patients? At that time, there was a patient in the QMH who happened to be suitable for undergoing a liver transplant operation. This incident precisely demonstrated the advantages of establishing a central registry.

DR LO WING-LOK (in Cantonese): *Madam President, the Secretary has said earlier that the merger plan has not yet been completed. May I know if the PWH can still carry out liver transplant operations before the completion of the merger? If so, can the Secretary give us a guarantee that the team in the PWH will still receive adequate support so that the standard of liver transplant operations will not decline?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese):

Madam President, the proposal to merge the two centres has not yet been implemented. First of all, a central registry has to be established before the central liver transplant operation centre can be set up. It will be only after taking these two steps then the PWH will cease to perform liver transplant operations. Before any arrangement is made, the PWH will continue to carry out liver transplant operations and the hospital will definitely arrange for adequate support, since adequate support is a must in performing this kind of operation, without which it is totally impossible to perform such operations.

MR CHAN KWOK-KEUNG (in Cantonese): *Madam President, the aim of the Government in merging the two liver transplant centres is perhaps just to cut cost. Since the HA often outsources its services, has the Government considered outsourcing other services to achieve the objective of curing more patients with lower costs and greater speed?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese):

Madam President, I believe this cannot be compared to outsourcing because the two are not similar in nature. I have explained earlier there are many reasons to support the view that the most desirable approach is to carry out liver transplants in only one centre. This is not a proposal put forward by the HA but a recommendation that is made by many international experts after examining our various areas of service. It is based on this recommendation that the HA made the decision. Therefore, this decision is not made having regard to cost considerations but to how quality service can be maintained. From experience, there are some inaccuracies in the figures on liver transplants carried out in the PWH in the past several years. It was after the arrival of some new professors that liver transplants were carried out more frequently. In the few years prior to that, only a few transplants had been carried out. At that time, I was still working in the HA. When I made decisions on resource allocation, I had to allocate resources to the PWH according to the number of operations, but found that the PWH performed the relevant operations hardly once or twice a year. If a hospital does not perform the relevant operations frequently enough, it would be difficult to provide support to the hospital, nor can it perform the operations on a sustained basis. Since these major operations are not the ones that are performed frequently, the hospital as a whole has to undertake that it can develop on a sustainable basis. Without such an undertaking, not only would it be

unfair to the patients but also to the taxpayers. Therefore, the merger into one centre has nothing to do with costs but is carried out mainly for the sake of quality.

MR ANDREW CHENG (in Cantonese): *Madam President, the reply given by the Secretary made us aware of the many specialists who are involved in performing liver transplants and of the urgency of the operations, consequently, six cancer operations had to be cancelled on the day of the incident. In view of the urgency and the demand on manpower, why does the Secretary think it undesirable to let the two centres share the resources and operate separately, even though the waiting lists may be merged into a central registry, so as to enable more patients to have the opportunity of undergoing liver transplant operations?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, the situation is in fact exactly the reverse. Only very few liver transplants are performed in Hong Kong, and the cases only amount to several dozens a year. If the resources are pooled together, better and more effective service can be provided to patients. Members can imagine that if there are two teams, they have to share, hence dilute, the expertise among them. When performing an operation, often we cannot rely solely on one doctor. We all know that liver transplant operations are very urgent in nature and it would be inconceivable for a doctor to be on 24-hour duty or to rely on the same doctor to perform operations 365 days a year. The operations involve a whole team and different specialties, a lot of experienced talents are required if the operations are to be performed well. To pool the resources together in one hospital will make it possible to manage resources so that when the need to perform two transplant operations suddenly arises, it will be possible to carry them out simultaneously. For such operations to be performed well, not just a few persons but several dozens or even several hundreds of people have to be involved. Moreover, the patient has to be transferred to the intensive care unit afterwards. Intensive care units usually deal with many different types of patients, but only health care personnels with special experience know how to take care of liver transplant patients in order to provide the best treatment to them.

PRESIDENT (in Cantonese): Council has spent more than 18 minutes on this question. We will now proceed to the fifth question.

Crimes Targeted at Tourists

5. **MRS SELINA CHOW** (in Cantonese): *Madam President, according to the police, the overall number of crimes targeted at tourists in 2002 was 63.4% higher than that of 2001 and, among them, those crimes categorized as "miscellaneous thefts", "robbery" and "wounding and serious assault" were about 70%, 84% and 98% higher respectively. In this connection, will the Government inform this Council of both the long-term and short-term measures that it will take to curb such crimes, so that the reputation of Hong Kong as one of the safest cities in the world can be maintained?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, in 2001 and 2002, the total number of persons visiting Hong Kong were about 13 725 000 and 16 566 000 respectively, and amongst them, 549 persons in 2001 and 897 persons in 2002 reported to the police that they were victims of crimes. Based on the above figures, the number of tourists who were victims of crimes per every 100 000 persons visiting Hong Kong in the last two years were four and five respectively. This rate has remained steady. Taking into account the total number of tourists visiting Hong Kong, crimes against tourists is considered to be at a low level. There is no evidence to show that tourists visiting Hong Kong have become a major target of criminals.

The police all along take a serious view regarding crimes involving tourists. To ensure the safety of visitors, uniformed branch officers as well as plainclothes officers are deployed to patrol tourist spots and take enforcement actions where appropriate. On the other hand, the police co-operate closely with the Hong Kong Tourism Board (HKTb), the Consumer Council and the tourism industry to disseminate crime prevention messages to tourists. Moreover, hotels will obtain publicity pamphlets from the police for their customers' reference. The police have also mounted display boards in areas frequented by tourists, including Central, Yau Tsim and Mong Kok districts to remind them to take care of their properties. These measures can effectively help ensure the safety of tourists during their stay in Hong Kong.

To conclude, the police aim to continue to maintain Hong Kong as one of the safest cities in the world. They will take enforcement actions specifically targeting criminals who are active in the tourist spots, with a view to helping Hong Kong to keep up its good reputation earned in respect of tourism.

MRS SELINA CHOW (in Cantonese): *Madam President, though the Secretary said in the first paragraph of the main reply that the percentage of tourists among victims of crimes seems to show that "crimes against tourists is considered to be at a low level", this was only the number of victims who reported the crimes and could not reflect the actual situation of crimes against tourists. We all know that many crimes actually occurred in tourist shopping areas and the modus operandi of some so-called fraud and switching of goods are especially common. A well-known magazine for tourists, the Lonely Planet even urges them not to buy audio visual equipment from electric appliances shops in Nathan Road. Since it is clearly known that such modus operandi of fraud and switching of goods are prevalent, will the Secretary inform this Council, what measures will the Government adopt to combat such crimes in Hong Kong, which is already commonly known all over the world?*

SECRETARY FOR SECURITY (in Cantonese): *Madam President, the police are closely monitoring the situation to see which type of crimes tourists will become easy targets and they are also aware of the relevant circumstances. With the help of the HKTb and hotels, the police will hand out publicity leaflets printed by the Crime Prevention Bureau to tourists. Apart from reminding tourists that they should try to leave behind large amount of cash or properties in hotel safes instead of carrying them around, the police also remind tourists not to buy counterfeit goods and to shop only at shops with good reputations or those that have displayed the sign of the HKTb; after each purchase, tourists should retain the receipts and ignore cheap products sold and accommodation or foreign exchange services offered by people on the streets, and the attention of tourists is drawn to the fact that such are the more common crimes mentioned by Mrs Selina CHOW earlier. However, what is most important is that the victims must report the crimes. If they do so, the police could then gather information and learn about shops which have deceived their customers and the blackspots of crimes, where more pickpocketing or other crimes have occurred. Therefore, I hope the police could continue to work with the HKTb in making explanations to the tourists and on publicity.*

MR AMBROSE LAU (in Cantonese): *Madam President, the Government mentioned in the main reply that "crimes against tourists is considered to be at a low level". May I ask the Secretary, is this conclusion of a so-called "low*

level" based on comparisons made between other major tourist cities over the world? If so, could the Secretary provide some information on this area for our reference?

SECRETARY FOR SECURITY (in Cantonese): Madam President, Mr Ambrose LAU has raised a very interesting supplementary question. I did ask the police whether comparisons have been made on the situation of crimes against tourists in Hong Kong with that of other tourist cities such as Tokyo, Paris, and so on, but unfortunately the answer of the police was in the negative, so we could not find comparisons with other cities for the time being. Nevertheless, though there has been a substantial increase in the number of tourists visiting Hong Kong in the past three years, for example, there was 13 million people visiting Hong Kong in 2000 and over 16 million last year, the percentage of tourists who are victims of crimes still only constitutes 0.004% or 0.005% of the tourists, that is, the number of tourists, who were victims of crimes per every 100 000 persons visiting Hong Kong, still remains at four to five persons. We think this figure shows that the situation of crimes against tourists has not deteriorated and is considered to be at a low level.

MR TOMMY CHEUNG (in Cantonese): *Madam President, if we just look at the number of tourists and the number of victims who have reported the crimes, what the Secretary said earlier about the situation has not deteriorated is acceptable. However, if we look at the number of persons visiting Hong Kong in 2001 and 2002, which was 13 million-odd and 16 million-odd respectively, by rough calculation, the number of persons visiting Hong Kong has been increased by 20%, whereas the increase in crime rate, for example "miscellaneous theft" has been increased by 166 cases at a rate of as high as 69%. In fact, the increase rate for each type of crimes ranges from the lowest rate of 28% to the highest rate of over 90%. May I ask the Secretary, by looking at the increase in the crime rate and the increase in the number of persons visiting Hong Kong, does she not think this rate of increase alarming? Does the Government think it necessary to concentrate the efforts of the police in dealing with such problems?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, if we look at the major types and number of crimes against tourists, we would know that Mr

Tommy CHEUNG is very correct indeed. Take 2002 for example, crimes that involve the largest number of tourist was "miscellaneous theft", to be followed by "fraud", "robbery" and "theft from persons" and though these were not serious crimes, they were causes for concern. In dealing with such crimes, apart from publicity, the police must also enhance their work in gathering information, so it is imperative for victims to report the crimes. This may allow the police to learn about the nature of the crimes and districts or types of shops that the crimes have been committed. Furthermore, the police must also enhance the patrolling of uniformed and plainclothes policemen at blackspots. We will keep a close watch to see which type of crimes involve more tourists and then focus on those patterns to adopt corresponding measures.

MR TOMMY CHEUNG (in Cantonese): *Madam President, in fact, my question was: Since the increase in crime rate is much higher than the number of people visiting Hong Kong, does the Secretary thinks it necessary to increase manpower and resources to deal with such a great increase in the crime rate?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, Mr Tommy CHEUNG is correct. The rate of increase in "miscellaneous theft" is particularly high, with the number of victims involving tourists increased from 213 in 2000 to 395 last year, so the rate of increase is quite high. As regards resources and strategies, we would hold discussions with the police to see how we could specifically target at such crimes.

MR HOWARD YOUNG (in Cantonese): *Madam President, apart from the discrepancies pointed out by Mr Tommy CHEUNG earlier, that is, the increase in crime rate surpassing the increase in the number of visitors to Hong Kong, the Commissioner of Police also informed Members at a meeting of the Security Panel some time ago that the crime rate of Hong Kong was generally on the decline and though the crime rate of certain districts has increased, it is not as high as over 60%. May I ask the Secretary, apart from looking at manpower and resources, is there a regional phenomenon, that is, the crime rate of districts with more tourists has increased? Will this factor be taken into consideration in the deployment of resources?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, we do know of districts that have a greater number of tourists who are victims of crimes. Last year, the situation was most serious in Yau Tsim district, followed by Wan Chai, Central and Mong Kok, which are all crowded areas. Therefore, it is necessary for the police to step up the patrolling of uniformed policemen and the surveillance of plainclothes policemen in districts where shops and hotels stand in great numbers and tourists frequented.

MR LAU PING-CHEUNG (in Cantonese): *Madam President, the actual figures of crimes that the Secretary referred to are objective data, and the crimes, which we do not have any actual figures, might be even more alarming. I recently saw a report in the newspaper that some members of the triad society in Yau Tsim and Mong Kok districts openly challenged the authority of the police. This may have a greater impact on Hong Kong as a tourist city — for it will not only have an impact on the prestige of the police, but also on the prestige of Hong Kong as a tourist city. May I ask the Secretary, what comprehensive measures with specific targets do the authorities have to prevent the recurrence of such incidents?*

PRESIDENT (in Cantonese): Mr LAU Ping-cheung, you have asked a very good supplementary question. However, as the theme of this question is related to crimes targeted at tourists, and it seems that your supplementary question is outside the scope of the main question, perhaps you would like to think about it first and then rephrase your question.

MS MIRIAM LAU (in Cantonese): *Madam President, in comparing the figures of the year 2002 with that of 2001, the rate of increase in crimes targeted at tourists is quite alarmingly, with an overall increase of as high as 63.4%. May I ask the Government, how does this rate of increase compared to the overall crime rate? If this is much higher than the overall crime rate of Hong Kong and the Secretary said in the first paragraph of the main reply that this is still considered to be at a low level, then how high must the crime rate reach before the Government will consider it a serious problem that warrants measures with specific targets to be taken?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, if we look at the overall crime rate, the crime rate of 2002 has only increased by about 3.6% as compared with that of 2001. Though the number of tourists involved has increased by more than 300, that is, from 549 in 2001 to 897 in 2002, with an increase of 348 in number, and as Ms Miriam LAU said earlier, the increase is seemingly high at 63.4% in terms of percentage, we must not forget that the number of visitors to Hong Kong has also substantially increased, from 13-odd million in 2001 to over 16.5 million last year, with an increase of more than 3 million. The type of crimes involving tourists includes "miscellaneous thefts", "frauds", "robbery" and "thefts from persons". It is not evident that a particular type of crime is targeted at tourists. Even for pickpocket gangs, we do not see any organized activities, which are mainly targeted at people visiting Hong Kong. Nevertheless, based on the information at hand, the police will see which are the crimes that tourists have mostly fallen victims to, in which districts or under what circumstances have the crimes been committed, in order to enhance publicity, patrols and deployment of more plainclothes policemen to step up surveillance, with the intention of reducing the number of crimes against tourists.

MRS SELINA CHOW (in Cantonese): *Madam President, the Secretary said earlier that she very much hoped that tourists could report the crimes and it would be more effective if they could ask for help. The Secretary also said earlier that there were more tourists in some districts, therefore such districts might become vulnerable places for tourists to become victims of crimes. May I ask the Secretary whether the Government will consider setting up fixed police reporting centres or fixed police posts? Since tourists are only in Hong Kong for a very short stay, if fixed police posts are set up, tourists could report the crimes conveniently and expeditiously when they become victims of crimes. Furthermore, the establishment of fixed police posts can also have certain deterrent effects against offenders of minor crimes, and make it less easy for them to become active in those districts.*

SECRETARY FOR SECURITY (in Cantonese): Madam President, as regards blackspots where most crimes involve tourists, such as Central, Yau Tsim and Mong Kok, the police have already adopted certain measures by mounting display boards to disseminate information on brief slogans to remind tourists to take care of their properties. Furthermore, the police have also conducted

studies — purely studies — to see whether it is necessary to set up a closed-circuit television system in such districts for the convenience of surveillance. This is certainly rather controversial and could only be implemented with the consent of local shop operators. On certain special days such as Halloween and Christmas, the police have already obtained the consent of the shop operators in Lan Kwai Fong to set up a closed-circuit television system because the operators think it will be of help to them. As regards whether it could also be set up in other places, further studies are required. As to whether police reporting centres could be specially set up in such districts, I believe it will be quite difficult for this may not necessarily be the best way to deploy our resources. In certain crowded districts such as Nathan Road, it is also not easy to identify locations to set up police reporting centres. The police believe a better way will be to deploy more uniformed policemen on patrol or more plainclothes policemen to mingle with the crowd for the purpose of surveillance. On the other hand, the Government has also adopted measures to speed up the procedures of the police, Department of Justice and the Court in dealing with crimes against tourists. For example, if tourists have fallen victims to thefts, the prosecution could apply for the conduct of the hearing within one or two days, to allow tourists to testify during their stay in Hong Kong.

PRESIDENT (in Cantonese): This Council has already spent more than 17 minutes on this question. I now allow Members one last supplementary question.

Mr LAU Ping-cheung, do you wish to raise a supplementary question again?

MR LAU PING-CHEUNG (in Cantonese): *Madam President, I do not need to ask a supplementary question anymore.*

MR LAU KONG-WAH (in Cantonese): *Madam President, among the categories of crimes that recorded increases, it seems that "wounding and serious assault" has the highest rate of increase. The Secretary seemed to say earlier that there was no evidence to show that certain categories of crimes are targeted at tourists, then why is there such a high increase in "wounding and serious assault"? Furthermore, under what circumstances would tourists be wounded?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, it is indeed true that as compared to 2001, the rate of increase in the crime of "wounding and serious assault" for 2002 is as high as 97%, though the number of persons actually involved was very small. The number has only increased by 40, that is, from 41 persons in 2001 to 81 in 2002. I do not have any information at hand, but I believe only a few cases were involved. Perhaps some tourists were involved in certain disputes at bars or places of entertainment. As regards the details, I must ask the police for information and then provide Mr LAU Kong-wah with a reply in writing. (Appendix)

PRESIDENT (in Cantonese): Oral question time ends here.

WRITTEN ANSWERS TO QUESTIONS

Mainlanders with Two-way Exit Permits Entering Hong Kong on Business

6. **MR JAMES TIEN** (in Chinese): *Madam President, will the Government inform this Council:*

- (a) *of the number of mainland persons holding Two-way Exit Permits who entered Hong Kong on business and the number of such trips, in each of the past three years;*
- (b) *of the restrictions imposed on such persons' commercial activities in Hong Kong, including making investments, establishing companies and holding company directorship; and*
- (c) *whether it plans to relax the relevant restrictions; if so, of the details; if not, the reasons for that?*

SECRETARY FOR SECURITY (in Chinese): Madam President,

- (a) Mainland residents sent by the organization to which they belong or mainland enterprises to visit Hong Kong on business should apply to the relevant Public Security Bureau for an "Exit-entry Permit to the Hong Kong and Macao Special Administrative Regions" (EEPs) and

a "business visit endorsement". The number of mainland residents who entered Hong Kong on the strength of EEPs and business visit endorsement during the past three years are set out below:

<i>Year</i>	<i>Number of entries</i>
2000	655 043 (1 790)
2001	1 097 027 (3 006)
2002	2 270 637 (6 221)

Note: the daily average number of entries is shown in brackets

- (b) Mainland residents holding business visit endorsements may be granted permission to land in Hong Kong as visitors. They may stay for 14 days and are subject to prescribed conditions of stay.

Section 2(1) of the Immigration Regulations (Cap. 115, sub. leg.) provides that a visitor is subject to the following conditions of stay:

- (i) he shall not take any employment, whether paid or unpaid;
- (ii) he shall not establish or join in any business; and
- (iii) he shall not become a student at a school, university or other educational institutions.

Without prejudice to the provisions of the Immigration Regulations, a person permitted to enter Hong Kong as a visitor may generally speaking engage in the following business related activities:

- (i) conclude contracts or submit tenders;
- (ii) examine or supervise the installation/packaging of goods or equipment;
- (iii) participate in exhibitions and trade fairs except selling goods or supplying services direct to the general public;

- (iv) settle compensation or other civil proceedings;
 - (v) participate in product orientation or update; and
 - (vi) attend short term seminars or other business meetings.
- (c) Under the existing legal framework, conditions of stay are imposed on visitors to prohibit them from taking up employment and establishing or joining in a business. To ensure effective immigration control, persons who wish to enter Hong Kong for employment or to set up a business have to apply for a relevant entry visa or entry permit from the Immigration Department before they can enter Hong Kong. These legal requirements and policy are in the overall interests of the community and are in line with the practice adopted in other countries and regions. The SAR Government will, nevertheless, study the feasibility of relaxing existing legal requirements so as to allow visitors to take part in a wider range of business-related activities, but at the same time remain vigilant on the need to combat illegal employment.

Pilot Scheme on Electronic Schoolbags

7. **DR RAYMOND HO** (in Chinese): *Madam President, it has been reported that the Education Department launched a pilot scheme on electronic schoolbags in 10 primary and secondary schools in September last year. In this connection, will the Government inform this Council:*

- (a) *of the way in which electronic schoolbags operate and their effectiveness in teaching and learning as well as reducing the weight of schoolbags carried by students;*
- (b) *whether it will promote the use of electronic schoolbags in all primary schools in Hong Kong; if so, of the details and the estimated expenditure; and*
- (c) *whether it has conducted surveys on students' and parents' acceptance of electronic schoolbags; if so, of the survey results?*

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

- (a) Electronic schoolbags refer to the electronic devices for storing learning resources. The system hardware comprises notebook computers or Personal Digital Assistants operating on a wireless connection to the Local Area Network (LAN) of schools and the Internet through the use of wireless LAN cards. With the electronic schoolbags, students may retrieve learning resources available on the LAN and the Internet, browse or read the information as required for their study. With their ease of storing and retrieving of learning resources, electronic schoolbags help create an interactive or self-learning environment for students. They also allow schools to create virtual computer rooms and make flexible arrangements for interactive or group teaching and learning activities. These devices can help foster a paradigm shift in the mode of teaching to enhance the efficiency and effectiveness of teaching and learning. The pilot scheme on electronic schoolbags is now being implemented in 10 schools. Some of these schools have arranged out-of-class learning with their students using electronic schoolbags (for example, visits to the Hong Kong International Airport and interviews with tourists, star gazing at an observatory, and so on). Teachers in these schools have realized the merits of electronic schoolbags in enhancing life-wide learning, giving full play to the interactivity between teaching and learning as well as promoting interest in studies. As electronic schoolbags provide students with access to various study aids such as subject information, maps and dictionaries, they are also effective in helping to reduce the weight of schoolbags in this context.
- (b) The pilot scheme on electronic schoolbags will be completed in August 2003, after which the Government will review the scheme and consider whether the scheme should be extended to all schools.
- (c) Initial feedback from schools implementing the pilot scheme indicates that teachers in general accept the electronic schoolbags as a useful means to lead students to the abundant learning resources on the LAN and the Internet for information retrieval, browsing,

analysis and discussion. The devices are also recognized as a teaching aid that helps nurture interest and ability in self-learning. Teachers generally share the view that students welcome this mode of studying and that the scheme is effective in stimulating and enhancing study initiatives. The Government will further consult teachers and parents to gauge their acceptance of electronic schoolbags under the aforesaid review.

Use of Flushing Cisterns with Two Different Discharge Volumes

8. **MS EMILY LAU** (in Chinese): *Madam President, currently, some flushing cisterns have, for the sake of saving water, two different discharge volumes for users to choose according to their needs. In this connection, will the executive authorities inform this Council:*

- (a) whether they will assess the cost-effectiveness of such kind of cisterns;*
- (b) of the neighbouring countries or cities using such kind of cisterns; and*
- (c) whether they will encourage professionals in the building industry to use such kind of cisterns?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): Madam President,

- (a) The Administration is fully aware of the potential benefit of using the dual flush devices (that is, larger and smaller volumes) to save water. There will also be added benefits of lower pumping costs in buildings and less discharge to sewage treatment works. After making reference to overseas experience, seeking advice from the local plumbing trade and conducting trials with successful results, the Administration decided in 2000 that dual flush devices are suitable for use in Hong Kong, although such devices may have a higher capital and maintenance costs.

- (b) It is understood that dual flush devices are commonly used in Australia, New Zealand, Japan and Singapore.
- (c) Having decided that dual flush devices are suitable for use locally, the Administration has informed the Authorized Persons and Licensed Plumbers of this decision in October 2000 through a Circular Letter, which is available at the Water Supplies Department's website at <www.info.gov.hk/wsd>. This will enable the designers for new building projects to have a wider choice of dual flush devices in addition to the conventional type. When the existing cisterns are to be replaced, the Licensed Plumbers may also advise the owners on the choice of using these devices.

At the same time, the Administration also informed other relevant associations including the Hong Kong Plumbing and Sanitary Ware Trade Association Limited whose member organizations are mainly suppliers of cisterns.

Provision of Default Guarantee for Subsidized Home Purchase Schemes

9. **MR ALBERT HO** (in Chinese): *Madam President, regarding the Home Ownership Scheme (HOS), the HOS Secondary Market Scheme, the Tenants Purchase Scheme (TPS), the Buy-or-Rent Option and the Home Purchase Loan Scheme implemented by the Housing Authority (HA), will the Government inform this Council:*

- (a) *of the numbers of cases in which property owners who had been subsidized by the above schemes defaulted on mortgage payments and the amounts of bad debt involved in each of the past five years;*
- (b) *of the financial arrangements made by the HA for providing default guarantee to relevant financial institutions in respect of those schemes; and*

- (c) *whether it has regularly reviewed the risks borne by the HA for providing default guarantee, and of the ways to reduce such risks?*

SECRETARY OR HOUSING, PLANNING AND LANDS (in Chinese):

Madam President, I would first briefly explain the financial arrangements for the various subsidized home ownership schemes operated by the HA. For "bricks-and-mortar" schemes, which include the HOS, the Private Sector Participation Scheme, the TPS and the Buy-or-Rent Option, the HA provides a mortgage default guarantee. Under the contractual arrangement between the HA and the authorized financial institutions, if a borrower fails to repay the loan, the financial institutions should first recover the flat for resale and demand repayment of the outstanding balance from the borrower. If the balance cannot be settled fully, the HA will bear the responsibility for the outstanding loans in accordance with the mortgage guarantee arrangements.

As regards the Home Purchase Loan Scheme, the HA and the authorized financial institutions are co-mortgagees of the first legal charge. Any proceeds obtained from the sale of recovered flats and loan repayments would therefore be shared between them in proportion to their respective outstanding loan amounts. Any risks of non-payment will similarly be borne by them.

Concerning the amount of bad debts to the HA arising from these schemes, in the past five years, there were 1 229 mortgage default cases leading to recovery of premises by authorized financial institutions for resale. The resultant amount of bad debts borne by the HA because of mortgage default guarantee payments and non-recovery of home purchase loans was about \$270 million. Details are shown at the Annex.

On risk assessment, the HA has made provision in its annual budget for possible default mortgage guarantee payments for "bricks-and-mortar" home ownership schemes. From past records, on average the cases requiring payments represented less than 0.2% of the number of flats covered by the guarantee, which is not imposing excessive financial burden on the HA.

Annex

Bad debts borne by the HA in the past five years
for mortgage default cases under various subsidized home ownership schemes

	<i>HOS</i>		<i>TPS</i>		<i>Home Purchase Loan Scheme</i>		<i>Total</i>	
	<i>Number of cases</i>	<i>Amount (\$ million)</i>	<i>Number of cases</i>	<i>Amount (\$ million)</i>	<i>Number of cases</i>	<i>Amount (\$ million)</i>	<i>Number of cases</i>	<i>Amount (\$ million)</i>
1998-99	36	3.78	0	0	0	0	36	3.78
1999-2000	84	10.44	0	0	40	7.71	124	18.15
2000-01	120	25.01	1	0.03	136	29.95	257	54.99
2001-02	169	42.26	13	1.26	196	41.65	378	85.17
2002-03	216	64.18	39	4.17	179	35.07	434	103.42
(as at end January 2003)								
Total	625	145.67	53	5.46	551	114.38	1 229	265.51

Note: Figures for the HOS include those for the primary and secondary markets of the HOS, the Private Sector Participation Scheme and the Buy-or-Rent Option.

Allowing Spouses to Apply Individually for Calculating Payable Taxes Based on Personal Assessment

10. **DR LAW CHI-KWONG** (in Chinese): *Madam President, will the Government inform this Council whether it will consider amending the Inland Revenue Ordinance (Cap. 112) to allow married couples who have elected to be separately assessed to apply individually for calculating their payable taxes based on "personal assessment", so as to enjoy the tax concessions concerned; if not, of the reasons for that?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): Madam President, the direct income based taxation system in Hong Kong consists of three individual taxes, Property Tax, Salaries Tax and Profits Tax, each of which is separately assessed independently of the others. Only Salaries Tax carries an entitlement to deduct personal allowances and to be charged at progressive rates of tax; the other taxes are charged at a fixed single rate of tax with no deductions for personal allowances.

There are a number of circumstances where assessment under a total income computation would produce a smaller overall tax liability than the combined separate taxes. For this reason, Personal Assessment was introduced, as a tax relief measure, to provide an opportunity for an individual who also has income from Profits Tax and/or Property Tax to elect for total income assessment involving the personal allowances and progressive tax rates that otherwise apply only to Salaries Tax.

Under the Inland Revenue Ordinance, there are certain conditions for electing Personal Assessment. These conditions include the taxpayer electing Personal Assessment must be aged 18 years or more, he must be a permanent or temporary resident of Hong Kong, and, in case of married couples not living apart, both must enter into the election if they both have income to be included and both are eligible to elect, and so on.

Separate assessments for married couples are not allowed under Personal Assessment because there is scope for abuse. For example, the couple may transfer income and assets between them in order to benefit from the personal allowances and deductions and the progressive rates available under Personal Assessment. In the case where separate assessments for married couples under salaries tax are allowed, there are specific provisions in the Inland Revenue Ordinance to govern what and how personal allowances can be claimed by each spouse. Besides, income splitting and/or transfer are less likely in employment cases.

For the foregoing reasons therefore the Government does not intend to amend the Inland Revenue Ordinance as proposed.

Regulation of Advertisement Signboards

11. **MR IP KWOK-HIM** (in Chinese): *Madam President, I notice that many advertisement signboards overhanging from buildings are huge in size and some of them even span the whole width of the street. In this connection, will the Government inform this Council:*

- (a) *whether erecting such large signboards over the streets constitutes an encroachment on government land; if so, of the details;*

- (b) *how the cases involving signboards assessed as encroaching on government land are to be dealt with under existing legislation; and whether and how the relevant authorities have dealt with such cases; and*
- (c) *whether it will consider imposing a charge on the owners of such signboards for the occupation of government land; if so, how the charge is calculated; if not, of the reasons for that?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Chinese):

Madam President, signboards overhanging from buildings and protruding over the streets is a form of occupation of unleased land. The Land (Miscellaneous Provisions) Ordinance (Cap. 28) provides that unleased land shall not be occupied except through a licence issued under this Ordinance.

Although the scope of Cap. 28 appears to be broad enough to cover signboards overhanging the streets and unleased land, any attempt to deal with these circumstances under this Ordinance will raise a lot of pertinent and complex issues. These include the intended coverage of our policy, the read across on other forms of occupation/use of government land, the need for an administrative structure to enforce such a licensing scheme and the cost of compliance for the community. We will need to examine these issues thoroughly and to discuss with relevant bodies before consideration may be given to licensing signboards overhanging government land under the Ordinance.

Advertising signboards protruding over the streets and unleased land have formed part of the Hong Kong streetscape for a very long time. The Administration has not, up to now, contemplated any plan to issue licences for signboards overhanging government land under the Ordinance given the complex issues involved and other competing work priorities.

Information Security for Computer Systems in Schools

12. **MR NG LEUNG-SING** (in Chinese): *Madam President, it has been reported that security loopholes are present in the computer systems in over 20% of the primary and secondary schools and such systems are therefore vulnerable*

to hacking and stealing of the data stored therein. In this connection, will the Government inform this Council:

- (a) of the number of cases reported to the authorities over the past two years in which computer systems in primary and secondary schools ere hacked, and the details of such cases including the losses incurred;*
- (b) whether it has issued security guidelines to schools concerning the storing of information in computer systems; if so, of the relevant details and the way to monitor their compliance by schools; if not, the reasons for that; and*
- (c) whether it plans to step up the training for teachers to know the security issues relating to the storing of information in computer systems; if so, of the details?*

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

- (a) Over the past two years, six schools reported to the Education and Manpower Bureau (EMB) over suspected hacking of their school computer systems. In these cases, the hackers were said to have attempted to intrude into other systems on the Internet through the school computer systems. There was not any damage to the computer systems and the data stored within. The schools had not suffered any financial loss, but only a brief suspension of their Internet services. They have already stepped up security measures in collaboration with the Internet service providers to prevent further attacks by hackers.
- (b) On 2 January 2002, we issued the "Guidelines on IT Security in Schools" to assist schools in formulating information technology (IT) security policies and standards for their computer systems. Five sets of reference materials on IT security have also been compiled for schools since January 2002, with a view to enhancing the awareness of schools on this issue. As to monitoring measures, our officers pay regular visits to schools to promote IT education.

They also provide on-site support, assistance and advice to schools if necessary.

- (c) We organize various activities including seminars and workshops to enhance the awareness of schools in computer system and network security. There have been joint seminars on IT security in schools with professional bodies like the Hong Kong Institute of Engineers to provide schools with a better understanding of the possible illegal activities on their Local Area Network systems. Seminars on network security have also been organized for the principals and IT co-ordinators of primary and secondary schools to brief them on the application of computer network security software (for example, firewall) and related guidelines. From December 2002 to May 2003, five IT security workshops have been planned by the EMB's Centres of Excellence on IT in education to brief schools on the security in computer networks. A web page has also been set up at <HKeducationCITY.net>, providing schools with up-to-date information on IT security. We will continue to organize various activities such as seminars and workshops to promote knowledge of IT security in schools.

Cases of Injuries Caused by Public Facilities in PRH Estates

13. **MISS CHAN YUEN-HAN** (in Chinese): *Madam President, over the past two months, there were three accidents involving residents injured by metal main gates or loosened spare parts thereof in the buildings of public rental housing (PRH) estates. Given that the Housing Department (HD) has contracted out the property management work for these estates to private property management companies, will the Government inform this Council:*

- (a) *of the respective numbers of reports and complaints received in the past three years by the HD from PRH residents about injuries caused by the damaged public facilities in the estates; and how the HD dealt with such reports and complaints;*
- (b) *whether the HD will compensate those who were injured in the above accidents, and whether it will penalize the property management companies concerned;*

- (c) *whether the HD will strengthen its monitoring over property management companies; if it will, of the details; and*
- (d) *whether the HD will stop contracting out the property management work for the estates or review the appropriateness of continuing with contracting out such work; if it will not, of the reasons for that?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Chinese):
Madam President, my reply to the four-part question is as follows:

- (a) In the past three years, there were 14 injuries caused by defective facilities in public housing estates. When such incidents occur, staff of the HD or property services companies will immediately arrive at the scene. If necessary, injured persons will be taken to the hospital. The defective facilities in question will be suspended from use and cordoned off. Maintenance staff of the HD or property services companies will then carry out inspections carefully and undertake any necessary repairs. The HD will also instruct its front-line staff to check similar facilities in other public housing estates to ensure their safety.
- (b) The Housing Authority and property services companies have taken out insurance for public liability arising from the management of public housing estates. In principle, injuries attributable to the negligence of the HD or property services companies will be compensated. Staff of the HD and property services companies will advise injured persons of their rights and assist them to claim compensation from the insurance company.

As for punitive measures, the HD will first demand a detailed report from the property services company concerned to establish the facts and responsibilities. If the incident is caused by the negligence of the property services company or its contractors, the HD will take disciplinary actions such as warning, termination of contract or delisting against the company.

- (c) The HD attaches great importance to monitoring and supervising the performance of property management companies. To ensure a

high quality of services from them, from time to time the HD checks the facilities and services provided in public housing estates. If necessary, the HD will arrange its own professional staff and set up dedicated teams to examine estate facilities to ensure their safety. The HD is also considering tightening the sanctions against outsourced property services companies to strengthen the deterrent effect so as to uplift the standard of their services.

- (d) By tapping into the experience and resources of the private market, outsourcing of estate management and maintenance services helps to enhance the service standards and cost-effectiveness of public housing management. Through effective monitoring and supervision, the HD will ensure that the services provided by property services companies meet the prescribed standards. For continuous improvements, the HD will also review the existing arrangements and explore the possibility of further outsourcing in the light of changes in circumstances and the community's expectations.

Maintaining the Order and Fairness of Securities Market

14. **MR HENRY WU** (in Chinese): *Madam President, will the Government inform this Council whether there are mechanisms for monitoring and regulating the order of the securities market to guard it against disruption by vicious competition (such as stockbrokers' cut-throat reduction in commission charged on transactions) and unfair competition, and to ensure that the objective of maintaining a level playing field will not be affected; if there is, of the details, if not, the reasons for that?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): Madam President, the Government is committed to the promotion of competition. The objective of our competition policy is to promote free market and enhance economic efficiency, thereby also benefitting the consumers. As to the market operators in general, we provide a level playing field which allows freedom of entry to the market. As to the consumers, we proactively enhance the transparency of the market and ensure the free flow of information, so that

they could make an informed choice. The Government will take action only when there are market failures or distortions.

The policy principles on competition mentioned above are equally applicable to the securities market. Our policy objective is to ensure a fair, transparent and orderly market where intermediaries are free to enter to offer various types of services, which in turn provides choices for investors.

In regulating the securities market intermediaries, the Securities and Futures Commission (SFC) and the Hong Kong Monetary Authority (HKMA) seek to enhance market transparency, especially on the items and details of various services provided by these intermediaries and their related charges. Under the Code of Conduct for Persons Registered with the SFC, registered dealers are required to provide in the client agreement a description of any remuneration (and the basis for payment) that is to be paid by the client, such as commission, brokerage, and any other fees and charges. The Code of Banking Practice promulgated by the HKMA also requires banks to make available to customers details of the fees and charges in connection with the banking services, or to advise customers of the details of the basis of charges at the time the services are offered or on request. In response to the findings of the Consumer Council's Survey on Securities Trading Commissions and Charges released on 17 February, the SFC and the HKMA are now considering how to further enhance the transparency of charges on securities-related services, and plan to consult the public after having prepared concrete proposals.

So long as the securities intermediaries fulfil the relevant requirements and investors' interests are reasonably protected, we will not interfere with their practices. Different investors have varying needs. We consider that intermediaries will meet their needs and provide them with more choices by providing different types of services and with different fees. That said, the SFC will, through its regulatory system, identify whether there is any securities firm engaging in any pricing or other forms of competition which leads to market distortion. If it is noted that any firm engages in unhealthy business strategy which exposes its clients to greater risk, or cannot fulfil the requirements under the Financial Resources Rules, the SFC will approach the management of the securities firm concerned. Similarly, the HKMA monitors banks' business strategy and financial position. If a bank engages in unhealthy business strategy that adversely affects its financial position, the HKMA will approach the management of the bank concerned.

Pneumonia Cases

15. **MR MICHAEL MAK** (in Chinese): *Madam President, the recent outbreak of atypical pneumonia cases in Guangdong Province has claimed several lives and caused extensive public concern in Hong Kong. In this connection, will the Government inform this Council:*

- (a) *whether it has learnt about the latest morbidity of the disease in the Mainland and the number of such patients so that timely contingency measures can be drawn up;*
- (b) *whether it has requested public and private medical institutions to report on various types of pneumonia cases in recent months for analysing the spread of the disease; if it has, of the results;*
- (c) *how it will step up promotional and educational activities to enhance the alertness of the public and health care personnel to pneumonia cases; and*
- (d) *whether it will discuss with the relevant authorities in Guangdong Province the setting up a notification mechanism on infectious and serious diseases; if it will, of the details, if not, the reasons for that?*

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

- (a) In connection with the recent pneumonia outbreak in some areas of the Guangdong Province, the Department of Health (DH) has immediately contacted the health authorities in the Mainland by telephone and fax to understand the latest situation. The DH also maintains close contact with the mainland authorities to keep abreast of latest developments.
- (b) The DH operates an effective surveillance system to monitor the situation of communicable diseases in Hong Kong through a network of hospitals, clinics and laboratories in both the public and private sectors. Although pneumonia is not a statutorily notifiable disease, the DH has been monitoring the pattern of the disease

through the weekly reporting of in-patient discharges on pneumonia cases provided by the Hospital Authority (HA).

In view of the recent outbreak of pneumonia cases in Guangdong Province and the information obtained from mainland health authorities, the DH has enhanced and refined surveillance on the disease. Information on pneumonia cases is submitted by all public and private hospitals to the DH on a weekly basis. From the information collected, we do not observe any unusual patterns of influenza-like illness and respiratory tract infection, including pneumonia, in the past few weeks.

- (c) The DH has been reminding the public on precautionary measures against influenza-like illness and other respiratory infections during cold weather. In anticipation of the coming peak season for influenza-like illness in January to March, the DH has already stepped up educational activities on prevention of the disease since December 2002. In connection with the recent pneumonia outbreak in Guangdong Province, the DH had issued a press release and held media interviews to disseminate information obtained from the mainland authorities, including the total number of cases identified, the major symptoms and the cause of the disease, and to advise the public on precautionary measures. The message was also disseminated to the public and the medical profession through electronic means.

Moreover, HA hospitals and professional societies organize ongoing seminars and lectures on pneumonia and related chest diseases for doctors, nurses and other health care workers. At the community level, HA hospitals have also arranged talks for the public and patient groups on various infectious diseases and topics, including pneumonia.

- (d) There already exists a mechanism between the DH and the health authorities in the Mainland for the exchange of information on communicable diseases, including exchange of reports on selected infectious diseases on a monthly basis. For outbreaks of diseases in the Mainland which are of public health concerns, the DH will immediately communicate with the mainland authorities by various

means. In view of the recent pneumonia outbreak, we will further strengthen our communication with the health authorities in the Mainland, and continue to maintain close contact with the World Health Organization (WHO). Currently, the WHO requires notification of all cases of cholera, yellow fever and plague and routine report of statistics on cases of rabies, leprosy, acute flaccid paralysis and virus isolation data (including influenza). We will also report to the WHO incidents involving infectious disease outbreaks which may have global public health significance.

Nutrient Composition and Hygiene Level of School Lunchboxes

16. **MR ERIC LI** (in Chinese): *Madam President, as many students studying in whole-day primary schools order lunchboxes from food suppliers through their schools collectively, will the Government inform this Council:*

- (a) *of the number of licensed food suppliers which are providing lunchboxes to schools; and*
- (b) *whether it has laid down standards on the nutrient composition and hygiene level of such lunchboxes and asked food suppliers to follow them; if it has, of the details; if not, the reasons for that?*

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

- (a) According to information provided by the Food and Environmental Hygiene Department (FEHD), there is a total of 46 licensed food suppliers providing lunchboxes to whole-day primary schools in the territory.
- (b) To help ensure food safety, lunchbox suppliers are required under the Food Business Regulation to obtain a valid food factory licence before operation. Apart from fulfilling general licensing conditions on installation of necessary sanitary fitments/facilities in

their premises, they have to observe the following requirements when processing and delivering lunchboxes:

- Food must be stored in tightly covered or wrapped containers made of materials that will not release toxic chemicals.
- Meal boxes must be stored in suitable warming or refrigerating devices during transportation. In the course of delivery, hot meals must be kept at above 63°C and food to be eaten cold at below 4°C.
- Vehicles for delivery of meal boxes must be frequently cleansed and disinfected. During transportation, meal boxes should be securely fastened to avoid food spillage and contamination.
- Licensees must keep complete records showing the dates and types of food supplied, as well as the names and addresses of schools to which the meals are supplied. Such records should be available for FEHD staff's inspection at any time.

We are mindful that school authorities also play a pivotal role in ensuring the provision of hygienic and nutritious lunchboxes to students. The Education and Manpower Bureau (EMB) has issued guidelines calling on schools to order meal boxes from licensed food suppliers only and to pay attention to the packing and transportation methods used. Separately, the FEHD has been assisting school authorities in choosing suitable lunchbox suppliers through seminars, educational leaflets, web-pages and an enquiry hotline.

The Department of Health has issued guidelines on healthy menu for reference by schools and lunchbox suppliers. To promote the nutrition standards of lunchboxes supplied to whole-day students when ordering the meals, the EMB has promulgated guidelines advising schools how to order lunchboxes that meet students' energy and nutrition requirements. For example, schools have been reminded to include leafy vegetables and fruits in their students' meals and to avoid deep-fried food, fatty or highly processed food.

Implementation of Fixed Penalty (Public Cleanliness Offences) Ordinance

17. **MR FREDERICK FUNG** (in Chinese): *Madam President, will the Government inform this Council of the following since the Fixed Penalty (Public Cleanliness Offences) Ordinance (Cap. 570) came into operation in June last year:*

- (a) *the number of fixed penalty notices issued in each month, with a breakdown by the types of public cleanliness offences, and the number of summonses issued in relation to such offences by magistrates' courts in each of the preceding three years; and*
- (b) *the number of cases in each month in which designated public officers were assaulted while enforcing the Ordinance, with a breakdown by categories of public officers, the number of persons arrested for the attacks, and the penalties imposed on those who have been convicted?*

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

- (a) Monthly statistics on the number of fixed penalty notices issued since June 2002, with a breakdown by the types of public cleanliness offences, are tabulated below:

<i>Month</i>	<i>Littering</i>	<i>Spitting</i>	<i>Unauthorized display of bills or posters</i>	<i>Fouling of street by dog faeces</i>	<i>Total</i>
June 2002	831	96	27	0	954
July 2002	1 090	140	55	3	1 288
August 2002	1 186	192	55	4	1 437
September 2002	1 123	151	57	1	1 332
October 2002	1 245	194	85	0	1 524
November 2002	1 314	189	77	1	1 581
December 2002	1 256	197	48	6	1 507
January 2003	1 225	242	56	1	1 524

The number of summonses issued by magistrates' courts in relation to the above offences in the past three years is as follows:

<i>Year</i>	<i>Littering</i>	<i>Spitting</i>	<i>Unauthorized display of bills or posters</i>	<i>Fouling of street by dog faeces</i>	<i>Total</i>
2000	17 056	3 039	399	40	20 534
2001	20 623	3 322	421	44	24 410
2002 (January to May)	6 316	966	106	7	7 395

- (b) Since the Fixed Penalty (Public Cleanliness Offences) Ordinance came into operation, there was a total of nine cases in which designated public officers were assaulted during enforcement. These cases involved officers of the Foreman (FM) and Hawker Control Officer (HCO) Grades. A monthly breakdown of the case statistics, together with the number of persons arrested for the attacks and the penalties imposed on the convicts, are tabulated below:

<i>Month</i>	<i>Number of assault cases</i>	<i>Public officers involved</i>	<i>Number of persons arrested</i>	<i>Penalties imposed on convicts/Current Position</i>
June 2002	3	1 FM 2 HCO	1 1	Imprisonment of three months and two weeks Imprisonment of one month suspended for 18 months
July 2002	2	2 HCO	2	0 (Acquitted)
August 2002	0	-	-	-
September 2002	0	-	-	-
October 2002	2	1 FM 1 HCO	1 1	Fine of \$1,500 Imprisonment of two months suspended for two years
November 2002	1	1 HCO	1	Defendant absent from court hearing and warrant of arrest issued
December 2002	0	-	-	-
January 2003	1	1 HCO	1	Under police investigation

Plan to Construct a Sewage Treatment Plant at Ngong Ping

18. **MISS CHOY SO-YUK** (in Chinese): *Madam President, the Drainage Services Department (DSD) plans to construct a sewage treatment plant at Ngong Ping, Lantau Island, and to discharge the treated effluent into the sea via*

Tung Wan. According to the Environmental Assessment Report for Tung Wan Option submitted by the DSD to the Environmental Protection Department, the inorganic nitrogen level at a distance 5 m downstream from the discharge point is predicted to exceed, by over 60 times, the relevant water quality objective for the Southern Water Control Zone in which Tung Wan is situated, but the report claims that the discharge will not have grave impact on the quality of the waters concerned. In this connection, will the Government inform this Council:

- (a) whether it will adopt remedial measures to minimize the impact of the effluent on the water quality of Tung Wan; if so, of the details; if not, the reasons for that; and*
- (b) whether, given that the Administration will prosecute those members of the commercial and industrial sector who have caused the discharge of effluent exceeding the prescribed standard, it has adopted equally stringent water quality standard for the effluent of this project of a government department; if not, of the reasons for that?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): Madam President,

- (a) The discharge effluent standards are set according to the "Technical Memorandum on Effluent Standard" under the Water Pollution Control Ordinance (WPCO) to control the quality of effluent discharge. The Water Quality Objectives (WQOs) represent the target of water quality set for water control zones under the WPCO. As the effluent discharged will mix with the receiving waters and be diluted by the natural assimilative capacity of the latter, it is not appropriate to make direct comparison of the discharge effluent standards and the WQOs. In fact, the Technical Memorandum under the Environmental Impact Assessment Ordinance has also pointed out that within the "Mixing Zone", that is, the area where the initial mixing of the discharge with the receiving waters happens, the WQOs can be exceeded.

In assessing the impact of a particular discharge on the receiving water body, the correct practice is to assess the water quality

impacts outside the mixing zone. Ngong Ping Sewage Treatment Works is a tertiary sewage treatment works subject to very stringent effluent standards. The predicted Total Inorganic Nitrogen (TIN) level of the discharge is some 85% lower than the standard specified in the Technical Memorandum under the WPCO. In the worse case scenario, the discharge would only increase the background TIN level at locations beyond a mixing zone of 500 m in radius by less than 0.3%. As this would not cause any adverse impact on the receiving water body, there is no need for any specific remedial measures.

- (b) The Environmental Protection Department sets all effluent standards in accordance with the "Technical Memorandum on Effluent Standards" under the WPCO and applies them to monitor and regulate discharges from facilities owned by government departments or commercial and industrial enterprises alike.

Handling of Withered Trees on Government Land

19. **MR ALBERT CHAN** (in Chinese): *Madam President, it is learnt that the Lands Department (LD) will consult the Agriculture, Fisheries and Conservation Department (AFCD) about trees suspected to have withered on government land. If the AFCD indicates that a tree has withered but poses no immediate danger of falling down, the LD will put it on the waiting list for removal. In this connection, will the Government inform this Council:*

- (a) *of the number of withered trees that fell down before removal by the LD over the last three years and, among them, the number of those that affected residential premises and caused obstruction on roads;*
- (b) *of the number of trees currently on the list of trees awaiting removal and the average waiting time for removal; and*
- (c) *whether the Administration will pay compensations to the relevant persons for casualties or damage to property caused by the fall of withered trees awaiting removal, and of the procedure for such persons to claim compensation from the Administration?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Chinese): Madam President, depending on the location, the maintenance responsibility of vegetation on government land falls on a number of government departments. As far as the LD is concerned, it is responsible for maintaining vegetation on those government land that is not under the management of other government departments.

The specific information requested in relation to the LD is as follows:

- (a) In the past three years, there is not a single case of trees collapsing while awaiting removal by the LD.
- (b) There are currently 78 trees waiting to be felled. These trees do not pose immediate danger of collapsing. The waiting and processing time for felling trees is up to three months.
- (c) If anybody is injured or killed, or if any property is damaged, as a result of a collapsing tree, it is up to the injured person, the representative of the deceased or the property owner, to take whatever action they deem fit to claim damages from the Government. The legal liability, if any, of Government paying compensation would depend on the particular circumstances of the case.

STATEMENT

PRESIDENT (in Cantonese): Statement. Chief Secretary for Administration will make a statement concerning the Report of the Task Force on Population Policy. In accordance with Rule 28(2) of the Rules of Procedure, no debate may arise on the statement but I may in my discretion allow short questions to be put to the Chief Secretary for Administration for the purpose of elucidating it.

REPORT OF THE TASK FORCE ON POPULATION POLICY

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, I am most grateful to you in allowing me to release the Report of the Task Force on Population Policy at this Council meeting today.

I set up the Task Force on Population Policy in September last year to develop a population policy as pledged by the Chief Executive in his second Inaugural Speech in July last year. The Task Force comprises the Financial Secretary, eight Principal Officials and relevant Heads of Departments.

Its task was to develop a comprehensive population policy by the end of last year. Given the shortage of time, the Task Force focused on analysing the demographic characteristics of Hong Kong's population; identifying the major challenges and concerns arising from these demographic trends; setting an objective which the population policy seeks to achieve and proposing a set of policy measures to be adopted in the short to medium term to achieve this objective.

Our people live longer and reproduce at a much lower rate than most communities. The most recent statistics show women living to 85 and men to 78 years. This compares with approximately 75 among females and 67 among males in the early 1970s.

We also have one of the lowest fertility rates in the world. In 2001, Hong Kong women bore an average of just 0.9 children over their lifetime. This is well below the "natural" replacement level, usually regarded as 2.1 children per woman.

Together, these facts mean that the profile of Hong Kong's population, like other advanced economies, is ageing rapidly. Indeed, demographic trends indicate that one quarter of our population will be aged 60 or above by the year 2031. Among them, those older than 80 are expected to triple from the current 67 000 to 209 000. During that period, the total population is forecast to rise 30% from 6.72 million in 2001 to 8.72 million but the labour force will grow by only 8%, from 3.43 million to 3.7 million.

This indicates that 5 million people, or 58% of the population, will be economically inactive by 2031.

We are also committed to a programme of admitting almost 55 000 immigrants from the Mainland each year. Apart from births, the entry of One-Way Permit holders is one of the main sources of our population growth. Many of the adult new arrivals when they first arrive have few work skills and

little education. Hong Kong faces a serious task to upgrade their skills to increase their competitiveness in the labour market and to meet the needs of our economy.

Meanwhile, though the education attainment profile of our local population is continuing to improve, our workforce will increasingly need to demonstrate higher skills as globalization intensifies competition among developed economies in the shift towards high value-added and knowledge-based activities. We are also experiencing a growing population of migrant workers filling a diminishing number of unskilled jobs available.

Madam President, our people are hardworking and resilient. They know the importance of Hong Kong's transformation to a knowledge-based economy for our future success. All of us are alert to the need to ensure our emerging population profile can sustain our economic vitality in the long run. We all cherish the goal to continually improve the quality and standard of living.

With these in mind and in the light of our demographic characteristics, the Task Force considers the primary objective of the population policy is to nurture a population that can sustain Hong Kong's long-term economic and social development.

Our proposed population policy should strive to improve the overall quality of our population in fulfillment of our vision of Hong Kong as a knowledge-based economy and world-class city. In this context, we should also aim to redress population ageing, foster the concept of active and healthy ageing, promote social integration of new arrivals, and, most of all, to ensure the long-term sustainability of our economic growth. We believe the achievement of these goals will lead to a steady improvement of the standard of living of our people.

Population is a very complex subject. Almost all government policies directly or indirectly impact on our demography in varying degrees. For this reason, this Report covers a wide spectrum of public policies. We hope that this exercise will lead to a set of coherent and consistent measures being put in place to achieve the objective of the population policy.

The Task Force considered our extremely low fertility very carefully. We need to ensure new blood to rejuvenate our population — literally. Yet, parenthood is a very personal matter. We should respect the decisions of

individual couples. Accordingly, we have concluded that it is not appropriate for the Government to adopt special policies to promote childbirth.

However, we consider the current tax deduction for third and subsequent children is out of line with the need to increase our numbers. The Task Force recommends that the Government should consider granting the same level of tax deduction for all a family's children, regardless of number.

The One-Way Permit Scheme is the single most important factor in our demographic growth and composition. Our population grew by 0.7% last year, only 28% of which was due to net natural increase. Some 72% of growth was generated by the net inflow of people, mostly coming under the One-Way Permit Scheme. Given its importance, we reviewed this Scheme. The Government of the Hong Kong Special Administrative Region (SAR) has approached the mainland authorities, which administer the scheme, in the course of this exercise.

The Task Force came to the view that, unless our fertility rate rebounds significantly, Hong Kong will be increasingly reliant on inward migration for our population growth. We respect the right of family reunion and the right of abode conferred by the Basic Law, and we have concluded that the present daily allocation of 60 within the 150 quota for children with right of abode in Hong Kong is appropriate. We have proposed that we should strictly enforce this daily allocation of 60 children and should not allow other categories of One-Way Permit holders to make use of it.

This will also help to have children arrive in Hong Kong as young as possible. Academic studies show that there is little difference in the subsequent academic performance of children who come to Hong Kong by the age of nine.

As an improvement to the present arrangement, they will be provided with the added flexibility of choosing to settle in Hong Kong together with their mainland parents, meanwhile retaining their residence status in the Mainland until their parents have also obtained approval to settle in Hong Kong. This will help to alleviate the distressing problem of split families that has become quite common.

We have agreed with the mainland authorities that spouses in Guangdong will be allowed to continue to use un-utilized sub-quotas for long-separated families, which at present is 30 per day. We expect that this will reduce waiting

time for spouses in Guangdong. In addition, we will encourage them to take out a Multiple Re-entry Permit as soon as they have applied for a One-Way Permit to allow them to become familiar with life in Hong Kong. This will help them to make an informed decision on whether to settle in Hong Kong while maintaining strong family connections.

For the time being, the total daily quota of 150 will remain unchanged. The SAR Government will liaise closely with the mainland authorities with regard to the numbers and the allocation among the categories. If there is evidence that the demand falls, we will discuss with the mainland authorities to reduce the quota.

The main changes to the One-Way Permit Scheme I have just described will be put into force subject to agreement and legislation by the Central People's Government.

The size of our workforce will shrink as the prime working age population declines. Steps must be taken to reduce dependency of the elderly and raise the productivity of old people. I also urge all people to view ageing in a proper perspective. Notwithstanding the challenges presented by a growing population, ageing represents first and foremost a success story for our public health policies as well as social and economic development.

To promote positive ageing, we believe that we need to revisit and redefine the notion of retirement and old age. We need to promote a new awareness of elderly people, not as individuals needing help, but as people having much to offer and wanting to give. This should form the essence of our policy for the elderly.

Neither the younger generation nor the Government should shy away from shouldering the costs of taking care of our elderly population. They have contributed to the upbringing, education and acquisition of productive power of our entire younger generation. But we must also accept that the more a society spends proportionally on the healthcare of its elderly, the less can be devoted to productive investment or to the society's younger and more productive members. It is essential for us to look far ahead to find feasible and practical ways to develop a sustainable financial support system for the needy elderly. The Health, Welfare and Food Bureau is now undertaking this task.

In the immediate future, the simple population numbers do not constitute a crisis. We shall continue to admit new arrivals to reduce population ageing and labour force shrinkage. However, quantity alone will not resolve the problem. We do need to attend to the quality of our population, upgrading our skill levels to meet the requirements of economic restructuring.

As most of the new immigrants are admitted for family reunion, we cannot, as in the case of skilled immigrants, exclude those without high education or skills. We shall continue to provide education, training and skills upgrading programmes to new arrivals of different age groups.

Indeed, investment in education is one of the Chief Executive's major priorities. We are taking two main approaches to meet the manpower needs of our economy. First, to upgrade the general level of education for all, and second to promote and facilitate skills upgrading and lifelong education among the existing workforce. With the establishment of the Manpower Development Committee, we will adopt a strategic and co-ordinated approach to manpower planning and development to meet the changing demands of our economy.

Madam President, in order that Hong Kong may emerge successfully from this challenging process of economic restructuring, we cannot rely solely on the pool of home grown talents to raise the overall quality of our human capital. Indeed, the quest for talent and skills becomes a primary factor in determining economic success of developed economies around the globe.

Hong Kong has to attract the best and brightest from all over the world. This includes, of course, those from the populous and fast-developing Mainland of our nation. We will relax admission of mainland professionals and talent to live and work in Hong Kong. The present restrictions on specific business sectors and admission of dependent family members will be lifted. We will also take active measures to attract more mainland businessmen to set up business in Hong Kong. These measures, which we intend to implement in July 2003, will allow Hong Kong to enlarge the pool of talents needed to meet the requirements of a knowledge-based economy and enhance the competitiveness of our demographic structure.

Apart from business talent, we will also attract mainland talent from more diversified fields, such as the arts and sports, as part of building a multifaceted, world-class city. The Education and Manpower Bureau will implement a series

of measures in September this year to attract more overseas students to pursue their tertiary and postgraduate education in Hong Kong. We think that this will help to create a multilingual and multicultural environment at our tertiary institutions. This will also further the essential process of building a critical mass of knowledge and skills that will fortify Hong Kong's status as a world city.

Furthermore, as more and more children of Hong Kong families are educated overseas, we should also step up efforts to encourage these young people to return to live and work in Hong Kong.

We will relax our current policy to attract investment immigrants to enhance our economic strength. We propose to allow foreign investors to settle here with effect from the second half of this year. This relates to people who have the financial means to make a substantial investment in Hong Kong but who do not wish to run a business.

We recommend that the threshold should be set at HK\$6.5 million. Prospective applicants will be allowed a reasonable flexibility in their choice of investments. Qualifying asset classes will include real estate and specified financial assets. The new policy will apply to foreign nationals, Macao SAR residents and residents of Taiwan. It is because of foreign exchange controls, the new policy will not, at this stage, apply to mainland residents. For mainland businessmen, we propose to encourage them to make greater use of the current multiple-visits permit system in coming to Hong Kong to look for investment opportunities. We will consider amending our immigration law to allow visitors to engage in a wider range of business-related activities in Hong Kong. We believe that these new measures will help generate greater economic activity and in turn more employment opportunities in the SAR.

Madam President, Hong Kong has a significant transient population. It consists of imported low-skilled workers who are allowed to stay in Hong Kong so long as they remain employed.

They currently number almost 240 000, most of them employed as domestic helpers. A much smaller number is mainly admitted under the Supplementary Labour Scheme.

Despite the economic downturn in the past few years, there is no indication that the admission of foreign domestic helpers has slowed down.

They make use of a wide range of local facilities and services. It is because of their considerable and growing number, we have to include a review of our foreign domestic helper policy as part of our exercise.

The Task Force recognizes the contribution by foreign domestic helpers in providing help to families who require full-time live-in domestic helpers. This may not be readily available from local domestic helpers and we recognize that there are two distinct markets for foreign and local domestic helpers.

The Task Force considers that several improvements should be made to enhance the integrity of the mechanism of admitting foreign domestic helpers with the aim of minimizing abuse and displacement of local jobs by foreign domestic helpers.

Since the enactment of the Employees Retraining Ordinance in 1992, employers importing workers other than foreign domestic helpers have been paying a levy. It is a well-established principle that employers turning to imported workers, rather than local employees, should contribute towards the training and retraining programmes. At present, only employers under the Supplementary Labour Scheme are required to pay a levy. We recommend that the same levy, currently \$400 a month, should also apply in the employment of foreign domestic helpers. The levy will be imposed under the Employees Retraining Ordinance. This will take effect from 1 October 2003. According to existing arrangements under the Supplementary Labour Scheme, the levy will be paid upfront by the employer and will apply to new contracts and renewal of contracts. To provide flexibility to employers, we will allow an option for the levy to be paid by four instalments, that is, \$2,400 each. The first instalment should be paid before the granting of a visa to the foreign domestic helper. Employers under the Supplementary Labour Scheme will enjoy the same flexibility.

The Employees Retraining Ordinance also stipulates that if an imported employee fails to arrive in Hong Kong having been granted a visa or having arrived but fails to complete the contract of employment, there will be no refund of the levy paid, but the Director of Immigration will take into account the relevant balance if a fresh application for an imported employee is submitted by the employer within four months.

As I have said, there is an urgent need to upgrade the skill levels and to provide for the lifelong education of our workforce, against the backdrop of economic downturn, high unemployment and restructuring of our economy. Given the increased demand for resources in this regard, there is a strong case for expanding the source of levy income. Given all these considerations, we believe that employers of foreign domestic helpers, like employers of other imported workers, should contribute towards the training and retraining of the local workforce.

Along with the significant downward adjustment in various local economic indicators since the last adjustment to the minimum allowable wage for foreign domestic helpers in 1999, the minimum allowable wage for foreign domestic helpers will be reduced by \$400 per month for employment contracts signed on or after 1 April this year. The Labour Department and Immigration Department will step up enforcement actions against abuse of foreign domestic helpers, such as underpayment, undertaking non-domestic work or moonlighting. We hope that these actions will help to prevent exploitation of migrant workers and promote employment opportunities for local domestic helpers.

Madam President, it has become clear that Hong Kong faces a severe fiscal situation and is running a sizeable deficit.

Many public services in Hong Kong are heavily subsidized and various sectors in the community have expressed the view that the Government needs to take urgent steps to address rising public spending on social and other services, particularly in the light of population ageing and continuing influx of new immigrants.

Some of the subsidized services such as public rental housing and social security benefits currently require applicants to meet a certain length of residence in Hong Kong; others such as public health services do not. Public health services are available not only to permanent and non-permanent Hong Kong residents, but also to the transient population such as foreign domestic helpers, migrant workers and visitors including Multiple Re-entry Permit holders.

The Task Force considers that in developing the population policy, the opportunity should be taken to address this anomaly. We have focused our attention initially on the Comprehensive Social Security Assistance (CSSA)

Scheme and public health services which together took up 22% of total public recurrent expenditure in 2001-02.

We consider that there is a strong case for applying a uniform seven-year residence rule for providing all heavily subsidized social services and public health and hospital benefits.

Eligibility based on a seven-year residence reflects a resident's contribution towards our economy over a sustained period. For CSSA, the Director of Social Welfare will have discretionary power to grant the allowance for exceptional cases on compassionate grounds. This measure will take effect from a date to be decided. All current residents will not be affected. Young children will be exempted and the measure will apply only to those aged 18 and above.

We further propose that, in principle, the same residence requirement should apply to users of subsidized hospital and public health benefits. We will initially apply it to Multiple Re-entry Permit holders and visitors. This will take effect from 1 April this year. For the rest of the affected population, the Health, Welfare and Food Bureau will need to conduct an in-depth study to assess the impact before considering when and how this will be applied to them in the longer term.

Madam President, I would like to stress that these measures are to ensure resources are allocated on a rational basis for the provision of benefits to Hong Kong people.

In approaching this complex issue, we have to strike a very fine balance between the interests of different sectors and pay due regard to our long-term fiscal balance. We have noted the practices in other places regarding eligibility for public benefits.

Hong Kong is a free, open and cosmopolitan society. We will continue to open wide our doors to immigrants who treasure the free, enterprising, innovative society that Hong Kong offers and who are ready to capitalize on the bountiful opportunities that we provide. At the same time, we encourage new arrivals to be self-reliant.

We believe that our continuous efforts to promote retraining and skill upgrading will enhance their skills level and integration of the new immigrants with the rest of the community. We also encourage the community to take a positive attitude towards the new immigrants, some of whom have already achieved remarkable results in their academic and business pursuits in Hong Kong.

Within the six months it was given to work, the Task Force sought to analyse the main social and economic challenges that our demographic trends readily present to us and have explored a set of practical measures to be taken in the short and medium term to address these challenges.

Having worked on this subject, I have come to realize that many factors affecting the demographic conditions in Hong Kong are beyond the control of the Government. There are market forces in action and we have to respect the choices individuals make. We also accept the issues involved will inevitably change.

Above all, Hong Kong is integrating more and more closely with the Pearl River Delta. This will carry far-reaching consequences on demographic developments in Hong Kong as more and more people move across the Hong Kong and Pearl River Delta boundary in both directions.

The continuing review of our population policy is therefore essential. The Task Force recommends that there should be dedicated resources in the Government to continue to oversee the population policy, to follow up on the longer-term issues and to review the implementation of the various policy measures regularly.

The publication of this Report denotes not the end but rather the beginning of a mammoth task. I appeal to Members of this Council and the community to support this important exercise, which carries long-term consequences for us and for generations to come.

Madam President, we may not have sufficient time today to go into details of each and every aspect of the proposed population policy. I believe some Members may ask me to give explanations on the statement that I have just made. But if Members want me to give explanations or answer their questions, I would be more than happy to further discuss the subject at my meeting with the House

Committee on Friday. Relevant Bureaux are also prepared to brief their respective Panels on individual policy measures related to population policy.

PRESIDENT (in Cantonese): In accordance with the Rules of Procedure, short questions may be put to the Chief Secretary for Administration for the purpose of elucidating the statement. Since Members already have the text of the statement at hand, I wish that Members can point out the paragraphs in the text when they ask questions for the purpose of elucidation so that we can be clear about their questions.

MR IP KWOK-HIM (in Cantonese): *Madam President, I wish to ask the Chief Secretary for Administration to elucidate paragraph 40 on P.6 concerning "To provide flexibility to employers, we will allow an option for the levy to be paid by four instalments, that is, \$2,400 each". I wish to ask if I can interpret it as the levy is payable by four instalments of \$2,400 each within two years?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, yes. The term of the employment contract of a foreign domestic helper is usually two years, in other words, an employer has to pay an instalment every six months. The first instalment should be paid before the arrival of and the granting of a visa to the foreign domestic helper and the remaining three instalments of \$2,400 each should be paid within the following 18 months. This is to provide flexibility to employers, but I know that some employers may find it too troublesome and may make a one-off payment of \$9,600.

MR LEUNG FU-WAH (in Cantonese): *Madam President, the Chief Secretary for Administration confirms in paragraph 38 that "there are two distinct markets for foreign and local domestic helpers". I am very glad to hear that from the Chief Secretary because it shows that the Government fully agrees with the view of the Hong Kong Federation of Trade Unions. The Chief Secretary has stated in paragraph 39 that "the Task Force considers that several improvements should be made to enhance the integrity of the mechanism of admitting foreign domestic helpers with the aim of minimizing abuse and displacement of local jobs by foreign domestic helpers", can the Secretary explain what are the specific improvements to be made?*

PRESIDENT (in Cantonese): Mr LEUNG, are you asking the Chief Secretary to further elucidate "enhance the integrity" in the expression "enhance the integrity of the mechanism of admitting foreign domestic helpers"?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, we will have two approaches. When we examine the applications, we will clearly consider whether an applicant and his living environment is suitable for the employment of a foreign domestic helper, whether he has made adequate preparations and the financial situation of his household. In this respect, we will more strictly implement the relevant provisions. Another approach is to review the enforcement procedures to find out if a foreign domestic helper has undertaken non-domestic work or moonlighting. We will step up enforcement in this respect and I know that proceedings have already been instituted and some employers have been fined or even imprisoned. We will continue with our work in this respect.

MR YEUNG YIU-CHUNG (in Cantonese): *Madam President, the Chief Secretary has stated in paragraph 24 that "we need to redefine the notion of retirement and old age", does it mean that the Government will prescribe afresh the retirement age of civil servants?*

PRESIDENT (in Cantonese): Chief Secretary, please elucidate whether the relevant notion covers the retirement of civil servants.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, perhaps I can explain this point. The retirement age and fostering the concept of active and healthy ageing are two very different things. What I have said was that we should consider in respect of the population policy how to enable the elderly to have a more positive outlook on life. I admit that there are age limits for certain jobs but there is no contradiction, for our purpose is to give every person a positive feeling when he leaves a certain job and attains a new status, and we hope that he will have a feeling that he will remain active after retirement.

MS CYD HO (in Cantonese): *Madam President, the Chief Secretary has mentioned the objective of our population policy in paragraph 12, that is, "Our proposed population policy should strive to improve the overall quality of our population in fulfillment of our vision of Hong Kong as a knowledge-based economy and world city". I would like to ask the Chief Secretary if the ideal of becoming a world city and a knowledge-based economy is the ultimate objective of our population policy? Does the objective include the people-oriented factors mentioned in the policy address for the year 2000? Without people-oriented factors, the best Hong Kong can do is only to become an empty city and a palace on a sand dune, which is really meaningless.*

PRESIDENT (in Cantonese): Ms HO, do you wish the Chief Secretary to elucidate if the two ideals include people-oriented factors?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, my colleagues and I have based upon human-oriented factors when we studied and considered the whole Report on our population policy. There is a whole chapter in the Report on the objective of our population policy and I believe Members will find in that chapter our overall objective including how to find out the challenges currently faced by Hong Kong people, how to overcome the problems brought by the ageing population, how to enhance the value-addedness of our labour force, how to make us more competitive in the future as well as how to enhance the quality of life of the local people. I believe Members may not have read the whole Report within such a short time but I believe they will be very clear about these after reading the Report.

MS EMILY LAU (in Cantonese): *Madam President, I wish that the Chief Secretary for Administration can elucidate one point in paragraph 60, he says that we can discuss the subject at the House Committee meeting on Friday and the relevant Bureaux are also prepared to brief their respective Panels. I wish the Chief Secretary can explain whether the discussions and briefings by the Administration mean that all the proposals in the Report cannot be changed, or corresponding changes will be made after this Council has been consulted and Members have expressed their views?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, the population policy is formulated within a very short time and it involves many policies targeted at the existing challenges. A lot of policies are involved and there is a consultative machinery for each of these policies, be they problems related to medical or welfare affairs; there is a machinery for each of them.

The implementation of some new procedures certainly has to go through legislative procedures and a consultation process. However, some existing policies are established policies and adjustments have been made many times in the past, for instance, the proposal concerning the adjustment in the monthly wage of a foreign domestic helper, we think that the proposal can be implemented as soon as possible and we will follow the relevant procedures.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, I wish to ask the Chief Secretary for Administration to elucidate on paragraph 43 which states that the minimum allowable wage for foreign domestic helpers will be reduced by \$400 per month, what is the rationale for reducing their minimum allowable wage by \$400? To me, the rationale lies in "the significant downward adjustment in various local economic indicators". As far as I know, in the past, the reduction has always been based upon the amount of reduction in the wages of cleaners within a certain period of time, but the wages of cleaners have definitely not been reduced by more than 10% within such a period. Has the Government abolished the mechanism adopted in the past, and forcibly and artificially set the rate of reduction at \$400? Would the Chief Secretary please elucidate the rationale for the Government to set the rate of reduction at \$400?*

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan, when you ask for elucidation, you ask the Chief Secretary to elucidate further an unclear passage in the text.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, I am also asking for elucidation and the unclear part is "the significant downward adjustment in various local economic indicators". What are the indicators that have been downward adjusted, leading to the Government to come to the conclusion of \$400?*

PRESIDENT (in Cantonese): Mr LEE, are you referring to paragraph 43 of the text?

MR LEE CHEUK-YAN (in Cantonese): *Yes, Madam President, about "the significant downward adjustment in various local economic indicators", I ask the Chief Secretary to elucidate what indicators have been downward adjusted significantly, causing the Chief Secretary to think that a reduction of \$400 is necessary. Of course, \$400 is related to the significant downward adjustment and the Chief Secretary must elucidate this point, otherwise, it will be very unclear.*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, we have followed the existing mechanism and criteria when we made adjustment to the minimum allowable wage. According to our records, the system of minimum allowable wage has been implemented for almost 30 years and as many as 18 adjustments have been made throughout these years. We have mainly taken two points and other factors into consideration this time and they are the same as the criteria adopted in the past. The last adjustment was made in 1999 and the relevant cost of living index has already been downward adjusted by 10% today. Besides, the median wage of non-skilled workers has also been downward adjusted by 16%. After calculating these indices and taking other factors into account, we think that it is appropriate to downward adjust the minimum allowable wage by \$400.

MR JAMES TO (in Cantonese): *Madam President, I ask the Chief Secretary to elucidate paragraph 49 in which it is stated that the Director of Social Welfare will have discretionary power to grant the allowance for exceptional cases on compassionate grounds. At present, residence of less than seven years can be considered on an exceptional basis, so I wish to ask, is the exceptional case mentioned here more exceptional than the existing exceptional cases, or is it similarly exceptional?*

PRESIDENT (in Cantonese): Mr TO, do you wish the Chief Secretary to elucidate how different is this exceptional case from the existing cases?

MR JAMES TO (in Cantonese): *Yes.*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, the same criteria and methods are adopted to determine whether cases are exceptional.

DR LO WING-LOK (in Cantonese): *Madam President, in paragraph 48, the Chief Secretary has stated that there is a strong case for applying a uniform seven-year residence rule for providing all heavily subsidized public health and hospital benefits. I wish to ask for elucidation on one point, that is, does it mean that those who fail to comply with the relevant rule can still be treated if they have money, but cannot be treated if they do not have money; if not, what arrangements will be made?*

PRESIDENT (in Cantonese): Dr LO Wing-lok, the first part of your question is about whether those who have money can be treated and those who do not have money cannot be treated. In regard to this question, this can still be described as a point seeking elucidation. However, following this, you asked a question about the relevant arrangements. I believe you can definitely ask questions in detail two days later because you should know that seeking elucidation and asking questions are two different things.

DR LO WING-LOK (in Cantonese): *Then, I would only ask the first part of my question.*

PRESIDENT (in Cantonese): Fine. Thank you.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, the medical services we provide are public services available to everybody. We think that rich people, especially those who are non-Hong Kong residents, can use some services that do not have to be subsidized by Hong Kong people. Of course, we cannot shut out those who do not have money. In fact, there are medical social workers attached to every hospital and they will handle such cases at their discretion as the case may be.

MRS SELINA CHOW (in Cantonese): *Madam President, the Chief Secretary for Administration has stated in paragraph 34 of the document that "we will consider amending our immigration law to allow visitors to engage in a wider range of business-related activities in Hong Kong." I believe Members will welcome it very much because it will definitely be helpful to our economy.*

Now that the Chief Secretary for Administration has said that it is something good and it can increase job opportunities, what more does he have to consider? Why is the amendment not made directly? Why does he have to consider the amendment and how long will he take to consider the matter?

PRESIDENT (in Cantonese): Mrs Selina CHOW, it seems that you have asked a question rather than asked for elucidation. Can you try to put your question in such a way that you are asking for elucidation?

MRS SELINA CHOW (in Cantonese): *I wish to ask the Chief Secretary for Administration to elucidate on the amendment to our immigration law which is being considered, what is he going to consider and how long will he take to consider the matter?*

PRESIDENT (in Cantonese): Mrs Selina CHOW, please be seated. Chief Secretary for Administration, please try to further elucidate what will be considered.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, the process of consideration has already begun. *(Laughter)* The matters for consideration are not entirely controlled by the Hong Kong Government and we have to discuss some of these matters with the relevant mainland departments. Since the people concerned have to obtain approval before leaving China and there are restrictions to the movement of funds, we have to take mainland policies and laws into consideration. However, the relevant process of consideration has already begun.

MR LAU PING-CHEUNG (in Cantonese): *Madam President, concerning the policy to attract investment immigrants as stated in paragraph 34, I would like to ask how the threshold of \$6.75 million is set? Is the threshold too high as compared with that set by other countries?*

PRESIDENT (in Cantonese): Mr LAU, it should be \$6.5 million.

MR LAU PING-CHEUNG (in Cantonese): *Thank you, Madam President, it is \$6.5 million.*

PRESIDENT (in Cantonese): Mr LAU, it seems that this point cannot be elucidated because \$6.5 million are \$6.5 million. What do you wish the Chief Secretary to elucidate? *(Laughter)*

MR LAU PING-CHEUNG (in Cantonese): *I wish to ask the Chief Secretary to elucidate why the threshold is set at \$6.5 million. (Laughter)*

PRESIDENT (in Cantonese): Chief Secretary, are you going to respond?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): I would try to elucidate it, Madam President. When we considered setting the threshold at \$6.5 million, we had certainly made the decision after taking into account the attractiveness of Hong Kong itself and the requirements of other places for investment immigrants. The places we had considered included Canada, Australia, the United Kingdom and Singapore, and after we had considered the conditions, methods and amounts of investments by individuals required by these places, we thought that the threshold set was quite attractive.

MR MICHAEL MAK (in Cantonese): *Madam President, I wish to elucidate whether I can ask one question or several questions. (Laughter)*

PRESIDENT (in Cantonese): Mr MAK, you can ask one question seeking elucidation. If you wish to ask another question, you will have to queue up because there are still more than 10 Members waiting, therefore, I do not want each Member to take up too much time and I hope that more Members will have a chance, is that alright?

MR MICHAEL MAK (in Cantonese): *Madam President, the question I wish to put to the Chief Secretary is that, it is stated in paragraph 4 about the average age or lifespan of our population that the most recent statistics show women living up to 85 and men up to 78 years of age, which proves that men have shorter lifespans. I am not sure if I wish to ask for elucidation or to acquire a deeper understanding, does the Secretary have any plan in our population policy to prolong the lifespan of men? (Laughter)*

PRESIDENT (in Cantonese): Mr Michael MAK, I do not think the question is seeking elucidation, I will give you another chance and please really ask for elucidation. *(Laughter)*

MR MICHAEL MAK (in Cantonese): *Madam President, I do wish to ask for elucidation, I wish to ask the Chief Secretary to elucidate whether there are other about lifespans*

PRESIDENT (in Cantonese): Mr Michael MAK, I do not think the question is seeking elucidation either, if you really wish to ask for elucidation, please ask for elucidation of the relevant matter.

MR MICHAEL MAK (in Cantonese): *Madam President, can you give me yet another chance to ask a question about something else and it will really be asking for elucidation, Madam President, is it alright?*

PRESIDENT (in Cantonese): Mr Michael MAK, I give you another chance again.

MR MICHAEL MAK (in Cantonese): *Madam President, in paragraph 50, the Chief Secretary has mainly touched upon fees and he has said that for the rest of the affected population, the Health, Welfare and Food Bureau will need to conduct an in-depth study to assess the impact. I wish to ask the Chief Secretary to elucidate what the impact here is, does it mean the impact on their intention to seek medical consultation or their ability to pay?*

PRESIDENT (in Cantonese): Mr MAK, do you wish to ask the Chief Secretary to elucidate the aspect in which there will be an impact?

MR MICHAEL MAK (in Cantonese): *Yes, what will be the impact?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, it is the latter one.

MR WONG SING-CHI (in Cantonese): *I also wish to ask for elucidation on paragraph 49. The Chief Secretary has stated that for CSSA, the Director of Social Welfare will have discretionary power to grant the allowance for exceptional cases on compassionate grounds. What are the exceptional cases and does the granting of the allowance mean that people who fail to meet the requirement will also have a chance to become CSSA recipients?*

PRESIDENT (in Cantonese): Mr WONG Sing-chi, this is a question. Elucidation allows you to further understand the contents of the text. You have just asked how the Secretary will implement the measure and you can wait for two days before asking the question again.

MR WONG SING-CHI (in Cantonese): *Madam President, I wish to ask the Chief Secretary to elucidate on his statement and whether it means that even people who fail to meet the requirement may also become CSSA recipients.*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, it seems that I have already answered the same kind of question earlier. We will adopt the existing methods. We have the requirement of a one-year residence in Hong Kong for the CSSA and the Director of Social Welfare will consider cases at discretion. However, there are many ways in which resources are distributed, and other than the CSSA, there are other arrangements such as other subsidized and referral services, some trust funds, and so on.

MR ANDREW WONG (in Cantonese): *Madam President, I wish the Chief Secretary for Administration can elucidate the meaning of "seven-year residence" as referred to in paragraphs 48 and 49. Does it mean that regardless of whether they are permanent residents, non-permanent residents or just visitors, or whether they are foreign domestic helpers or imported labour, people can enjoy the relevant services so long as they have lived here for not less than seven years? Conversely, does it mean that a permanent resident who has not lived here for seven years will not be able to enjoy the relevant services? In other words, does it mean that the criterion to be adopted in future will have nothing to do with whether the person is a permanent resident, but whether he has lived in Hong Kong for not less than seven years before enjoying the services?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, yes, the demarcation line is drawn on the basis of residence of not less than seven years. The gist of what I have just said is that if a person who has resided in Hong Kong intends to regard Hong Kong as a place of permanent residence and has made economic contributions towards our economy for a continuous period of not less than seven years, we would think that he is eligible for enjoying the services subsidized by the Hong Kong Government.

MR FREDERICK FUNG (in Cantonese): *Madam President, I wish the Chief Secretary for Administration can elucidate paragraphs 5, 14 and 16. I may talk about*

PRESIDENT (in Cantonese): Mr Frederick FUNG, do you wish to ask for elucidation of paragraph 5?

MR FREDERICK FUNG (in Cantonese): *Paragraphs 5, 14 and 16. I wish to talk about some background information*

PRESIDENT (in Cantonese): Mr FUNG, you may have my leave to do so if they are related, please continue.

MR FREDERICK FUNG (in Cantonese): *Madam President, in fact, I am very worried about the existing birth rate. It is stated in paragraph 5 that Hong Kong women bore an average of just 0.9 children over their lifetime while the natural replacement level is usually regarded as 2.1 children per woman, that is, it is 2.3 times less than the natural birth rate, the natural level is 2.1*

PRESIDENT (in Cantonese): Mr FUNG, it is 2.1 times, please read it more carefully.

MR FREDERICK FUNG (in Cantonese): *No, what has been stated is 2.1 children and 0.9 less than the normal figure, so, if we draw a comparison between the current birth rate and the normal figure, the normal figure is 2.3 times the current birth rate, which is the first figure that I would like to tell Members about.*

Furthermore, paragraph 16 has touched upon our population growth especially the increase in the number of children, 28% of growth was due to net natural increase and 72% of growth was generated by the net inflow of people. There was a difference of 2.5 times, 0.2 more than 2.3 times. The Chief Secretary for Administration has also stated in paragraph 14 that "we have concluded that it is not appropriate for the Government to adopt special policies to promote childbirth." Actually, does the Chief Secretary for Administration mean that although there are not enough children at present, we will not rely on or encourage Hong Kong people to give birth to more children but will completely rely on new immigrants or new arrivals as the most important way to increase our population?

PRESIDENT (in Cantonese): Mr FUNG, excuse me, I do not think this is a question seeking elucidation.

MR FREDERICK FUNG (in Cantonese): *Madam President, I ask for elucidation of the phrase "it is not appropriate for the Government to promote childbirth", if it does not promote childbirth, we have to completely rely on new immigrants*

PRESIDENT (in Cantonese): Mr FUNG, it is the conclusion that you have drawn from the statement and you cannot ask the Chief Secretary for Administration to elucidate every conclusion, thus, I suggest that you should ask this question at the special meeting on 28 February, is it alright?

MR FREDERICK FUNG (in Cantonese): *Madam President, can I put my question in another way?*

PRESIDENT (in Cantonese): Yes, you can try to put your question again.

MR FREDERICK FUNG (in Cantonese): *Madam President, concerning paragraph 14, based upon the data and information given by the Chief Secretary for Administration, does it mean that the Government does not intend to promote childbirth by the permanent residents of Hong Kong, thereby increasing the existing rate of 0.9 children?*

PRESIDENT (in Cantonese): Mr Frederick FUNG, I wish to tell you that elucidation is in general very simple. Actually, you wish to ask the Chief Secretary of Administration to elucidate whether "it is not appropriate for the Government to adopt special policies to promote childbirth" means that the Government is not going to adopt any measures to promote childbirth, do you wish to ask the Secretary to elucidate this?

MR FREDERICK FUNG (in Cantonese): *And thereby increasing the existing rate of 0.9 children.*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, the existing birth rate of 0.9 is only presented in a rounded-up figure and it should be 0.927, but it is already the lowest rate in the world. Our conclusion is that we do not wish to force women to bear children in an artificial or compulsory manner, and we cannot and do not wish to do so. However, it does not mean that we will not promote childbirth, for we really hope that Hong Kong people will give birth to more children. I have also given out a strong message in the recommendations that we will ask the Financial Secretary to consider granting the same level of tax deduction for all children irrespective of number.

MR HOWARD YOUNG (in Cantonese): *Madam President, I wish to ask the Chief Secretary to elucidate the point in paragraph 34 about investment immigrants. The Secretary has stated in paragraph 34 that because of foreign exchange controls, the new policy will not, at this stage, apply to mainland residents. However, he has stated in the same paragraph that for mainland businessmen, we propose to encourage them to make greater use of the current multiple visit permit system in coming to Hong Kong to look for investment opportunities and consider allowing visitors to engage in a wider range of business-related activities in Hong Kong. In other words, they will have a chance to earn money. If the place where they earn money is not in the Mainland, it will not involve the issue of foreign exchange control. I wish to ask the Chief Secretary if the policy mentioned in paragraph 34 has only partially shut out private enterprises in the Mainland but allowed them to achieve by other means the objective of investment immigration?*

PRESIDENT (in Cantonese): Mr Howard YOUNG, excuse me, perhaps the amplification effect is not very good, I have not heard clearly what you wished to ask for elucidation of. *(Laughter)*

MR HOWARD YOUNG (in Cantonese): *I wish to ask the Chief Secretary to elucidate that the former part of paragraph 34 seems to state that the door has*

been shut because of foreign exchange controls in the Mainland, therefore, mainland residents cannot apply for investment immigration, but the latter part of paragraph 34 seems to tell me that the door has not been completely shut and they still have a chance to apply for investment immigration by other means. I wonder if it is what the Chief Secretary meant to say in that paragraph.

PRESIDENT (in Cantonese): Chief Secretary for Administration, do you wish to elucidate further?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): I would try to elucidate it, Madam President. First, as I have pointed out in my speech, we think that it is inappropriate to attract mainland investment immigrants at this stage, but we also think that we can implement more lax ways to allow mainland businessmen to run business, execute contracts, conduct business negotiations or carry out other business-related activities here in Hong Kong. We also think that amendments should be made to our laws that disallow certain business activities such as setting up companies. That is why there is a difference between the former and latter parts of that paragraph.

MR NG LEUNG-SING (in Cantonese): *Madam President, I wish that the Secretary can elucidate "specified financial assets" included in the qualifying asset classes for investment immigration as stated in paragraph 34. Are the "specified financial assets" tailor-made qualifying asset classes for investment immigrants? Are they existing classes or financial assets with specified time limits?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): I can only brief Members on the relevant details after such details have been approved by the Executive Council. However, we are now thinking about general investment assets in Hong Kong, mainly assets in Hong Kong, listed stocks, bonds and financial instruments in Hong Kong. As to the main process of exercise, we certainly have to make reference to the relevant professional knowledge of the Hong Kong Monetary Authority and the Financial Services and the Treasury Bureau before making a decision. We hope that we can explain these matters to Members as soon as possible.

MS MIRIAM LAU (in Cantonese): *Madam President, I ask for elucidation of paragraph 50. It is stated that we will initially apply the new measure to Multiple Re-entry Permit holders and visitors. For the rest of the affected population, the Health, Welfare and Food Bureau will need to conduct an in-depth study to assess the impact. I ask for elucidation about whether "the rest of the affected population" includes foreign domestic helpers. If so, I ask for elucidation about whether the study to be conducted by the Government will also assess the impact on the employers of foreign domestic helpers.*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): *Madam President, many types of people are included, mainly One-Way Permit holders, foreign domestic helpers and all those who have lived in Hong Kong for less than seven years. We will conduct a study to assess the impact on them, for example, how much they will have to pay and whether the scope of the impact will be too big, and all these will be covered by our study. However, concerning foreign domestic helpers, at present, upon the arrival in Hong Kong of foreign domestic helpers or workers employed by employers, regardless of whether they perform domestic duties or work at construction sites or foreign-funded companies, the employers will usually take out medical insurance for them, so there is an existing mechanism for meeting such needs.*

Certainly, I have to make it clear that the Government will first consider the present situation and the affordability of the affected people before implementing the new measure step by step. Although this is a long-term plan, I think that the principles have to be laid down clearly, therefore, I wish to adopt "having lived in Hong Kong for a continuous period of not less than seven years" as the criterion for the eligibility for enjoying public services heavily subsidized by the Hong Kong Government.

MR MA FUNG-KWOK (in Cantonese): *Madam President, I wish the Government can elucidate on paragraphs 38 to 41. Concerning the levy on foreign domestic helpers, actually, the New Century Forum had first proposed this policy three years ago. I am very glad that the Government has now adopted the policy. However, I fail to see the rationale of the Government in doing so. We made the proposal at that time because there were two distinctly different markets for foreign domestic helpers and local domestic helpers and we*

hoped that the Government would take fairness into account when it considered the matter so that it would not be necessary to subsidize the employers of foreign domestic helpers. Yet, I can only see that the Government has stated in the Report that the levy is imposed under the Employees Retraining Ordinance; I fail to see the underlying spirit. What is the rationale for imposing the levy? For example, the Government has specified that the levy must be paid first and it must be paid even if the foreign domestic helper has finally failed to arrive in Hong Kong for work, is it simply intended to facilitate the Government's work or does the Government really have a rationale for doing so? What actually is the rationale?

PRESIDENT (in Cantonese): Mr MA, I think you also know that I would not consider this as a question seeking elucidation. It is a question and I suggest that you should ask for elucidation on something else.

MR MA FUNG-KWOK (in Cantonese): *Madam President, can I just ask for elucidation as to why the Government would not make a refund after the levy has been paid? What is the rationale behind the non-refund of the \$2,400 collected even if the foreign domestic helper fails to arrive in Hong Kong for work? Can I just ask for elucidation on this point?*

PRESIDENT (in Cantonese): Mr MA, this is also a question and it will be difficult for me to consider it a question seeking elucidation. However, I suggest that you should make reference to paragraph 41 again and I will consider inviting you to ask a question again later, is that alright?

MR ALBERT HO (in Cantonese): *I wish to ask the Chief Secretary for Administration about paragraph 5 which states that Hong Kong women bore an average of just 0.9 children over their lifetime. Does the calculation include babies born overseas or only for those born in Hong Kong?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): The figure refers to the babies borne by Hong Kong women.

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, I wish to ask the Chief Secretary what is the meaning of lifelong education mentioned in paragraph 42. I have to ask this question because the Secretary has mentioned in this paragraph that against the backdrop of restructuring of our economy, there is an increased demand for resources to solve the problems brought by restructuring and upgrade the skill levels of our workforce.*

In the paragraph that follows, the Chief Secretary has stated that foreign domestic helpers and their employers should contribute towards such kind of work and he has arrived at the conclusion that a levy of \$400 should be imposed.

I wish to ask the Chief Secretary, on the basis of what he has stated, is lifelong education equivalent to training? How does the Chief Secretary interpret lifelong education? Can he explain that in detail? Does he narrowly think that retraining is lifelong education?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): I think Mr LEUNG has a deeper understanding in this respect than I do. We have discussed this matter on other occasions for many times and I think that it would be more suitable for the Secretary, Prof Arthur LI, to answer this question.

In my personal view, lifelong education means that every adult has to continuously pursue further studies to meet social and economic needs and update his knowledge to make himself more competitive, and his views and thinking more mature. He should always maintain his competitiveness and continue to do so throughout his life. He should not stop learning and just concentrate on working after he has graduated from university, or retire from work when he is 60 years old without taking up any other jobs any more. I think there should not be any age limit to learning and that is my understanding of it.

MR HENRY WU (in Cantonese): *Madam President, I wish to seek elucidation on paragraphs 14 and 15. It is mentioned in the last part of paragraph 14 that it is not appropriate for the Government to adopt special policies to promote childbirth, but we can see that the contents of paragraph 15 are precisely contrary to the contents of paragraph 14. In paragraph 15, it is stated that there was less tax deduction for third and subsequent children in the past, but the*

Government would now consider granting the same level of tax deduction for all a family's children, regardless of number. I wish to ask the Government to elucidate whether it promotes childbirth or does not promote childbirth.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, this is precisely the difference between compulsion and voluntariness.

MR TIMOTHY FOK (in Cantonese): *Can the Secretary elucidate whether the field of the arts mentioned in paragraph 31 includes the performing arts sector that I represent? Do talents from the field of sports refer to athletes, coaches and sports administrators?*

PRESIDENT (in Cantonese): Secretary, do you wish to make further elucidation?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Yes. That is exactly what I mean.

DR LAW CHI-KWONG (in Cantonese): *Madam President, the qualifying asset classes mentioned in paragraph 34 include real estate, does it include the home occupied by the relevant person? If a relevant person buys another flat after he has rented one, is he regarded as a real estate investor? If he buys a luxurious flat, will he meet the requirements of the qualifying asset classes?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Concerning the details, Madam President, we can only introduce and explain them to Members after we have obtained the approval of the Executive Council, however, I personally think that this will meet the requirements of the qualifying asset classes.

MR MARTIN LEE (in Cantonese): *Madam President, paragraph 43 really needs elucidation. It is stated in the paragraph that the minimum allowable*

wage for foreign domestic helpers will be reduced by \$400 per month from 1 April this year and it is later stated that the Labour Department and Immigration Department will step up enforcement against abuse of foreign domestic helpers. I wish to give the Secretary a chance of elucidation and I believe he is very willing to do so. Does it mean that those unscrupulous employers need not worry for the time being because they will only be arrested after 1 April and they can now continue to underpay foreign domestic helpers and force moonlighting on them?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): No. The wordings in the statement that I have just made may not be refined enough, Madam President, I am sorry about that. What I mean is that enforcement actions are now being taken, and we will step up enforcement actions further.

PRESIDENT (in Cantonese): Members, although some other Members are still waiting, a lot of Members have already asked for elucidation once, therefore, I decide that the elucidation time should come to an end. Many Members have already asked questions seeking elucidation, if however, Members still have questions, I believe they do not need to wait for too long because they can put the questions to the Chief Secretary again two days later.

BILLS

First Reading of Bills

PRESIDENT (in Cantonese): Bills: First Reading.

NATIONAL SECURITY (LEGISLATIVE PROVISIONS) BILL

LEGISLATIVE COUNCIL (AMENDMENT) BILL 2003

CLERK (in Cantonese): National Security (Legislative Provisions) Bill
Legislative Council (Amendment) Bill 2003.

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

Second Reading of Bills

PRESIDENT (in Cantonese): Bills: Second Reading.

NATIONAL SECURITY (LEGISLATIVE PROVISIONS) BILL

PRESIDENT (in Cantonese): Dr YEUNG Sum, do you have a point of order?

DR YEUNG SUM (in Cantonese): Madam President, Members of the democratic camp would leave the Chamber in protest against the Government's introduction of this Blue Bill for First Reading.

PRESIDENT (in Cantonese): Dr YEUNG, this is not a point of order. You may leave the Chamber..... *(As Members of the Democratic Party and other Members left the Chamber, several of them rose to display some slogans. Meanwhile several men on the public gallery raised a hullabaloo and threw some shreds of paper down into Chamber)*

PRESIDENT (in Cantonese): Security assistants, please take them away. Security assistants, please take away the people throwing paper shreds from the public gallery. *(Several Security assistants tried to approach the men and stop them from yelling, but they kept on standing up, raising a hullabaloo and throwing down paper shreds)*

PRESIDENT (in Cantonese): It would be impossible for us to conduct the meeting quietly if you keep on making noises. If you are reluctant to leave, we have to suspend the meeting. *(The men were then taken away from the public gallery by Security assistants)*

PRESIDENT (in Cantonese): Press photographers please stop taking photographs. Thank you. *(A hullabaloo was raised abruptly outside the public gallery)*

PRESIDENT (in Cantonese): The Chamber is restored to peace and quiet in general. *(A hullabaloo could still be heard outside the public gallery)*

PRESIDENT (in Cantonese): Secretary for Security, please wait a minute, I will ask you to move the Second Reading after quiet is restored. *(The Chamber was restored to quiet after the men were taken away)*

PRESIDENT (in Cantonese): Secretary for Security, you may move the Second Reading.

SECRETARY FOR SECURITY (in Cantonese): Madam President, I move the Second Reading of the National Security (Legislative Provisions) Bill (the Bill).

Every nation has laws to protect its sovereignty, territorial integrity, unity and national security.

Article 2 of the Basic Law provides that the Hong Kong Special Administrative Region (SAR) shall exercise a high degree of autonomy, and Article 5 stipulates that the socialist system and policies shall not be practised in the SAR and the previous capitalist system and way of life shall remain unchanged for 50 years. By way of implementing the Basic Law, Hong Kong benefits from the unprecedented "one country, two systems" arrangement. Under this arrangement, national laws on the protection of essential interests of the state and national security have not been promulgated for implementation in Hong Kong, however, the SAR is duty-bound to safeguard national security.

The SAR is constitutionally obliged under Article 23 of the Basic Law (Article 23) to "enact laws on its own to prohibit any act of treason, secession, sedition, subversion against the Central People's Government, or theft of state secrets, to prohibit foreign political organizations or bodies from conducting political activities in the Region, and to prohibit political organizations or bodies of the Region from establishing ties with foreign political organizations or bodies". The intent of Article 23 is to prohibit by law acts that will undermine

the sovereignty, territorial integrity, unity and national security of our country. The SAR has the duty to implement Article 23 at an early date.

The SAR Government published a document entitled "Proposals to implement Article 23 of the Basic Law" on 24 September 2002 and made legislative proposals on the prohibition of seven kinds of activities that would endanger national security as stipulated under Article 23. During the three-month consultation period, there was enthusiastic response from various sectors of the community. We received over 100 000 submissions in total.

The SAR Government is very grateful to all sectors of the community for their active expression of views and from some legal experts and other professionals for their very valuable advice, so that we have been able to acquire a good grasp of the concerns of the public over specific concepts or aspects of our proposals and further refine our legislative proposals. I believe many Members, just like the Government, will agree that the SAR should fulfil its constitutional duty as soon as possible.

The Basic Law provides for the continuity of the common law system of the SAR and it follows that the implementation of Article 23 should be founded on existing legislation as far as possible. As pointed out in the consultation document, in implementing Article 23, we are amending three existing Ordinances, namely the Crimes Ordinance, the Official Secrets Ordinance and the Societies Ordinance rather than introducing a radically new and specific piece of legislation, and we are definitely not extending mainland laws or concepts to Hong Kong. This is the best testimony to "one country, two systems".

In addition, we have also taken into account the following principles:

- (a) the need to meet fully the requirements of the Basic Law, including Article 23 which stipulates the acts to be prohibited; and other relevant provisions in Chapter III, in particular Article 27 which guarantees certain fundamental rights and freedoms of Hong Kong residents, and Article 39 which stipulates that the provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, as applied to Hong Kong shall remain in force, and shall be implemented through the laws of the SAR;

- (b) the need to protect sufficiently the state's essential interests, namely sovereignty, territorial integrity, unity and national security; and
- (c) the need to ensure that all offences encompassed by local legislation to implement Article 23 are as clearly and tightly defined as possible, so as to avoid the infringement of fundamental rights and freedoms guaranteed by the Basic Law.

Now, I would like to introduce to Members the content of the Bill.

Treason

This Bill has drastically narrowed the scope of the existing offence. According to the Bill, a Chinese national will commit the offence of treason if he

- (a) joins foreign armed forces at war with the People's Republic of China with the intent to overthrow or intimidate the Central People's Government, or to compel the Central People's Government to change its policies or measures;
- (b) instigates foreign armed forces to invade the People's Republic of China with force; or
- (c) assists a public enemy at war with the People's Republic of China with an intent to prejudice the position of the People's Republic of China in the war.

Moreover, the offence of treason will not apply to non-Chinese nationals, irrespective of whether the offence occurred in or outside of the SAR. "Public enemy" is defined to mean foreign governments at war with the People's Republic of China or foreign armed forces. "A state of war" is defined to mean only open armed conflict between armed forces, or publicly declared war. General demonstrations, clashes or riots are not considered war.

We would not only drop the proposal to codify the offence of misprision of treason, but also stipulate in the Bill that the common law offence of misprision of treason will be abolished altogether.

Secession

The offence of secession is defined as withdrawing any part of the People's Republic of China from its sovereignty by engaging in war, or to do so using force or serious criminal means that seriously endanger the territorial integrity of the People's Republic of China.

The references to "threat of force" and "resisting the exercise of sovereignty" as stated in the consultation document will not be incorporated into the Bill. Only acts that involve engagement in war or use of force or serious criminal means similar to terrorist activities that seriously endanger the territorial integrity of the People's Republic of China will constitute an offence of secession.

Subversion

A person will commit subversion if he:

- (a) disestablishes the basic system of the People's Republic of China as established by the constitution;
- (b) overthrows the Central People's Government; or
- (c) intimidates the Central People's Government

by using force or serious criminal means that seriously endanger the stability of the nation or by engaging in war.

The reference to "threat of force" in the consultation document will not be incorporated into the Bill. Only the actual use of force or serious criminal acts similar to terrorist activities that endanger national security will constitute a subversion offence.

Sedition

The existing offence of sedition will be repealed. The Bill adds a new section 9A to the existing Crimes Ordinance which provides that it is an offence of sedition to incite others to commit the offence of treason, subversion or secession; or to incite others to engage in violent public disorder that would

seriously endanger the stability of the People's Republic of China. The reformed offence of sedition is based on the well-established common law principle of incitement, and does not criminalize peaceful advocacy.

Taking into account concerns raised by librarians, journalists and other members of the public, we have decided to abolish the offence of possession of seditious publications so as to assure protection of the freedoms of speech and academic research.

Theft of State Secrets

As explained in the consultation document, our policy in legislation is to adapt the existing Official Secrets Ordinance to protect state secrets. We have proposed only two amendments to the Ordinance.

Firstly, information relating to relations between the Mainland and Hong Kong has always been protected, both before and after reunification, under the category of "international relations". After the reunification, it would not be appropriate to continue to protect such information under the rubric of "international relations." Therefore, the Bill clearly specifies that this category of protected information should be defined as affairs concerning the SAR which are within the responsibilities of the Central Authorities under the Basic Law. In addition, disclosure of such information will be penalized only when it endangers "national security", which is defined as "the safeguarding of territorial integrity and the independence of the People's Republic of China."

In addition, disclosure of such protected information will constitute an offence only if the relevant person knows, or has reasonable grounds to believe, that the unauthorized disclosure of the information will likely endanger national security. The Bill specifies a defence that if a person does not know or has no reason to believe that the information belongs to a protected category, or that disclosure of which will endanger national security.

The second amendment is to plug an existing loophole. According to existing laws, a public servant or government contractor commits an offence of damaging disclosure of protected information without authority. However, it is not an offence to make a damaging disclosure of the same information if it had been obtained by illegal means, such as theft from a confidential government file registry. This is clearly a loophole. We therefore consider it necessary to

make it an offence to make a damaging unauthorized disclosure of protected information which had been obtained by "illegal access".

The "illegal access" of protected information would only mean specified criminal acts, that is, unauthorized access to computer by telecommunication, access to computer with criminal or dishonest intent, theft, robbery, burglary or bribery.

Foreign Political Organizations

The last two types of prohibited activities specified by Article 23 are the prohibition of foreign political organizations or bodies from conducting political activities in the SAR and the prohibition of SAR political organizations or bodies from establishing ties with foreign political organizations or bodies.

We consider that the existing provisions of the Societies Ordinance are already adequate and appropriate in prohibiting these two categories of activities. We have thus decided to rely on existing legislation and will not propose any amendments.

Organizations Endangering National Security

Since crimes seriously endangering national security are seldom perpetrated by a single individual, but are often carried out through an organized effort, clause 15 adds a new section 8A to the Societies Ordinance to empower the Secretary for Security to proscribe an organization that endangers national security. This power can only be exercised where it is necessary and proportionate under the standards of the International Covenant on Civil and Political Rights to do so in order to protect national security, and one of the following circumstances exists:

- (a) the objective, or one of the objectives, of the organization is to engage in acts of treason, secession, sedition, subversion or spying;
- (b) the organization has committed or is attempting to commit acts of treason, secession, sedition, subversion, or spying; or
- (c) the organization is subordinate to a mainland organization which has been prohibited in the Mainland by the Central Authorities, by

means of an open decree and in accordance with the national law on the ground of protecting the security of the People's Republic of China.

A local organization would be subordinate to a mainland organization only if the former accepts substantial financial contributions from, is directed or controlled by, or has its policies determined by, a mainland organization. According to the Bill, unless a person continues to participate in the activities or acts as an office-bearer of the proscribed organization, proscription itself does not create a criminal offence. It would not be criminally liable even though a person may be a member or office-bearer of a proscribed local organization, if he does not know or has no reason to believe that the organization has been so proscribed.

The Bill also provides for an appeal mechanism. Any person aggrieved by the Secretary for Security's decision of proscription can lodge an appeal to the Court of First Instance within 30 days after the proscription decision has come into effect.

The decision to proscribe organizations is often made based on intelligence or confidential information. If the publication of the relevant information to the appellant during the trial will prejudice national security or the safety of the intelligence officers concerned, the Court can, when it deems necessary, exercise discretion after considering the circumstances not to disclose the details to the appellant and to give the appellant an appropriate summary of the relevant evidence instead. In order to protect the appellant's interest and after making reference to similar provisions in Britain and Canada, as well as rulings of the European Court of Human Rights, the Bill specifically provides that a legal practitioner can be appointed to act in the interest of the appellant.

Emergency Investigation Powers

We agree that only police officers at the rank of Chief Superintendent or above, instead of Superintendent, could authorize the exercise of emergency investigation powers. The Bill has also clearly specified that such powers could only be exercised under exigent circumstances as stipulated.

In addition, in order to protect the freedom of the press, the Bill has also specified that the search or seizure of journalistic materials in the investigation of Article 23 offences must be authorized by court warrants.

Trial by jury

In order to provide an additional safeguard for the interests of citizens, the Bill stipulates that any person charged with the offences of treason, secession or subversion, which could attract a maximum penalty of life imprisonment, must be tried by a jury. Persons charged with sedition or unlawful disclosure, which are punishable by a lesser penalty, may opt for trial by jury at the Court of First Instance, other than going through trials at the District Court or Magistracy under established procedures.

The Bill also stipulates that, for an accused who has opted for a jury trial and subsequently convicted, he shall not be sentenced by the trial Judge at the Court of First Instance to any penalty that would be heavier than the penalty that could have been imposed by a District Court or a Magistrate, has he not opted for a jury trial in the first place.

Protection of Human Rights

The SAR Government has stressed on many occasions that the freedoms and rights enshrined under the Basic Law and enjoyed by Hong Kong residents will continue to be protected. The Bill specifically provides that the interpretation, application and enforcement of the provisions implementing Article 23 shall be consistent with Article 39 of the Basic Law, which includes compliance with international human rights standards.

In drafting the Bill, the Government has really taken heed of public views and incorporated many useful suggestions. The SAR Government is confident that it has struck a right balance between protecting national security and safeguarding people's rights and freedoms. The Bill definitely will not affect their daily lives and Hong Kong will continue to be a free and open society and remain a world metropolis enjoying free flow of information.

We implore the Legislative Council to establish a Bills Committee at an early date to scrutinize and examine the provisions in depth and in detail. Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the National Security (Legislative Provisions) Bill be read the Second time.

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

LEGISLATIVE COUNCIL (AMENDMENT) BILL 2003

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, I move that the Legislative Council (Amendment) Bill 2003 (the Bill) be read the Second time.

The purpose of the Bill is to amend the Legislative Council Ordinance and other relevant electoral legislation, to provide a legal basis for the arrangements for the elections of the third term Legislative Council in 2004. At various meetings held between December last year and February this year, the Government explained its proposals in respect of the arrangement for the 2004 Legislative Council elections to the Legislative Council Panel on Constitutional Affairs and briefed Members on a number of occasions. The Bill aims to implement most of the proposals. Subsidiary legislation will be made in due course to implement other proposals relating to election expense limits, lowering the threshold for the return of election deposit and printing the names and emblems of political parties or organizations or the candidates' photographs on ballot papers.

I would now like to highlight the major provisions in the Bill.

First I wish to talk about the electoral arrangements for the geographical constituencies (GCs). We have briefed the Legislative Council Panel on Constitutional Affairs on the Administration's proposal, under which there will be five GCs with the number of seats ranging from four to eight. This proposal leaves sufficient room for the Electoral Affairs Commission (EAC) to decide whether the demarcation of the existing five GCs should remain intact or not. We believe that this option, which introduces minimal changes, will be welcomed by candidates, political parties, political groups and voters alike.

Meanwhile, we propose that the number of seats for the GCs should range from four to eight. This is because, if the current constituency boundaries remain unchanged, the smallest GC, that is, Kowloon West, would have a population of around 1 million by 2004, and the largest GC, that is, New Territories West, would have a population of around 2 million. Setting the

lower and upper limits for the number of seats per GC at four and eight respectively would be proportional to the spread of population.

In accordance with the requirement as laid down in the Basic Law, the Bill stipulates that a total of 30 Members shall be returned from all GCs.

Provisions in relation to the composition of the Legislative Council provided for in the Bill will apply to the third term Legislative Council. As we have explained in the Legislative Council Brief, if the method for the formation of the Legislative Council is amended in accordance with Annex II to the Basic Law, we will amend the Legislative Council Ordinance accordingly to tie in with the new requirements.

Madam President, next I would like to talk about the arrangements on the provision of financial assistance to candidates.

Earlier on we have briefed the Legislative Council Panel on Constitutional Affairs on our proposal to provide financial assistance to candidates running in GC and functional constituency (FC) elections. The Bill introduces new provisions to reduce the free mailing provided to candidates from two rounds to one. At the same time, a scheme will be established to provide financial assistance to candidates to offset part of their election expenses.

Under this scheme, a candidate, irrespective of whether he represents a political party or political group or is an independent candidate, is eligible for financial assistance as long as the eligibility criteria are met. In accordance with the eligibility criteria as set out in the Bill, if a candidate gets elected or at least one candidate on a candidate list gets elected, that candidate or list will be eligible for financial assistance. In the case where a candidate cannot get elected or no candidate on a list gets elected, but that candidate or list has received 5% or more of the valid votes cast, financial assistance will still be provided.

The amount of financial assistance is calculated by multiplying the number of valid votes cast for the list or candidate concerned by the specified rate (which is \$10 in Schedule 5 to the Bill).

If a candidate is returned through uncontested elections, we propose that the amount receivable by that candidate should be obtained by multiplying 50%

of the number of registered voters of the constituency concerned by the specified rate.

Madam President, we propose to set upper limits for the amount of financial assistance receivable by the candidates. One of the limits is 50% of the declared election expenses of the candidate concerned.

Also, in response to Members' concern about the situation where a candidate's election donations exceed his election expenses, we have specified in the Bill that, where the declared election expenses of a candidate exceed his declared election donations, the amount of financial assistance receivable by that candidate should not be greater than the difference between these two amounts. If the declared election donations of a candidate exceed his declared election expenses, no financial assistance will be provided.

The Administration's stance is to allow nobody to reap profits from running in elections.

Madam President, we have also required that candidates' claims for financial assistance be submitted during the period for lodging election returns as stipulated in the Elections (Corrupt and Illegal Conduct) Ordinance (ECICO). In order to ensure that public resources are well spent, it is stipulated in the Bill that the election returns accompanying the claims must be verified by an auditor.

To allow sufficient time for candidates to submit audited accounts on their election expenses to substantiate their claims, we propose to amend the ECICO to extend the period for election returns for Legislative Council elections to be lodged from 30 days to 60 days.

At the same time, we propose to amend the Electoral Affairs Commission Ordinance to authorize the EAC to make regulations to implement the financial assistance scheme.

Madam President, next I would like to talk about the requirements relating to the Election Committee. According to the Basic Law, after the expiry of the second term Legislative Council, the Election Committee will no longer return six Members for the third term Legislative Council. Thus, the Bill will repeal provisions in the Legislative Council Ordinance concerning the Election Committee and references to that Committee.

Madam President, next I wish to mention the requirements concerning FCs. We have indicated earlier that we agree in principle to consider including registered Chinese medicine practitioners in the Medical FC. However, in the past two months, we have widely consulted relevant parties on the proposal. In view of the divergent views expressed and a lack of consensus within the sector, we have decided not to include registered Chinese medicine practitioners in the Medical FC in the 2004 Legislative Council elections.

The Bill proposes technical amendments to the electorate of FCs. Such amendments are only to suitably adjust the electorate of certain FCs to ensure that their composition fully reflects the latest situation of the relevant sectors. Generally speaking, these changes can be classified into three categories:

Firstly, correcting the names of some corporate electors, and updating eligibility criteria due to technical amendments in statutory registration/licensing regime.

Secondly, deleting corporate bodies which have ceased operation or are no longer holding a particular type of licence/franchise.

Thirdly, adding new corporate bodies with a status comparable to that of existing corporate electors and new licensees/franchisees or representative bodies in the relevant trade.

The Bill also proposes to amend the Schedule to the Chief Executive Election Ordinance to reflect the changes to the FCs in the composition of the Election Committee subsectors.

Madam President, the Bill also contains other minor technical amendments to the Legislative Council Ordinance. Those in relation to disqualification criteria take into account changes in the Mental Health Ordinance and the Bankruptcy Ordinance. Besides, we propose to require the Returning Officer to take relevant steps only after proof is given to his satisfaction of the death or disqualification of a candidate. As compared to the existing requirements whereby the Returning Officer could take those steps if the death or disqualification concerned comes to his knowledge, the new requirements are more reasonable.

The Bill also makes consequential amendments to other electoral legislation and certain subsidiary legislation. After the passage of the Bill, the EAC will review and amend its subsidiary legislation for the 2004 Legislative Council elections, and will take that opportunity to make amendments to these subsidiary legislation which are consequential to this Bill.

Madam President, the Bill proposed by the Government meets the requirements in the Basic Law. It fully materializes the principle as prescribed by the Basic Law in respect of the method for forming the Legislative Council which shall be specified in the light of the actual situation in the SAR and in accordance with the principle of gradual and orderly progress. The provisions in the Bill provide a level playing field for all candidates, as well as an environment that will encourage more public-spirited candidates to participate in the Legislative Council elections, in order to facilitate the development of local political parties and political groups.

Madam President, we hope that Members can accord priority to the consideration of this Bill. This will allow the EAC and the Administration to have sufficient time for the necessary preparations, including delineating the constituency boundaries and drafting the subsidiary legislation.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Legislative Council (Amendment) Bill 2003 be read the Second time.

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

Resumption of Second Reading Debate on Bill

PRESIDENT (in Cantonese): We will resume the Second Reading debate on the Dutiable Commodities (Amendment) Bill 2002.

DUTIABLE COMMODITIES (AMENDMENT) BILL 2002**Resumption of debate on Second Reading which was moved on 30 January 2002**

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

MR HUI CHEUNG-CHING (in Cantonese): Madam President, in my capacity as Chairman of the Bills Committee on Dutiable Commodities (Amendment) Bill 2002, I report on the deliberations of the Bills Committee on Dutiable Commodities (Amendment) Bill 2002 (the Bill).

The main purpose of the Bill is to amend the Dutiable Commodities Ordinance (the Ordinance) and the Dutiable Commodities Regulations (the Regulations) to implement an Open Bond System (OBS) in all bonded warehouses in Hong Kong. The Bill also makes some other miscellaneous amendments to the Ordinance and the Regulations.

The Bills Committee has noted the strong support from bonded warehouse operators and traders in dutiable goods for the full implementation of the OBS in Hong Kong, which will facilitate warehouse operation and reduce the operating costs. The Bills Committee supports the prompt implementation of the OBS, so as to promote business opportunities, enhance Hong Kong's competitive edge, and create an environment conducive to business. For this reason, members of the Bills Committee support the Committee stage amendments proposed by the Administration to stipulate that the Amendment Ordinance would commence operation on 1 April 2003 to implement the first phase of the OBS, and on 1 October 2003 for the second phase respectively.

In the course of deliberations, although members supported stating in the proposed new section 8A the factors that the Commissioner of Customs and Excise (the Commissioner) should take into account in considering the grant, renewal, or revocation of bonded warehouse licences, they were concerned that the Commissioner might be given an excessive discretionary power in this

process. In particular, the existing section 7(1)(a) already confers on the Commissioner "absolute discretion". Moreover, members were of the view that the provisions concerning how the Commissioner should take into account "any other relevant matter" in the proposed section 8A(1)(e), (3)(e) and (4)(e) was not clear enough to applicants and licensees as to the factors which the Commissioner would consider in the process. Moreover, since the Commissioner was not obliged to give reasons of refusal to grant or revoke licences, Members were concerned about the lack of transparency in the process. The Administration explained that the term "absolute discretion", when used in relation to the exercise of administrative powers, was already subject to limitations. The Administration assured members that in exercising the discretionary power, the Commissioner must act reasonably, in good faith and on lawful and relevant grounds of public interest in accordance with the administrative law principle. Any person aggrieved by the Commissioner's decision may appeal to the Administrative Appeals Board and seek judicial review of the Court. To address concerns of the Bills Committee, the Administration has taken on board members' views and agreed to amend the provision to require the Commissioner to give reasons on his decision of refusal to grant, renew, or revoke OBS licences. The Administration pointed out that the reasons to be given by the Commissioner will set out the matters that he is required to take into account under the proposed section 8A, and will include "other relevant matters" considered by him where applicable. The Bills Committee considered that the new requirement would provide applicants or licensees with certainty of factors to be considered by the Commissioner, and it would form the base of possible appeal action that may be taken subsequently. The majority of the Bills Committee accepted the explanations and the relevant Committee stage amendments of the Government.

As no Customs officers would be stationed at open bonded warehouses, members agreed that the authorities should put in place a comprehensive control and risk management mechanism to provide against duty evasion. The Bills Committee agreed that there should be detailed storage, record-keeping and audit requirements on licensees. As regards record-keeping requirements, some Members considered that the proposed two-year period might not be adequate in providing a sufficient audit trail of records. The Administration was of the view that since annual comprehensive audit checks on individual warehouses would be conducted by the Customs, the two-year record-keeping requirement

would allow the Customs to examine the documents at least in two consecutive years. Having considered that a longer record-keeping period would increase the compliance cost on warehouse operators, the Bills Committee agreed with the proposed record-keeping period. Moreover, the Bills Committee noted that the Customs would conduct regular, comprehensive and surprise checks on individual warehouses to ensure compliance by the licensee. The Customs would conduct annual comprehensive checks on warehouses to ensure maintenance of proper internal control systems on inventory and operational procedures by licensees. Customs officers would also conduct surprise checks at least once a month on individual warehouses to examine documents against physical stocks of selected items. Furthermore, Customs officers would conduct surprise checks on the loading and unloading processes of dutiable goods to ensure the particulars of goods tally with the declared details on the related permit to prevent duty evasion. With a view to enhancing the professionalism in conduct of audit checks, the Customs has recruited accounting professionals to help formulate the audit plans and provide training to Customs officers on relevant audit techniques.

With regards to OBS licence application and renewal, members suggested that the validity of OBS licence should be extended to beyond one year and applications be allowed to be submitted in electronic form, in order to enhance efficiency and to reduce workload of the Customs. The Administration pointed out that in order to avoid the risk of duty evasion and to ensure the feasibility and security of electronic submission, it would be prudent not to adopt such proposal at the initial implementation of the OBS. Members appreciated that there would be practical difficulties in taking forward the above proposal at the initial implementation of the OBS, and welcomed the Administration's undertaking to re-examine this proposal in the context of the review on the OBS to be conducted within one year after the full implementation of the system.

Furthermore, the Bills Committee also made proposals on matters relevant to the drafting of the Bill, including clauses 6 and 20 and the Administration accepted those proposals.

Madam President, since the Administration has accepted proposals put forward by the Bills Committee and will move relevant amendments, the Bills Committee will not move any Committee stage amendment to the Bill. I recommend the resumption of the Second Reading of the Bill.

Madam President, I will now speak on behalf of the import and export sector as well as the Hong Kong Progressive Alliance (HKPA) in support of the passage of the Bill. In fact, OBS has already become a global trend. Countries like Australia, Canada, New Zealand, Singapore, the United Kingdom and the United States have already adopted the OBS. The Bill will make Hong Kong catch up with the global practice. Besides reducing operating costs and enhancing efficiency of the industry, the OBS will also help the Customs to streamline its manpower deployment in this respect.

To implement the OBS on a full scale in Hong Kong, the Government should first protect the interests of the licensees and adopt comprehensive regulatory mechanism and risk management system to reduce the risk of duty evasion. As to the concerns of bonded warehouse operators, I welcome the fact that the Government has accepted the views of members and proposed an amendment to require the Commissioner to give reasons for his decision of refusal to grant, renew, or of revocation of OBS licences. It will enhance the transparency of the policy and provide operators with certainty regarding factors to be considered by the Commissioner.

Lastly, the Government should keep close contact with bonded warehouse operators and relevant parties in the industry in order to have the scheme implemented smoothly. I hope the Government will implement the industry-friendly proposal of extending the validity of OBS licence to beyond one year as soon as possible.

I so submit. Thank you, Madam President.

MR CHAN KAM-LAM (in Cantonese): Madam President, the Government implemented the pilot scheme on the OBS in 2001. In view of the success of the pilot scheme, the Government agreed to implement the OBS on a full scale and in phases.

The Democratic Alliance for Betterment of Hong Kong (DAB) supports the implementation of the OBS as it will save the Customs manpower stationed in bonded warehouses on the one hand, and give the industry more flexibility in management and reduce operating costs on the other.

With regard to details of the Bill, it proposes the implementation of a licensing system. But according to the original clause of the Bill, the Commissioner of Customs and Excise (the Commissioner) is already given "absolute discretion" in the process of approving licences, we are concerned that the Commissioner will be given excessive discretionary power in the process. For this reason, the Government has agreed to move an amendment at the Committee stage to require the Commissioner to give reasons for his decision of refusing to grant, renew, or revoking OBS licences. The DAB supports the proposal.

Moreover, the Bill proposes that the validity of an OBS licence be set at one year, which is consistent with the existing one-year validity of bonded warehouses licences. In my opinion, the Government may consider extending the validity of licences for a longer period, such as two or three years, and allowing applications or renewals for licences to be submitted in electronic form. The authorities have emphasized that renewing licences on an annual basis will ensure effective risk management in respect of bonded warehouses. Besides, they are concerned that electronic submission of some of the papers and plans required for the approval process may not be feasible. However, we are of the view that papers required for licence renewal will be less in number than otherwise required for new applicants, thus the renewal procedure should be streamlined. We hope the Government will reconsider our proposal in the context of the review on the OBS to be conducted within one year after the full implementation of the system.

The Bill also stipulates that bonded warehouse operators should keep all the inventory, movement and payment records, balance sheets and audit reports on goods for a period of two years. However, in order to allow the Customs to have an adequate and sufficient audit trail of records, we consider that the proposed two-year period should be extended to seven years, to make it consistent with the current requirements prescribed by the Companies Ordinance on registered companies. In the meantime, as all bonded warehouses have to retain records of the past seven years, it would help reduce the frequency of comprehensive audit and checks to be conducted by the Customs, and eventually enhance the effectiveness of the requirement. Therefore, it is hoped that the Government can carry out a review after the full implementation of the system.

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

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

MR SIN CHUNG-KAI (in Cantonese): Madam President, the Democratic Party supports the Bill and the amendments. When the Bill was scrutinized by the Bills Committee on Dutiable Commodities (Amendment) Bill 2002, I certainly did not emphasize whether the validity period of the licence should be one, two or three years. However, since it is a new system which changes the operation from a closed bond system to an open bond system, I tend to support the idea of renewing the licence on an annual basis for the couple of years. This is a more prudent way. A review on the procedures with a view to further streamlining them can be conducted until the operation becomes smooth enough, and then we can examine whether we can extend the renewal period from an annual basis to a biannual basis. I incline to the adoption of a more prudent approach for the first year or so. In short, an annual check should be conducted at least, thus it can be carried out in a more detailed manner. I hope warehouse operators will follow these stipulations. The Government should also enhance its checks in order to prevent duty evasion. These are the proposals of the Democratic Party, and we support the Bill and the amendments.

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

(No Member responded)

PRESIDENT (in Cantonese): If not, then I will now invite the Secretary for Financial Services and the Treasury to speak in reply.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, first of all, I wish to thank all members of the Bills Committee on Dutiable Commodities (Amendment) Bill 2002 (the Bills Committee) and in particular, its Chairman, Mr HUI Cheung-ching, for expeditiously completing the scrutiny of the Dutiable Commodities (Amendment) Bill 2002 (the Bill), their valuable views on the Bill and their support for the resumption of Second Reading.

The purpose of the Bill is to introduce the provisions necessary for the implementation of the Open Bond System (OBS) at bonded warehouses into the existing Dutiable Commodities Ordinance and to delete the provisions relating to the attendance of Customs and Excise Department (C&ED) officers at these warehouses, in order to enable the Government to fully implement the OBS at bonded warehouses in Hong Kong.

There are currently a total of 52 bonded warehouses storing dutiable commodities in Hong Kong. Forty-three of them are operating under the Closed Bond System (CBS), under which C&ED officers are stationed at the warehouses to supervise the movement, handling and processing of all dutiable goods. The operators and traders of bond warehouses must meet the C&ED's attendance fee incurred in stationing its officers at these bonded warehouses. The remaining nine bonded warehouses operate under an open system, that is, no C&ED officer is stationed on the premises to provide physical supervision. The prevention against duty evasion has to rely on inspections on the documents and goods of bonded warehouse operators and surprise checks made by the C&ED, and no attendance fee is charged by the C&ED.

The Government, after commissioning a consultant to conduct a detailed study, considered it feasible to extend the OBS, which is more conducive to the operation of businesses, to all bonded warehouses and remove the existing C&ED controlled warehouse system. The benefits of fully implementing the OBS in Hong Kong is the greater flexibility in the operational environment of bonded warehouses and the savings in terms of the attendance fee paid by operators and traders. The warehouse trade will be able to save \$70 million in operating costs each year. We have consulted the trade, which supports the early implementation of the OBS.

We also appreciate that there would be an increase in the potential risk of duty evasion as compared to the present system upon the withdrawal of C&ED officers from supervising the movement of dutiable goods. We have put in place a risk management system according to the consultant's recommendations and with reference to overseas experience. For example, we propose specifying the licensing, storage, record-keeping and auditing required of bonded warehouse operators and the types of records to be kept by them, and so on in the Dutiable Commodities Ordinance. These requirements will strengthen our capabilities of supervising bonded warehouse operators and are conducive to protecting the revenue from duties. The C&ED has also provided training on

the OBS, in particular on auditing, to its officers. In 2001, we implemented a pilot scheme on the OBS and the system was found to operate smoothly.

Members of the Bills Committee support the Bill, and they have made some suggestions in respect of individual provisions. We have taken on board these suggestions and will move amendments later.

When deliberating on proposed section 8A, a Member pointed out that section 7(1)(a) of the existing Dutiable Commodities Ordinance gives the Commissioner of Customs and Excise (the Commissioner) "absolute discretion" in granting and issuing bonded warehouse licences or giving approval, and was concerned that this discretionary power was too great. In fact, the aim of adding section 8A to the Bill is to provide clarity by stating the factors which the Commissioner will normally consider in considering applications for open bonded warehouse licences. The effect is to restrict the discretionary power of the Commissioner in the principal Ordinance so as to make the relevant provision more transparent and clearer. Moreover, we have also explained that there is no absolute or unrestricted discretionary power in public law. One fundamental principle of administrative law is that the exercise of discretionary power for public purposes as vested by law is subject to legal limitations derived from common law. The "absolute discretion" of the Commissioner, as stipulated in section 7(1)(a) of the Dutiable Commodities Ordinance, is also subject to such limitations. In exercising "absolute discretion", the Government must act reasonably, in good faith and upon lawful and relevant grounds of public interest. Anyone aggrieved by the decisions of the Commissioner made in accordance with section 7(1)(a) of the Dutiable Commodities Ordinance can appeal to the Administrative Appeals Board and apply for judicial review of the Court.

It has been suggested by Members that the Government should consider extending the validity period of OBS licences to beyond one year. Since the C&ED will, through the annual licence renewal process, review the licensing situation and legislation to identify revenue fraud or high-risk areas of revenue loss, the annual licence renewal arrangement for bonded warehouses is an important element of the risk management system. We consider that the annual licence renewal arrangement can effectively prevent duty evasion and is more appropriate, in particular, this is all the more important during the initial period of fully implementing the OBS. We will review whether the requirement to renew the licence annually is absolutely necessary after fully implementing the OBS.

Some Members suggested that the Government should consider raising the requirement that bonded warehouse operators keep their records for two years to provide a longer audit trail of records. The C&ED conducts comprehensive audit checks on individual warehouses at least once annually. Therefore, we consider that the two-year record-keeping requirement will allow the C&ED to examine the documents at least in two consecutive years. In order to reduce cost, we do not recommend a longer record-keeping period. However, the C&ED will examine whether it is necessary to extend the record-keeping period in the light of the operational experience on implementing the OBS.

Members also suggested that the Government should accept applications for or renewals of bonded warehouse licences by electronic means. We have examined the feasibility of this suggestion, however, since some of the documents that have to be submitted together with the application cannot be easily submitted in electronic form, the C&ED will have to discuss with traders the security issues and the feasibility of the electronic systems and transmission concerned. We will re-examine this proposal in the context of the review on the OBS to be conducted after the full implementation of the system.

I will move amendments later on the proposed section 8A to enhance the transparency of the considerations of the Commissioner in issuing bonded warehouse licences, on the amendment made by the Bill to Schedule 3A of the Dutiable Commodities Ordinance, and on the proposed section 98A of the Dutiable Commodities Regulations, so as to make the drafting clearer. In addition, in response to the request of traders, I will also propose adding to the Bill the date that the Ordinance will come into effect, in order to implement the OBS at an early date.

The Bills Committee supports the resumption of the Second Reading of the Bill. I implore Members to support the Bill. Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Dutiable Commodities (Amendment) Bill 2002 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): Dutiable Commodities (Amendment) Bill 2002.

Council went into Committee.

Committee Stage

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

DUTIABLE COMMODITIES (AMENDMENT) BILL 2002

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Dutiable Commodities (Amendment) Bill 2002.

CLERK (in Cantonese): Clauses 2, 4, 5, 7 to 19 and 21 to 26.

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 1, 3, 6 and 20.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam Chairman, I move the amendments to the clauses read out just now, as set out in the paper circularized to Members.

Concerning clause 1, the Government's plan is to implement the OBS in two phases. The first phase will apply to all bonded warehouses, except distilleries. The second phase will be extended to distilleries, and be implemented some six months after the first phase.

The Dutiable Commodities (Amendment) Bill 2002 (the Bill) was introduced into the Legislative Council in January 2002. The original proposal of the Bill is to assign the commencement date after the enactment of the Bill. However, as the Customs and Excise Department (C&ED) has already fully briefed the trade on the proposed amendments to the Ordinance and requirements of OBS, the trade is fully prepared and has expressed wish for the early implementation of the OBS. Therefore, I propose to assign two different dates of commencement for difference clauses stipulated in the Bill. All clauses related to the regulation of all bonded warehouses under the Bill, except clauses 10, 11 and 12, will commence operation on 1 April 2003. The rest of the Bill related to the regulation of distilleries, that is, clauses 10, 11 and 12, will commence on 1 October 2003. The original proposal on assigning a commencement date at a later time will be replaced by this amendment.

Once the Bill is approved by the Legislative Council, the C&ED will distribute the code of practice on OBS to bonded warehouse operators and invite operators to apply for licences. In March, we will again organize seminars for the trade to familiarize them with the operation of OBS.

Concerning clause 3, we propose, having considered Members' views, to amend the new section 8A to require the Commissioner of Customs and Excise (the Commissioner) to give reasons in writing to the applicant or licensee for his decision in refusing to grant or renew a bonded warehouse licence, or for

revoking such licence under the Dutiable Commodities Ordinance. This additional requirement will enhance the transparency of the licensing process of bonded warehouse licence handled by the Commissioner. Any person aggrieved by the decision of the Commissioner may decide, on the reasons given by the Commissioner, whether he should appeal or apply for review.

Furthermore, we have also accepted the views of the Bills Committee, and will propose to delete "the officer" under the proposed section 8A(3) and (4), to replace it by "officer deputed by him in that behalf". This is only a textual amendment to improve clarity and to make it consistent with the wordings of the proposed section 8A(1).

Our initial proposal under clause 6 of the Bill aims to improve the clarity of the existing provisions. Under clause 6(b), Schedule 3 of the existing Ordinance will be amended to add a further penalty. With this amendment, any person contravening an offence under section 34A and is compounded by the Commissioner, will be subject to a penalty five times the duty payable on the goods seized, in addition to the \$2,000 fixed fine. So when the Commissioner has compounded an offence under section 17 and has imposed a penalty equivalent to five times the duty payable, this may prevent the offender from arguing that he has paid the duty and penalty when he paid the \$2,000 fine.

Some members expressed concern that if an offence under section 34A is brought to the Court, the maximum penalty that can be imposed by the Court is only \$2,000, but the Commissioner is empowered under clause 6(b) to impose a penalty even higher than that of the Court.

After further deliberations on clauses 5 and 6, we consider that the policy intent behind the proposed amendment will be achieved even without clause 6(b). In response to the views of the Bills Committee, I thus propose to delete clause 6(b).

Clause 20 requires a warehouse-keeper to keep a copy of every document that he issues, prepares and receives under the new section 98A. Under section 98A(3), a document that is issued, prepared or received in the course of the business of a warehouse shall be regarded as issued, prepared or received by the warehouse-keeper. I would like to point out that the Government has no intention to shift the onus of proof that lies with the prosecution. However, to

allay the above concern, I propose to delete the proposed section 98A(3) and to make suitable amendment to the drafting of sections 98A(1) and (2).

Thank you, Madam Chairman.

Proposed amendments

Clause 1 (see Annex I)

Clause 3 (see Annex I)

Clause 6 (see Annex I)

Clause 20 (see Annex I)

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 and the Treasury 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): Clauses 1, 3, 6 and 20 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.

DUTIABLE COMMODITIES (AMENDMENT) BILL 2002

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

Dutiable Commodities (Amendment) Bill 2002

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 Dutiable Commodities (Amendment) Bill 2002 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): Dutiable Commodities (Amendment) Bill 2002.

Resumption of Second Reading Debate on Bill

PRESIDENT (in Cantonese): We will resume the Second Reading debate on the Inland Revenue (Amendment) (No. 2) Bill 2001.

INLAND REVENUE (AMENDMENT) (NO. 2) BILL 2001

Resumption of debate on Second Reading which was moved on 21 November 2001

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

MR ERIC LI (in Cantonese): Madam President, I will first state the position of the Bills Committee in English and then briefly state my own views in Cantonese.

MR ERIC LI: Madam President, in my capacity as Chairman of the Bills Committee on Inland Revenue (Amendment) (No. 2) Bill 2001, I would like to highlight some of the major deliberations of the Bills Committee.

The Bill seeks to provide a legal basis for the use of password for authentication and fulfilment of signature requirement for tax returns filed under the Electronic Service Delivery (ESD) Scheme and the filing of tax returns by telephone.

The Bills Committee has held five meetings with the Administration, including one meeting to listen to views of professional bodies and the information technology (IT) sector.

The Bills Committee has sought clarification from the Administration on the scope of the new service proposed in the Bill. The Administration has advised that the new service will apply to "Tax Return — Individuals" and "Property Tax Return — Property jointly owned or co-owned by Individuals", and it is designed to cater for straightforward returns which do not require the attachment of supporting documents.

The Administration has estimated that about 94% of the Tax Return for Individuals and Property Tax returns can be allowed for filing through the ESD Scheme. As for the telefiling system, while about 800 000 taxpayers will meet the criteria for telefiling, the Administration envisages that taxpayers will need time to get used to the new service and the initial take-up rate may not be too high.

A member has requested the Administration to explain why those provisions to be made by the Commissioner of Inland Revenue under the new section 51AA(5) and (6) are specified as not subsidiary legislation. The Administration has explained that these provisions are related to routine operational matters such as the eligibility criteria for using the new service, the form and manner for furnishing electronic returns, and other technical requirements. In line with the practice in other tax jurisdictions, the Administration has proposed that the Commissioner can deal with these matters.

The Bills Committee has expressed concern about the interface of the Bill with the Electronic Transactions Ordinance (ETO), which was enacted on 5 January 2000 to provide legal recognition for electronic records and digital

signatures, and to establish a voluntary recognition scheme for certification authorities in promoting and facilitating the development of e-business in Hong Kong.

The deputations that have given views to the Bills Committee have pointed out that the ETO recognizes digital signature as the only proven technology (among known electronic signatures) which satisfies the requirements of authentication, confidentiality, integrity and non-repudiation. They consider that, as a matter of principle, before the ETO is revised to include the use of password, government services should not try to bypass the ETO and apply another technological option like the password.

The Administration has explained that the ETO aims to remove impediments to the development of e-commerce and e-government in Hong Kong by providing a clear legal framework for the conduct of secure electronic transactions. It is not the Government's policy intention to put all legislative provisions concerning electronic transactions in the ETO, as such an approach may not be possible or practical. The ETO has therefore allowed for specific needs and situations to be dealt with in a self-contained manner in other ordinances. The Bill, which is to provide a legal framework for the use of password in filing tax returns, is one of the examples.

The Bills Committee has noted that the Administration conducted a public consultation exercise on a review of the ETO in 2001. Having considered the comments received during the public consultation exercise, the Administration has concluded that it will not make general and sweeping amendments to the ETO on the use of password for satisfying a signature requirement. The Administration holds the view that where the use of password is appropriate, the Administration will deal with it by specific legislation and will address the security concerns as appropriate.

Professional bodies and the IT sector which have given views to the Bills Committee have, however, expressed much concern about the security and the risks involved in the use of password as a signing device for filing tax returns electronically. They are of the view that the proposed use of password for filing tax returns under the ESD Scheme and the telefiling system cannot satisfy the signature requirements in the same way as digital signature, particularly when a taxpayer has to shoulder the legal consequences of filing any incorrect return which is criminal responsibility. A deputation has also pointed out the

main risk of using password for filing tax returns is that a taxpayer will forget his password as it is used only once a year. In such circumstances, a taxpayer will write down his password and this will pose security risk.

As this is the first legislative proposal in Hong Kong providing a legal basis for the use of password for the purposes of authentication and fulfilment of signature requirement in electronic transactions, the Bills Committee has made reference to the experience of other tax jurisdictions which have also accepted the use of passwords to sign tax returns for filing electronically. The Administration has advised that it has not come to its attention that there is any major security problem associated with the use of password in filing tax returns electronically in other tax jurisdictions, apart from an incident in the United Kingdom. According to the Administration, Hong Kong's system is of a different design from that of the United Kingdom.

The Bills Committee is of the view that the system design and the security issues are outside the scope of the Bill, and it is the Administration's responsibility to address the security concerns and put in place adequate safeguards in the proposed systems.

Nonetheless, to address the concerns about the safekeeping of passwords and the difference in the level of security between using a password and a digital signature for filing tax returns, the Administration has undertaken to draw taxpayers' attention to these issues in the publicity leaflets to be sent to all taxpayers, and also in the "Instruction Note" and "pop-up screens" for tax return filed under the ESD Scheme.

As regards the concern about non-repudiation in filing tax returns using a password, the Bills Committee has asked about the Administration's plan to achieve non-repudiation, and how "reasonable excuse" can be used as a defence for filing inaccurate tax returns. The Administration has provided more information in this respect. It has assured members that the benefit of doubt will be given to taxpayers having regard to all relevant factors in each case. For illustration purpose, the Inland Revenue Department (IRD) will provide in its homepage some examples which it would accept as reasonable excuse.

To provide greater convenience to taxpayers in filing tax returns using the new service, members have suggested some improvements to the proposed systems. The Administration has undertaken that the IRD will continually

review and improve the functionalities and compatibility features of the tax return filing systems including support for other operating systems. The IRD will also consider providing new functions in the tax return filing systems in April 2004 to enhance convenience to taxpayers.

Madam President, the Administration has taken on board certain suggestions of the Bills Committee and the deputations, and agreed to take necessary measures to address the concerns raised. The Administration will also move Committee stage amendments to the Bill. These include an amendment to remove the reference to "any other signing device" from clause 2 and clause 8 of the Bill. In this connection, the Hong Kong Society of Accountants and some other deputations have pointed out that the reference to "any other device" in the Bill will create uncertainty as to what other signing device will be accepted under the Inland Revenue Ordinance in future.

Some other amendments are proposed by the deputations and the Bills Committee to achieve greater clarity and consistency of the terms used in the Bill. These include replacing "adopting" in the proposed section 2(5) by "affixing of a digital signature to a return" and "inclusion of a password with a return"; and replacing "for the purposes of this Ordinance" by "for the purposes of this section" in the proposed new section 51AA(7).

Madam President, with these remarks, and subject to the amendments to be moved at the Committee stage, the Bills Committee supports the resumption of Second Reading debate on the Bill.

MR ERIC LI (in Cantonese): Madam President, please let me talk about some of my own views and accept my apologies for such a lengthy speech. However, I believe Members will note that although the Bills Committee has convened only five meetings, it has been very efficient. The issues discussed and conclusions reached by us were related to policy issues that cover a very wide scope and are technical in nature. Though the Bills Committee agreed to resume the Second Reading debate of the Bill, members of the Bills Committee may not share the same views. I believe some members may later talk about their own views or that of the sectors represented by them.

There is no doubt that this Bill is a new attempt in the Laws of Hong Kong and apart from technical and other problems that have to be dealt with, the main disputes over this Bill are to a great extent related to matters of principle. It

involves whether we could replace a signature with a so-called PIN, and to do so may result in legal consequences of criminal liability. Therefore, it can be considered a very innovative attempt.

No matter whether members in the Bills Committee could eventually come to an agreement in relation to this Bill or not, I believe Members will appreciate that apart from matters of principle, the Government and members of the Bills Committee have already done everything in their power to address the technical and other issues. Therefore, even if we continue with our work, we would still not be able to resolve other matters of principle, and we have already completed our work. Both within and outside this Council, I believe the IRD, the Government, members of the Bills Committee and the sectors they represent did hold many and frequent meetings to improve understanding and encourage communication. Therefore, we have dealt with this matter in a very professional manner, if I may say so.

From my personal point of view, the Bills Committee has already fulfilled its responsibility and made every effort. As regards choices, I fully understand and am aware that a so-called digital PIN can be used for authentication. But, in theory, the possibility of certain technical risks cannot be dismissed, thus rendering this method undesirable. However, we can see that many countries have already taken the first step to allow their taxpayers to make their own choices. This shows that this method, despite certain risks in theory, has actually been in use for some time and no major problems have occurred in actual implementation.

The decision we have to make is whether we should provide our taxpayers with this option. This is our major consideration, in particular, in the light of Hong Kong's current level of development in science and technology, I think the general public may not be able to possess the same level of knowledge as that of professionals and may have to go through a small learning process. If we do not provide the public with a technology that is generally adopted in the commercial sector but ask them to accept this method, in which digital technology is used for authentication, without first consulting them, then I believe a great leap has to be taken. It has been proven that not many people have used this service offered by the IRD. In my opinion, no matter whether this is seen as an education, a risk or a kind of encouragement, we are, after all, providing taxpayers with another option and it is not such a bad thing, for taxpayers can naturally do better once they have got used to it.

I believe that on the part of the IRD, both from what we have seen or from what other people have said, it has done a lot in relation to the Bill. I also believe the system of the IRD itself is reliable and even if things may go wrong, it should be due to the fact that taxpayers are not yet familiar with its operation. Both the Government and the IRD have assured us that, in terms of enforcement, even if taxpayers make mistakes, they would consider defence based on reasonable excuse and adopt a lenient attitude, to take care of the actual situation in Hong Kong and the public's understanding in relation to this issue.

I personally think that the Government should not behave like an over-protective parent who will do something only if it can ensure that the public will not make mistakes. I trust that this is impossible. As legislators, it may also not be possible for us to achieve this; of course, no mistakes will be made if we do nothing, but if something has to be done, certain risks must be taken. Since we have already fulfilled our obligations and repeatedly urged the Government that it should take every opportunity to remind the public of the Government's system, this is all we can do insofar as legislation is concerned.

Of course, if something really goes wrong, I personally think the taxpayer in question could have chosen the most conventional method instead of this one in the first place. But, if he chooses this method, then he should know that he has to shoulder the responsibility under this system; and even if he is not familiar with the system, he must still bear the consequences. I believe this method is not something that is impossible to teach, extremely difficult or unfathomable. Users should know how to protect their own passwords. This is generally known as common sense, common logic. If users do not follow this rule, then I believe they have to go through a learning process. Of course, allowances should also be made in law enforcement.

After balancing the views of all parties, I think this Bill should be supported. During the whole process, members of the Bills Committee and the Government alike have done a lot. The Government is especially courageous in having put forward such a Bill and actively responded to the concerns of the Bills Committee and people who expressed worries. It also managed to come to an almost unanimous agreement with the professional bodies in relation to this Bill

and finally drafted this relatively clear piece of legislation. I must praise them for their efforts and hope Members can support this Bill.

Thank you, Madam President.

MR SIN CHUNG-KAI (in Cantonese): Madam President, I must sing my hearty praises on the IRD for its effort in promoting ESD. The IRD is not the department charged with the responsibility of implementing the ESD Scheme, but still it exerts its utmost in promoting electronic public services in order to provide greater convenience to the public. This is really commendable. If other departments are willing to follow suit, e-government will definitely see better development.

The IT sector has held many discussions on this Bill, and the practitioners are generally of the view that the direction of the Bill is correct as it will facilitate the wider use of IT by the people. If the Inland Revenue Ordinance is amended as per this Bill, the IRD will accept personal identification number (PIN) as the signature on tax returns. However, for the IT sector, the controversial point about the Bill is whether the Government should accept PIN as an electronic signature on tax returns, and grant it the same legal status as a digital certificate to make it a signing device that has legal effect.

Of course, as just explained by Mr Eric LI, PIN is naturally a digital signature. However, the amendment introduced this time is not equivalent to incorporating PIN into the same legal-binding category as a digital certificate. In respect of this amendment, the IT sector is worried in three aspects: the information security, its interface with the Electronic Transactions Ordinance (ETO), and its impact on the development of Public Key Infrastructure (PKI). Professional groups engaging in security work, including the Information Security and Forensics Society, the Professional Information Security Association and the Hong Kong Computer Society, all oppose this Bill.

Firstly, compared with the digital certificate, the PIN is much inferior in terms of its level of security and extent of safety. For example, the PIN is easy

to be cracked, to be stolen by hackers and it cannot achieve non-repudiation. Moreover, the amendment may mislead the public into believing that the PIN is as secure as the digital certificate. Therefore, the acceptance of PIN as an electronic signature may reduce the security of the tax return filing system on the Internet, and will pose potential threats to the personal privacy of users.

Secondly, although electronic tax returns do not involve any monetary transactions and information on banking accounts, they contain all kinds of detailed personal information of the taxpayers. On the premise of protecting the personal data and privacy of users, tax returns must continue to be transmitted and encrypted by reliable and highly secure technologies. In addition, the filing of tax returns carries criminal liability, for taxpayers have to be responsible for the accuracy of information provided in the tax returns. Once the tax returns are amended by hackers, the taxpayers will have to take a lot of cumbersome remedial actions afterwards, even if they are not convicted.

Although the current exercise only seeks to amend the Inland Revenue Ordinance, the consequences are more far-reaching. Presently, digital certificates issued by approved certification authorities are the only recognized digital signatures in law, which satisfy the requirements of authentication, confidentiality, security and non-repudiation, and carry the same legal effect as a signature in writing. The Government has indicated that, depending on the case of individual service items, it will decide in future whether PIN will be recognized as digital signature. However, once the Bill is enacted, there is no guarantee that other government departments will not follow. Therefore, passing the Bill is equivalent to making precedents. This is also equivalent to bypassing the review procedures of the ETO, making some of the laws incompatible with ETO, and also recognizing the legal status of other electronic signatures than digital signatures, thereby undermining the role of digital signatures. If the ESD Scheme develops in this direction, then the development of PKI will also be affected. If the law is amended to recognize PIN as a proper way of identity authentication, it would also imply in an indirect way that the Government encourages the wider use of PIN. This will make many enterprises, which are keen on joining the e-business, switch their research resources from studying PKI to developing systems using PIN. As the success of the promotion of the application of technology and the development of technology depends on complementary co-ordination, the reduced application of PKI technology will impede the development of PKI.

It has been pointed out that most of the e-business systems, such as cyber banking, rely on the PIN as a tool of identity authentication. However, as the risk exposure capabilities of a government service system and an e-business system are different, theoretically, the Government should adopt a more secure system to ensure that the people can count on the services of the Government.

During the past few years, we have seen the Government actively promoting the use of digital certificates, and the results have been encouraging. From the second half of the year onwards, the Government shall launch the project of replacing the present identity cards with smart identity cards, with which everyone may use the digital certificate free of charge. If the Bill is passed, the relevant policies will become incompatible and run in different directions. Therefore, it is obviously contradictory. The Government, on the one hand, gives away the digital certificates for free — everyone will be given a digital certificate when his identity card is replaced, so as to encourage Hong Kong people to use PKI. However, the IRD encourages the people to use PIN on the other hand. This will bring about a contradiction in policy. In the IT sector, many trade associations think that it is perfectly fine, as they think that, in view of poor business, the people should be encouraged to use IT and make it more popular. However, I have consulted many organizations and found that, among professional organizations engaged in IT security systems, none of them support this Bill. They do not support the Bill in principle, so the issue cannot be solved just by making some technical amendments. In fact, I have invited the officials from the IRD, including the Commissioner, to have a direct dialogue and contact with organizations opposing the Bill, and to explain the details to them. However, the professional organizations, which I have mentioned, still oppose the Bill even after listening to the explanation of the Commissioner and subsequent discussions.

As the representative of the IT sector, I have to reflect the views of the industry faithfully. Therefore, I shall vote against this Bill.

I so submit.

MR HOWARD YOUNG (in Cantonese): Madam President, with the advent of the era of IT, the Government has actively promoted ESD. On filing tax

returns, following the IRD's initiative to implement the filing of tax returns with the use of digital certificates for authentication, the Government has proposed to amend the Ordinance to expand the methods of authentication by allowing the use of passwords and the telefiling system in filing tax returns to further simplify the procedure. Personally, I have been making use of the computer during the past few years to pay bills of public utilities or the rates, or even in filing my tax returns or making salary payments to my staff. Therefore, personally I support this idea. On the other hand, in my capacity as the IT spokesman for the Liberal Party, I also support this proposal because I believe these measures will help us keep abreast of the time. So I must say that the Liberal Party supports the Bill.

All along, members of the public have been troubled by the filing of tax returns — not just for the need to make tax payment, but filling in the tax returns itself is cumbersome labour. The work is not done frequently, but just once a year. Although the tax return form is not as complicated as it is in overseas countries, it still requires some effort to fill in, and has to be sent by mail or delivered in person. In order to tie in with the policy of promoting ESD and to provide greater convenience to the people, the Government has introduced the initiative of allowing the people to file tax returns electronically by use of digital certificates. However, relatively very few people possess digital certificates, and they have to be issued by authorized certification bodies (The Hongkong Post and the Digi-Sign Certification Services Limited), so the people have to apply for digital certificates with specified agencies. Before the issue of smart identity cards, the application for such certificates will entail a fee of several tens of dollars, and the people have to wait for a few days before getting the digital certificate. And the certificate has a validity period of one year. The people have to pay an annual fee for the digital certificate. All this means trouble.

Once this amendment is implemented by the Government, as long as they have a computer connected to the Internet, members of the public would be able to file tax returns electronically with the use of password, or file tax returns by the telefiling system, even if they are in overseas countries without the restrictions of time and geographical locations, at day or at night. In future, filing tax returns will become very easy and convenient, and I believe this will encourage more people to file tax returns electronically. I do not think that people would be using their computers just for filing tax return electronically

once a year without using them to do other things. I believe most people in Hong Kong have been accustomed to using the Internet to make bill payments or to connect to some cyber banking services. As far as I know, although these people just log onto these systems by using passwords, instead of digital certificates, it is not at all a difficult task for them to use this system.

As a member of the Bills Committee, I feel that the security and safety issues have attracted the most attention, and Mr SIN Chung-kai has explained this very clearly. Some opine that the security level of a password is not as good as a digital certificate. In fact, I also agree with this viewpoint. At the moment, it is very common for us to use passwords for identity authentication and security purposes in using automatic teller machines, phone finance management, Internet banking, Payment by Phone Service, and so on. All these services, which involve money transactions, use personal passwords for identity authentication and security purposes. As the six-digit passwords are chosen by taxpayers on their own, theoretically there is no way for people other than themselves to come to know such passwords. So I believe the security and safety level of filing tax returns by passwords is acceptable. What is more, at the moment, the password is used only for filing tax returns, not for making tax payments. I have even made tax payments by this method, but I am not particularly worried. Maybe there is a small group of people who will feel worried. However, if the taxpayers so request, the Government may acknowledge receipt of the tax returns by sending email messages to them. This could eliminate the possibility of a transmission error. I hope the Government can step up publicity initiatives in this regard. It has been estimated that about 20% to 30% of the people will use the dates of their own birthday as passwords. But, if their identity cards are picked up by others, it is just like having their own passwords picked up by others. Therefore, I hope the Government can launch more educational campaigns to advise people against this practice. Meanwhile, I hope Members present are not doing this. After some publicity and educational work, the safety level of this method can be enhanced indeed.

However, the inadequacy of the amendment lies in the fact that the use of password is just applicable to the filing of returns of several specified and designated categories of tax items, such as the straightforward personal tax and property tax. Therefore, I hope that the scope of its application can be extended

to the filing of returns of other categories of tax. I note that, very often, the Rating and Valuation Department will send all kinds of forms to the relevant people, requesting them to declare how many properties are rented out to tenants. If all of such forms could have an electronic version on the Internet, then this method of using passwords can be used as well.

I hope the Government can accept and implement the suggestion of the Bills Committee, namely, to add the functions of "Saving" and "Retrieving" files in the process of filling in tax return information. This is because sometimes a taxpayer may not complete filling in the information all in one single session. He may need to save the file first and, after obtaining the necessary information, retrieve the file and continue filling in the information without starting all over again. If this can be done, we do not have to oblige the taxpayer to fill in all the information in one single session. This will enhance the flexibility of filing tax returns, and possibly make more people willing to file tax returns punctually.

Presently, the utilization rate of filing tax returns on the Internet is still on the low side. This is partly attributable to insufficient publicity by the Government, and partly to taxpayers being required to apply for digital certificates at specified organizations beforehand. The Government should step up its publicity to educate the people, to communicate with them, and make them realize the convenience of filing tax returns via the Internet. This will help save government expenditure, enhance operational efficiency, and even reduce human errors arising from input of information.

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

DR LAW CHI-KWONG (in Cantonese): Madam President, I rise to speak on behalf of the Democratic Party to support the amendment in the Bill.

We fully appreciate the concerns and worries of the industry in respect of the amendment. Therefore, we also agree that the study on promoting the wider use of digital certificates is very important to e-business. As far as policies are concerned, I believe the Government really has to seriously consider how to implement them.

On the current issue of filing tax returns, the Democratic Party thinks that we must strike a balance between understanding the security involved in using this media and the extent of convenience offered to the people in filing tax returns. We also understand that the ordinary people will not file their tax returns by registered mail. Therefore, there is no major difference in the level of confidentiality between sending tax returns by mail, using a password, or even using other methods apart from digital certificates. From the perspective of providing convenience to the people and in consideration of the ways used by the ordinary people in filing tax returns now, the Democratic Party will support the amendments proposed by the Government, and we shall vote in favour of them. Thank you, Madam President.

MR CHAN KWOK-KEUNG (in Cantonese): Madam President, I am the spokesman of the Democratic Alliance for Betterment of Hong Kong (DAB) on IT policies. On behalf of the DAB, I support the Amendment Bill. Services provided on the Internet are becoming increasingly popular, even tax returns can be filed through the cyberspace. Internet tax returns filing services are already available in other countries such as Australia, Canada, Singapore, the United Kingdom and the United States. Under this Bill, taxpayers may use a six-digit password to submit tax returns for salaries and property tax. This is indeed very convenient and expedient.

The Administration estimates that about 94% of the tax returns for individuals can be filed through the Internet, whereas another 800 000 taxpayers may make use of the telefiling system to submit their tax returns. Nowadays, the working people are all very busy in their daily schedules, so filing electronic tax returns through the Internet will save them the trouble arising from failure to file returns in time. Although there are still certain constraints in filing tax returns through the Internet (for example, taxpayers must not have any transaction exceeding \$500,000 before they can use this system), this new service can still greatly enhance the flexibility of the process of filing tax returns. The advantages are quite obvious.

Although there is still enormous limitation on the scope of application of the telefiling service, for example, only users who do not claim dependent parent allowance may use the service, it has indeed provided another channel for many

taxpayers to fulfil their civic obligations. Upon the enactment of the Bill, it is estimated that the people who will use the telefiling service will eventually increase to 800 000. However, as many taxpayers will need some time to get used to the new service, the initial take-up rate may not be so high as to exceed the handling capacity of the system and that of the IRD.

Many organizations worry about the security issue involved in the use of passwords, and they highlight the occurrence of the leakage of tax filing information in the United Kingdom. But I think that all such problems can be overcome. Presently, it has become a common practice for banks to provide such services as electronic finance, e-shopping and e-payment. All these services also rely on the security of their systems. Therefore, the Government is just keeping abreast of the time by proposing to use the six-digit PIN. Besides, in the event of incorrect input of a password for five times, the password will become invalid automatically. This will ensure the maximum protection for the information filed by the taxpayers.

This Bill only seeks to provide a legal framework for the services offered by the Government on the Internet. For a city like Hong Kong which always emphasizes efficiency, this is really a constructive Bill which merits our support. I also plan to file my own tax return on the Internet in the future. Madam President, I support this Bill.

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

(No Member responded)

PRESIDENT (in Cantonese): Secretary for Financial Services and the Treasury, you may now speak in reply.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, the Inland Revenue (Amendment) (No. 2) Bill 2001 (the Bill) seeks to provide a legal basis for the use of passwords in filing tax returns through Internet and by telephones.

The Bills Committee has scrutinized the Bill in detail and made many valuable suggestions. I would like to take this opportunity to thank the Chairman of the Bills Committee, Mr Eric LI, and its members. I will move amendments at the Committee stage to amend certain clauses of the Bill.

At present, taxpayers are allowed to file the major types of tax returns, including the Individual and Property Tax returns, through the Internet via the Government's Electronic Service Delivery (ESD) System. In addition, taxpayers may also file their profit tax returns in Electronic Government Forms (e-Forms) through the Internet. Taxpayers filing tax returns through the Internet are required under the Electronic Transactions Ordinance to affix their digital signature with a recognized digital certificate.

To encourage more taxpayers to file tax returns through Internet via the ESD System, we propose that in addition to the use of digital signature with a recognized digital certificate, passwords approved by the Commissioner of Inland Revenue (the Commissioner) should also be allowed for authentication and signing of tax returns. The use of passwords has been widely accepted on the Internet, and is widely used by most on-line banking services. The acceptance of passwords for filing tax returns through the Internet has already been adopted for years by several countries, like the United States, Canada, Singapore, and so on. This new method of accepting passwords for filing tax returns is a proposal in line with the major development in electronic commerce, which serves to provide another alternative for taxpayers filing tax returns through the Internet. We expect this will be welcomed by taxpayers.

Another proposal introduced by the Bill is to provide a legal basis for the filing of tax returns by telephone (telefiling). This again provides a fast and convenient channel for filing tax returns. Telefiling is designated for individuals with simple tax returns, and we estimate that some 800 000 taxpayers will meet the prescribed criteria for telefiling.

With the offering of new means for filing tax returns, which is the use of passwords and telephone, the quality of public services provided by the Government will be further enhanced. At the same time, by saving the time required for transcribing and inputting information supplied on a physical tax return into the department's database, the operational efficiency of the IRD will be enhanced, staff expenditure will be reduced and the risk of making mistakes in data input will also be minimized.

In the course of deliberations by the Bills Committee, Mr Eric LI, some other members and organizations concerned have raised certain issues of concern; I would like to respond to a few key points.

Some members and organizations worry that the use of passwords cannot provide the same level of security as digital signatures and fail to achieve the purpose of non-repudiation. I agree that the level of security of passwords and digital signatures is not the same. However, in weighing the security level of individual systems which operate on the acceptance of passwords, we should consider whether the security protection offered by the system and the complementary administrative measures is adequate as opposed to the risks involved in the use of the system. We consider the security design of the proposed system and the administrative measures put in place by the IRD can provide sufficient security in allowing the use of passwords for filing tax returns.

In proposing to adopt a six-digit password, the IRD has made reference to the prevailing practice in the commercial sector, and considered it desirable to allow taxpayers to use the same password for both telefiling and the TeleTax service. Furthermore, we believe the convenience offered by a common password for filing tax returns by telephone and by Internet will be an incentive to attract taxpayers to use these services, and will be conducive to the promotion of e-government. On system security, the IRD considers that a six-digit numeric password will provide sufficient security protection against unauthorized access. As an audit feature will be built into the proposed system, anyone failing to log in the system by entering the correct password within five attempts, will have his password automatically revoked by the system. If he wish to use the service again, he has to go through the register and authentication procedures again. After all, the Taxpayer Identification Number (TIN) combined with the password will provide a 15 or 16-digit key that can provide sufficient security for return filing purposes.

In addition, the IRD will formulate stringent data processing guidelines and a procedures code, and will conduct regular independent reviews on system security, in order to ensure that the security measures are effective and up-to-date with technological advancements. Having considered the comments of Members, the IRD will review, after the system is implemented for a period of time, whether the length of passwords should be expanded on basis of practical

experience, and consider whether the same passwords should be used for the ESD System and other taxation services provided through telephones.

We have all along been concerned about the non-repudiation of tax returns filed by the use of passwords. The overall design of the proposed tax return filing system will uphold the principle of non-repudiation in the handling of electronic records. The IRD will implement stringent measures in system security and administrative management to ensure that there will not be any unauthorized access to electronic records. In lawsuits, the IRD will seek to establish to the Court that the taxpayer has used his password to furnish an electronic return and that these details have not been tampered with according to its internal control and administrative measures. The Court will then decide whether or not to accept that the repudiation averred should be accepted or rejected.

Some Members suggested that we should remind the public of the difference in the level of security between using a password and a digital signature for filing tax returns. The IRD will draw taxpayers' attention to the difference in the level of security between using a password and a digital signature for filing tax returns in the relevant publicity leaflets. It will also remind taxpayers that apart from using passwords to file tax returns through the Internet, they may also use printed returns, or furnish their returns through other electronic means by using digital signatures. The publicity leaflets will be sent to all taxpayers along with each Tax Return for Individuals and each Property Tax Return. In addition, the IRD will provide more details of the difference on its homepage. A similar message will also be given in the "Instruction Note" and by way of "pop-up screens" in the return filing application so that taxpayers will be fully informed during the entire filing process.

Finally, I should like to thank the Bills Committee for proposing various suggestions in improving the functions of the system in respect of the Government's proposals. Such suggestions do help us to enhance the quality of our service in facilitating the filing of tax returns by electronic means. The Administration pledges to conduct regular reviews and make constant improvements to the tax return filing system. We will pay specific attention to the functions and compatibility of the filing system using the ESD System as the operation platform, as well as support for other operation systems.

The Bills Committee has indicated support for the resumption of the Second Reading debate on the Bill. I urge Members to support the Inland Revenue (Amendment) (No. 2) Bill 2001.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Inland Revenue (Amendment) (No. 2) 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.

(Members raised their hands)

Mr SIN Chung-kai rose to claim a division.

PRESIDENT (in Cantonese): Mr SIN Chung-kai has claimed a division. The division bell will ring for three minutes.

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

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

Mr Kenneth TING, Mr James TIEN, Ms Cyd HO, Mr Albert HO, Dr Raymond HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Eric LI, Dr David LI, Mr Fred LI, Dr LUI Ming-wah, Miss Margaret NG, Mrs Selina CHOW, Mr James TO, Mr CHEUNG Man-kwong, Mr CHAN Kwok-keung, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Dr YEUNG Sum, Mr LAU Chin-shek, Mr LAU Kong-

wah, Ms Miriam LAU, Mr Ambrose LAU, Ms Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Dr LAW Chi-kwong, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr Abraham SHEK, Ms LI Fung-ying, Mr Henry WU, Mr Michael MAK, Mr Albert CHAN, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr WONG Sing-chi, Mr Frederick FUNG, Mr IP Kwok-him, Mr LAU Ping-cheung and Ms Audrey EU voted for the motion.

Mr SIN Chung-kai voted against the motion.

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

THE PRESIDENT announced that there were 48 Members present, 46 were in favour of the motion and one against it. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

CLERK (in Cantonese): Inland Revenue (Amendment) (No. 2) Bill 2001.

Council went into Committee.

Committee Stage

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

INLAND REVENUE (AMENDMENT) (NO. 2) BILL 2001

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Inland Revenue (Amendment) (No. 2) Bill 2001.

CLERK (in Cantonese): Clauses 3 to 7 and 9 to 14.

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 1, 2 and 8.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam Chairman, I move the amendments to the clauses read out just now, as set out in the paper circularized to Members.

We propose to replace the post title "the Secretary for the Treasury" in clause 1 (2) with "the Secretary for Financial Services and the Treasury".

We propose to amend the proposed definition of "password", by adding "in relation to a return required to be furnished under this Ordinance" after "in communicating with the Commissioner", to make it clearer that the password can be used only for filing tax returns.

The original clause 2(b) of the Bill includes reference to the use of "any other signing device", aiming to cater for future technological development. With such reference, when signing devices other than digital signatures and passwords providing the same or similar level of security are made available, it can be used for signing tax returns without any amendment to the Ordinance.

Having considered the concerns of members about the uncertainty created by such reference, we have accepted the views of members to delete the

reference to "any other signing device" from the clause. We will also replace the word "adopting" in the clause by "affixing of a digital signature to a return" and "inclusion of a password with a return" to differentiate the two forms of signature.

We propose to amend section 51AA(2)(c) by replacing "that is arranged" with "that are arranged" in the English text. The amendment will make it clearer that it is the "particulars" of a return and not the "electronic record" that is referred to in the section. No amendment is required for the Chinese text.

We have accepted the suggestion of the Legal Adviser of the Legislative Council to amend section 51AA(5)(b), to replace "person or return" in the English text by the plural form, that is "persons or returns". No amendment is required for the Chinese text.

The original new section 51AA(6)(b) includes a reference to "any other signing device", which aims to cater for future technological development. With such reference, when signing devices other than digital signatures and passwords providing the same or similar level of security are made available, it can be used for signing tax returns without any amendment to the Ordinance. Having considered Members' concern about the uncertainty so created, we have accepted the suggestion of Members to delete the reference to "any other signing device" in the section.

We have also agreed to replace "how a digital signature or password or any other signing device is to be affixed to a return" with "how a digital signature is to be affixed to, or a password is to be included with, a return", so as to differentiate the two different forms of signature.

Since members of the Bills Committee worry that by using "for the purposes of this Ordinance", the coverage of the enabling provision under new section 51AA(7) seems to be too extensive, we thus propose to replace "for the purposes of this Ordinance" by "for the purposes of this section" in section 51AA(7).

Thank you, Madam Chairman.

Proposed amendments

Clause 1 (see Annex II)

Clause 2 (see Annex II)

Clause 8 (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 and the Treasury 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): Clause 1, 2 and 8 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.

INLAND REVENUE (AMENDMENT) (NO. 2) BILL 2001

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

Inland Revenue (Amendment) (No. 2) 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 Inland Revenue (Amendment) (No. 2) 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): Inland Revenue (Amendment) (No. 2) Bill 2001.

MEMBERS' BILL

First Reading of Members' Bill

PRESIDENT (in Cantonese): Member's Bill: First Reading.

DAO HENG BANK LIMITED (MERGER) BILL

CLERK (in Cantonese): Dao Heng Bank Limited (Merger) Bill.

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

PRESIDENT (in Cantonese): As the Dao Heng Bank Limited (Merger) Bill presented by Dr David LI relates to government policies, in accordance with Rule 54(1) of the Rules of Procedure, the signification by the Secretary for Financial Services and the Treasury of the written consent of the Chief Executive shall be called for before the Council enters upon consideration of the Second Reading of the Bill.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I confirm that the Chief Executive has given his written consent for the Dao Heng Bank Limited (Merger) Bill to be introduced into this Council.

Second Reading of Members' Bill

PRESIDENT (in Cantonese): Dr David LI, you may now move the Second Reading of your Bill.

DAO HENG BANK LIMITED (MERGER) BILL

DR DAVID LI: Madam President, I move the Second Reading of the Dao Heng Bank Limited (Merger) Bill.

The Bill will effect the merger of three Hong Kong banks, namely, DBS Kwong On Bank Limited, Overseas Trust Bank Limited and Dao Heng Bank Limited.

The provisions of the Bill are similar to the five recent bank merger ordinances passed by the Legislative Council in the years 2001 and 2002. Only minor changes have been made to reflect recent changes in legal and regulatory requirements and the specific circumstances of this merger. None of the banks involved in the merger are currently listed on the Stock Exchange of Hong Kong Limited.

All three banks are members of the DBS Group, which is headed by the Development Bank of Singapore Limited. The three Hong Kong banking subsidiaries of the DBS Group will be combined into a single bank, facilitating economies of scale. This will allow the single bank to offer an improved level of service to its clientele.

Furthermore, the Singapore-based parent hopes to expand its business in China through the newly merged Hong Kong subsidiary. This is likely to increase the bank's scope of business and create new employment opportunities in Hong Kong.

The purpose of the Bill is to transfer the undertakings of the transferring banks, namely DBS Kwong On Bank Limited and Overseas Trust Bank Limited, to Dao Heng Bank Limited. In conjunction with the merger under the Bill, the transferring banks will seek the revocation of their banking licences by the Hong Kong Monetary Authority (HKMA), pursuant to the Banking Ordinance. The approval of the HKMA will be sought for the merger to proceed.

Following the merger, the names of DBS Kwong On Bank Limited and Overseas Trust Bank Limited will be changed to "DBS Kwong On Limited (新加坡發展廣安有限公司)" and "DBS Overseas Limited (新加坡發展海外有限公司)" respectively. The decision regarding these names was taken after the Bill was gazetted, and a Committee stage amendment will be moved at the appropriate stage to introduce the new names.

Through this Bill, all assets and liabilities of DBS Kwong On Bank Limited and Overseas Trust Bank Limited that are governed by Hong Kong law will be properly transferred to Dao Heng Bank Limited. This procedure offers the greatest certainty and convenience, both for the banks concerned and for their clients. Certain property is excluded from the vesting of undertakings only for the purpose of complying with the Companies Ordinance, and no discretion is given to Dao Heng Bank or the transferring banks to exclude any property or liabilities.

As a private Bill, the Bill does not in any way limit the power of the Government or that of the regulators. Section 19 of the Bill provides that nothing in the Bill shall affect the rights of the Central Authorities or the Government. Section 17 of the Bill also provides that nothing in the Bill shall exempt DBS Kwong On Bank Limited, Overseas Trust Bank Limited and Dao Heng Bank Limited, or any of their subsidiaries, from the provisions of any enactment regulating the carrying on of the business of any of them.

I should also like to emphasize that the Government and the HKMA, as well as other relevant regulators, have been consulted regarding the proposed merger and the Bill.

In conclusion, I believe that the Bill is a further contribution to the development of the banking industry in Hong Kong. The Bill will help to

promote competitiveness and overall stability in the banking sector by consolidating three banks within the same group into a stronger, regulated bank. Accordingly, Madam President, I recommend the Bill to the Legislative Council.

Thank you.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Dao Heng Banks Limited (Merger) Bill be read the Second time.

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

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Proposed resolution under the Interpretation and General Clauses Ordinance to repeal the Ocean Park Bylaw.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

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

The Ocean Park Bylaw was made by the Ocean Park Corporation under section 39 of the Ocean Park Corporation Ordinance. The Ocean Park Bylaw regulates the admission to, opening and closing of the Park. It also governs the use of facilities at the Park and its amusement rides and the conduct of persons in the Park. A contravention of any bylaw shall be an offence punishable with a fine not exceeding \$2,000 and imprisonment for not more than three months.

Members agreed at the meeting of the House Committee on 14 February to form a Subcommittee to study the Ocean Park Bylaw. I was elected the Chairman. The Subcommittee has held one meeting.

Members were deeply concerned about the fact that the Administration had not gazetted the Ocean Park Bylaw which was enacted in 1988. Members think that the Administration should have the responsibility to urge statutory organizations to follow the proper legislative procedure in the making of bylaws and other legislative instruments. If the statutory organization concerned has not followed the necessary legislative procedure, the Bureau concerned should take remedial actions immediately.

Members also raised some queries and suggestions on certain provisions. For example, regarding the provision that prohibits a person from opening the door of a cable car, some members thought that, in emergency situations, visitors to the Park might have to open the door of a cable car without the authorization of the Ocean Park. Therefore, it may be necessary to consider whether a clause of "reasonable excuse" should be included. The Subcommittee thinks that this issue deserves careful consideration.

As the contravention of any provision of the 2002 Bylaw shall be a criminal offence, the Subcommittee is of the opinion that the Ocean Park Corporation should consider the provisions carefully, in order to avoid imposing unreasonable criminal liabilities on visitors to the Park.

The Ocean Park Corporation agreed to consider the views of members, but said that it needed time to consult its Board.

In view of the need to give some time to the Ocean Park Corporation to consider the views of members, and to enable members to study the amendment proposal that might be put forward by the Corporation, the Subcommittee agreed that the Ocean Park Bylaw should be repealed first.

Madam President, I would like to reiterate that the purpose of repealing the Ocean Park Bylaw is to provide Members with ample time to discuss outstanding issues related to the Bylaw with the Administration and the Ocean Park Corporation, and the repeal of the Bylaw is not because there is any major problem with it.

I implore Members to support this motion.

Mr James TO moved the following motion:

"That the Ocean Park Bylaw, published in the Gazette as Legal Notice No. 1 of 2003 and laid on the table of the Legislative Council on 15 January 2003, be repealed."

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

MR HENRY WU (in Cantonese): In my capacity as a Director of the Ocean Park Corporation, I support the decision made by the Subcommittee on the Bylaw. All along, the Board of the Ocean Park Corporation has been very careful in handling this Bylaw. The Board and the management of the Ocean Park Corporation will try their best to assist the Administration to improve this Bylaw before tabling it to the Legislative Council again for scrutiny.

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

(No Member responded)

PRESIDENT (in Cantonese): Mr James TO, do you need to reply?

MR JAMES TO (in Cantonese): Madam President, I do not need to reply.

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

PRESIDENT (in Cantonese): Two motions with no legislative effect. I have accepted the recommendations of the House Committee: the movers of the motions will each have up to 15 minutes for their speeches including their replies, and another five minutes to speak on the amendments; the movers of amendments will each have up to 10 minutes to speak; other Members will each have up to seven minutes for their speeches. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

First motion: Opposing cutbacks in welfare benefits.

OPPOSING CUTBACKS IN WELFARE BENEFITS

MR WONG SING-CHI (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

Madam President, I would like to ask Members one question. What can we do with one hundred or several tens of dollars? Spending it on a new dress, or a nice meal? For the Secretaries, maybe it is just enough for a pair of shoelaces. For the middle class, this amount may not be enough for a dress, or a meal. However, for the elderly, vulnerable and the disabled who have to rely on welfare benefits, the Comprehensive Social Security Assistance (CSSA) for their living, this amount is very precious. It can meet their weekly spending on food and daily expenses, or it can be the contingency fund of the family to meet any urgent needs.

Yesterday, the Government announced that it planned to slash the CSSA substantially by 11.1%. Instead of implementing it from 1 April, the Government planned to launch the measure in June. But for CSSA recipients who are never well-off, they have very limited savings. The across-the-board cut in CSSA will have enormous impact on them.

For the elderly and the disabled, even if the Government implements the reduction in CSSA by stages in two years, a 6% reduction still has to be effected in the first year. It is indeed a major blow to these people, who have a low adaptability and are really badly in need.

A few days ago, the news reports on civil service pay cut have attracted a lot of attention of the people. With the hard lobbying and bargaining efforts of the various civil service unions and other trade unions, the Government eventually accepted the "three plus three" proposal, that is, the 6% pay reduction will be implemented in two years, with a 3% cut each year. However, in comparison, it is still much better than the 11.1% cut in CSSA. The Democratic Party certainly understands that the civil service pay cut has to be implemented in two phases because we must minimize the impact to be brought about by the reduction exercise. But I fail to understand why the Government must proceed with the across-the-board cut in CSSA and cannot grant the same understanding to CSSA recipients? Even if a phased-reduction is effected for the elderly and the disabled, a 6% cut will be effected in the first year, and 5% next. Can the Government be oblivious to the situation of these people who are the most vulnerable and badly in need of care? Is it because these elderly, vulnerable and disabled people have a weak voice, have no unions to speak for them, have no force to resist that the Government has simply ignored them?

In fact, the Government cannot slash the CSSA by 11.1%. It actually should not use the year 1996 as the starting point for calculating the reduction in CSSA payments. This practice is indeed uncaring and wicked.

The Government must not forget that, in the 1999 review on CSSA, it already slashed the standard payment for three-member and four-member families by 10% and 20% respectively. So in this review on the CSSA Scheme, it definitely cannot overturn the outcome of that review and do the calculations all over again from 1997, and then introduce a cut of 11.1%.

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

The Government must also not forget that when reviews on the standard rates of CSSA were conducted in 1997, 1998 and 1999, it had promised not to cut surplus increases in CSSA due to over-estimation of the inflation, which by then had accumulated to 6.5%. According to the paper provided to the Legislative Council by the Government, and a copy of the paper is with me now, it clearly stated that it would be undesirable to implement a 6.5% downward adjustment in the standard rates. The Government even stated, "This has been an unsettling period for many Hong Kong citizens, especially the low income families. The 6.5% downward adjustment required will affect not only CSSA recipients but also SSA recipients." In the following paragraph, it continued to say, "Some CSSA and SSA recipients, especially the elderly and disabled, may find it difficult to adapt to the 6.5% downward adjustment in the standard payment rates." These remarks were made by the Government in a past paper, but the Government today has forgotten the promises made at that time. How can our Government fail to live up to its own promises? How can it break its own promises, and let the "it of today" defeat the "it of yesterday"? Why cannot the Government of the Hong Kong Special Administrative Region (SAR) be more lenient to the CSSA recipients, especially the elderly, the vulnerable and the disabled? Or are the financial difficulties of the Government pressing it so hard that it has to abandon righteousness for the sake of money?

We still remember clearly that the Chief Executive pledged to provide a "sense of security for the elderly" when the SAR Government was first established. The impression the Chief Executive, Mr TUNG Chee-hwa, gives us is that, although he has limited abilities, anyway he is still a very nice guy, as he is willing to understand and take care of the needs of the elderly. However, today, as a government with so much power, it is trying to target its retrenchment initiatives at the elderly, who is the weakest and most vulnerable group of people in society, by cutting their CSSA payments. With such an uncaring, wicked and untrustworthy government, how can we trust that it will really respect the elderly, and offer them protection?

Presently, there are 171 000 elderly CSSA recipients who are over 60 years of age, representing 17.1% of the total elderly population aged 60 or above. And elderly cases account for more than 50% of all CSSA cases. However, some elderly people are afraid of being labelled as "lazybones", so they prefer to live on the old age allowance, which amounts to just several hundred dollars.

Why do the elderly have to apply for CSSA or the fruit grant? This is because the Government did not have a long-term retirement protection system in the past. As a result, there is no retirement security for the elderly people who have contributed to the development of Hong Kong in the most difficult days in the past.

The Government keeps on stressing that the expenditure arising from the need to provide more benefits to the elderly has brought a heavy financial burden on society. However, has the Government thought about this: This burden is nothing more than compensation for the earlier effort made by our elderly for Hong Kong, and it is also compensation made by the Government for its failure to establish a good protection system for this group of elderly people. Although the Government has implemented the Mandatory Provident Fund schemes in recent years, they cannot help those elderly who do not have any income at the moment or those who have already retired. There is absolutely no assistance for them at all. It is only natural and reasonable for the Government to help these needy elderly.

Unfortunately, the SAR Government has never regarded it a right of the elderly to receive CSSA. Now the Government is short of money, it naturally wants to spend less. So it could not care less about the survival issue of the elderly, and it could not care less about how their livelihood is affected.

The adaptability of the elderly is low. The reduction in their CSSA payments will surely affect their livelihood. Similarly, the disabled also have lower adaptability than we, the able-bodied, in coping with changes in their living and spending patterns. They are not so readily adaptable to changes as we are. For the disabled who have restricted physical mobility, or who frequently suffer from physical discomfort, they have only limited choices in transport. If we do not have money, we may choose to walk, ride a bicycle, or take a cheaper bus ride. However, the disabled suffer from physical immobility. Can they change their life patterns as easily as we do? The disabled are subject to certain restrictions in choosing the modes of transport or in their living patterns. The sudden cut in their CSSA payments will deal a very severe blow to their lives.

Apart from the elderly and the disabled, today's motion also includes "the vulnerable", which refers to the children.

At the moment, of the 470 000 CSSA recipients, 22% are children under the age of 15. If we include the teenagers aged over 15 who are still attending schools in this category, they will account for 25% of the total number of CSSA recipients.

In the last CSSA adjustment, the Government already reduced the standard payment rates of CSSA for three-member and four-member families, and many special allowances were cut. Only allowances for the most basic living expenses are maintained. If the Government further cuts CSSA by 11.1%, it will cause an even greater impact on the growth of these children who are still attending schools.

The Democratic Party hopes that the Government can restore some special allowances for these children as a make-up measure, so that these children could live better than just having food to fill up their stomachs. We should give them better care. The population policy announced today also mentions that these young people will be the important pillars of society in future. If we do not take good care of them and give them the right grooming, it will be very difficult for us to tackle the problem of ageing population in the future. The Democratic Party is not requesting the Government to increase the allowances for these students substantially to enable them to live like everyone. We just hope that the Government can give them some basic special allowances to enable them to grow healthily.

Madam Deputy, the Democratic Party worries that the Government may cut CSSA today, and introduce reductions in other social benefits tomorrow. In fact, the Government is studying the possibility of introducing assets vetting in the elderly residential programme. The Democratic Party is gravely concerned that the Government may continue to target at the elderly, the vulnerable and the disabled.

Madam Deputy, later on, other Members from the Democratic Party will speak on other areas of the motion in order to continue urging the Government not to target at the most disadvantaged in society by reducing the benefits of the elderly, the vulnerable and the disabled.

With these remarks, I beg to move.

Mr WONG Sing-chi moved the following motion: (Translation)

"That this Council opposes cutbacks in welfare benefits for the elderly, the vulnerable and the disabled."

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr WONG Sing-chi be passed.

MR LAU CHIN-SHEK (in Cantonese): Madam Deputy, I would like to share the following extract from the *Bible* with officials present as well as Honourable colleagues. This extract is taken from verses 31 to 46 of Chapter 25 of St. Matthew, and it is on "the Judgement". Here are the verses,

"When the Son of man shall come in his glory, and all the holy angels with him, then shall he sit upon the throne of his glory: And before him shall be gathered all nations: and he shall separate them one from another, as a shepherd divideth his sheep from the goats: And he shall set the sheep on his right hand, but the goats on the left. Then shall the King say unto them on his right hand, Come, ye blessed of my Father, inherit the kingdom prepared for you from the foundation of the world: For I was an hungred, and ye gave me meat: I was thirsty, and ye gave me drink: I was a stranger, and ye took me in: Naked, and ye clothed me: I was sick, and ye visited me: I was in prison, and ye came unto me. Then shall the righteous answer him, saying, Lord, when saw we thee an hungred, and fed thee ? or thirsty, and gave thee drink? When saw we thee a stranger, and took thee in? or naked, and clothed thee ? Or when saw we thee sick, or in prison, and came unto thee? And the King shall answer and say unto them, Verily I say unto you, Inasmuch as ye have done it unto one of the least of these my brethren, ye have done it unto me. Then shall he say also unto them on the left hand, Depart from me, ye cursed, into everlasting fire, prepared for the devil and his angels: For I was an hungred, and ye gave me no meat: I was thirsty, and ye gave me no drink: I was a stranger, and ye took me not in: naked, and ye clothed me not: sick, and in prison, and ye visited me not. Then shall they also answer him, saying, Lord, when saw we thee an hungred, or athirst, or a stranger, or naked, or sick, or in prison, and did not minister unto thee? Then shall he answer them, saying, Verily I say unto you, Inasmuch as ye did it not to one of the least of these, ye did it not to me. And these shall go away into everlasting punishment: but the righteous into life eternal."

Madam Deputy, all of us have to face the Judgement one day, regardless of whether you are an official or just an ordinary citizen, a powerful person or a powerless man. The question is: Are you a sheep or a goat? It all depends on an idea on your mind that makes you the righteous or the wicked. When you set your mind on making the elderly, the weak and the handicapped your easy targets of budgetary cuts, please think of the above verses from the *Bible*, and then decide whether you want to be a sheep or the righteous.

Madam Deputy, I so submit.

MRS SOPHIE LEUNG (in Cantonese): Madam Deputy, the Liberal Party always advocates that we should provide assistance to the underprivileged in society, especially the elderly, the weak and the disabled, because they are usually the group of people most badly in need of our care and support.

In fact, the progress of any society is the fruit of the hard work accumulated by people of each generation. The hard labour of earlier generations make possible the enjoyment of the later generations. Apart from continuing to make contribution to the construction of society, we should each do our part and eventually enable the elderly to enjoy a contented retirement in their old age. These are the virtues all along treasured by the Chinese communities. Therefore, the Liberal Party has always advocated that we should respect our elderly, and we should show more care for their daily living. For those elderly with limited means and no family support, it is necessary for the Government to provide them with suitable assistance.

As for the disabled, due to their physical immobility, or their handicapped conditions, we should give this underprivileged group of people necessary support, so as not to make them feel that they are being discarded by society. Therefore, the Liberal Party supports the spirit of today's motion and hopes that the Government will not reduce the care given to the elderly, the weak and the handicapped. This will show that Hong Kong is really a place like what has been described by the Chief Executive — a caring and just society.

Of course, to ensure that the social welfare of the elderly, the weak and the handicapped will not be actually affected requires after all sufficient financial strength. Most important of all, we must have a sustainable social security system. However, there are really a lot of difficulties with our present social

security system. If the Government could not introduce reforms resolutely to the system, it would eventually be unable to do what it intends to do. By then, all it could do will just be some empty talk to show its sympathy for the underprivileged, and it could no longer effectively maintain the present security system. Should that happen, the blow to be suffered by the underprivileged would be even more tremendous.

The Liberal Party thinks that, the main problems with our present social security system are, apart from the fiscal deficit which the Government will have to continue facing in the next few years, the ageing population, the high unemployment rate in recent years and the increase in the number of cases of single-parent families. As a result, the expenditure of the Comprehensive Social Security Assistance (CSSA) Scheme has been increasing rapidly, and it is expected that it will continue to rise.

In fact, the budgeted welfare expenditure of the year is as high as \$32.1 billion, without factoring in the supplementary provision for CSSA expenditure. In comparison with the expenditure in 1997-98, the expenditure represents an accumulated increase of 60% over the last six years. The rate of increase is so drastic that it has reached an alarming point, to which we should be alert.

Therefore, we should find out how best we can reform the present security system, identify more effective ways of utilizing the resources, and try to prevent the occurrence of abuses, so as to enable us to cope with greater or even more urgent demands in future, thereby enabling the security system to continue to operate in a steady manner. In fact, this is the real solution that can help to ensure that the social benefits presently enjoyed by the elderly, the weak and the disabled will not be affected in the long term. This is indeed the most sympathetic and responsible approach to take care of the underprivileged.

As for the announcement by the Government yesterday to resume the adjustment mechanism of the CSSA, thus a downward adjustment of 11.1% in CSSA payments, the Liberal Party is of the opinion that this is just an action taken in accordance with the established mechanism. This is rightly a reasonable correction and adjustment by the Government to the past situation, in which the social security system was abused and the changes in the economic environment were overlooked. I hope this is a good starting point for a comprehensive review of the social security system by the Government.

To give the matter its fair deal, the present adjustment to CSSA payments according to the mechanism will not actually bring about any direct impact on the quality of living and the social benefits enjoyed by CSSA recipients. If not for the incompetent performance of the Government in handling the civil service pay cut issue, I am sure the issue of the adjustment to CSSA payments would have been better understood by the public.

Madam Deputy, we could keep on saying that we are full of sympathetic affection, but what can we use as the basis for our sympathy? Or at a time when the birth rate is dropping drastically, should we pass the invisible burden onto our next generation? These are issues that we should consider.

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

MR ABRAHAM SHEK: Madam Deputy, as a caring and civilized society, it is our responsibility to help those disadvantaged and vulnerable. This moral principle is so deeply embedded into our culture, and reinforced through many of our Confucian upbringing, that we feel obliged to provide a safety net to the less fortunate in our community. This noble notion, however, has been challenged recently by our Government.

From this April onwards, public hospitals will start charging patients for a number of service items. Two months after that, the social security allowance will be slashed by 11.1%.

We have been assured that these cost-cutting and streamlining exercises would not in any way affect the elderly, the vulnerable or the disabled. But I have grave doubts about these assurances. For one thing, these groups are not exempt from the social security scheme's latest downward adjustment, so any cut will directly reduce their means of existence — I did not use the word "living", but the word "existence" instead.

Furthermore, elderly services have been placed high on the agenda of the Government's cost-cutting programmes. Seniors will have to pay more for a place in an elderly home and they will have to wait longer for admission into elderly activity centres. The elderly are more than affected — in fact, they are being targeted — in a wave of cutbacks in welfare spendings.

The Government's assumption behind these cuts is that the welfare sector's rapid growth over the last decade has resulted in inefficiencies and problems like abuses and overlap of services. What this assumption ignores though is how successfully the sector has expanded its range of services and enhanced its service quality, benefitting those in need. While I acknowledge that there is a ring of truth in the Government's argument, I also firmly believe that across-the-board cutbacks are not an ideal approach to the problem of resource wastage. We must stop targeting at the elderly and other disadvantaged groups in our community, who otherwise have little or no other sources of help and assistance.

Yet, as the Government contends, there is, of course, still room for efficiency enhancement in other areas. In the light of our aggravating fiscal deficit, it is not realistic to keep increasing welfare spending without taking into account the Government's financial situation. Maintaining our current level of welfare spending is not likely to be sustainable. But not looking after our needy is worse than a crime that we should not have in Hong Kong.

For one, the Comprehensive Social Security Allowance (CSSA) Scheme needs to change. The system right now lacks a fair and transparent adjustment mechanism that can work well under either an inflationary or deflationary environment. And this lack of a mutually acceptable formula has caused grave mistrust between the Government and CSSA recipients. Whenever the Government plans a downward — or even upward — adjustment based on its calculations, non-governmental organizations and recipients counter with their own evidence from their own formula. Often, it is like comparing apples to oranges since the two parties are not even using the same points of reference. Inevitably, the disagreements become entrenched. There is a need now to clearly define "poverty" and what the basic minimum needs are for a person to support himself or herself. Without such criteria, adjustment exercises in the future will just continue to trigger off disputes and further undermine social harmony.

The CSSA mechanism to encourage able-bodied recipients to return to work has to be improved as well. To increase the incentives for work, there should be more flexible provisions for income waivers. And employment counseling services need to be strengthened as well.

Madam Deputy, welfare benefit reduction has always been a controversial subject. The fact that the current broad cutbacks in social security allowance has caused so much alarm and disturbance signals a fundamental attitude change in the Government. Prior cost-cutting measures focused mainly on service providers, through the introduction of new funding schemes and tendering some services out by contracts and so on. Many workers in the welfare sector were affected by the Government's tactics and morale has been undermined substantially. But on the whole, service recipients were not directly affected, and their livelihood not threatened. But now with these measures, their very existence has been threatened.

It is truly a sad change to our society. In dealing with its fiscal problems, I just hope that the Government will not be overcome by desperation and forget its obligation and duties to the truly needy.

The Secretary and the Director have been accused of being heartless and their work is not being appreciated. But I can say that they both have been working with a heart of gold. I urge them to continue doing the good work that they have been doing. They should fight with the Financial Secretary for more funding, and should continue with the good work that they have been doing. It is only right that they do this, because they are the Hong Kong poorest's last defence. If the Secretary and the Director forsake them, there will be nobody to help them.

With these words, I support the motion.

DR YEUNG SUM (in Cantonese): Madam Deputy, it is the consistent position of the Democratic Party to oppose targeting at the socially disadvantaged and cutting the welfare benefits of the elderly, the vulnerable and the disabled. However, the Government announced yesterday that Comprehensive Social Security Assistance (CSSA) payments would be reduced by 11.1%. Despite the fact that CSSA rates for the elderly and the disabled will be reduced over a two-year period, their rates will be reduced by 6% with effect from this October. The Democratic Party expresses its deep regret that the Government has

forgotten the undertaking it has made and disregards the needs of the socially disadvantaged. Such a move is repulsive to us.

The problem of disparity between the rich and the poor in Hong Kong is worsening and there are signs that such disparity is widening. According to the *World Development Report 2003* by the World Bank in 2003, Hong Kong ranks the 97th among some 100 countries and regions in this respect and it is one of the places in the world with the worst problem of disparity between the rich and the poor. As the problem is so serious, why is the Government wielding its axe at the socially disadvantaged? And why is such a slash so ruthless?

All along the Government has been stressing that the assistance given to CSSA recipients is higher than a lot of low-income earners. Recently, I read from the newspaper that Mr Antony LEUNG, the Financial Secretary, has made a remark in public to the effect that he does not want to see CSSA recipients leading a better life than that of those who work hard. I must ask the Secretary, "What nonsense is that?"

Is Financial Secretary Antony LEUNG not aware that the lower class is making the lowest possible salary? Cleaners and workers delivering food are earning just a few dollars to \$10 an hour, and no matter how hard they work, they will only make \$3,000-odd a month. Just imagine how can they support a family with such a meagre income? While the wages of the lower class in Hong Kong are constantly being suppressed to a most unreasonable level, the Government has been trying to use such an unreasonable income level as a yardstick to measure the living standard of CSSA recipients. Would this not be too heartless and mean?

Now CSSA recipients are getting \$1,800 to \$2,000 monthly as a standard rate, and unless they stay home all day and enjoy no social life, as the authorities would think, this amount of money is definitely not affluent as the Government would put it. In recent years, there has been a deflation, but the greatest cause for it is the dramatic drop in property prices. Other expenses like transport have not been reduced, at most they are just frozen. The prices for foods have not reduced much. If the Government makes such a ruthless move and reduce CSSA rates across the board, then the CSSA recipients will all be greatly

affected. For those elderly persons, the disabled and the children of CSSA families, they will be hit even harder. Madam Deputy, I am very much worried that the development of these children will be affected.

I hope the Government will appreciate that if the income of well-off families falls by 10%, it may mean just less savings or entertainment. But for the elderly, the vulnerable and the disabled, a sudden drop in income of 6% to 10% will mean a lot to their life, given their poorer adaptability. Therefore, I hope the Government will stop using individual CSSA abuse cases to deny the genuine needs of other recipients.

Madam Deputy, from the way in which the Government handles this proposed reduction of CSSA rates, it can be seen that it has not affirmed access to CSSA and welfare as a fundamental right of the people. The International Covenant on Economic, Social and Cultural Rights of the United Nations recognizes that it is a right of citizens to apply for social security. Apart from the right to enjoy a basic living, people should also enjoy opportunities to a constant improvement in the quality of life. However, the SAR Government regards social welfare as alms only, and so in its bid to cut expenditure, it can ignore everything.

Madam Deputy, the Government has recently reached a consensus with civil servants to reduce civil service pay over a two-year period, with a 3% cut each year. The rate of civil service pay cut is lower than that of the reduction of CSSA payments to the elderly, the vulnerable and the disabled. Such a decision based on double standards demonstrates after all that our Government has never attached any importance to the views of CSSA recipients, nor have their rights been sufficiently recognized. So despite their vociferous opposition to the reduction in CSSA payments, the Government can pretend as if it has heard nothing.

How can such a mentality of targeting at the lower class as harboured by the Government convince people that it really wants to build up a just and caring society?

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

MR FREDERICK FUNG (in Cantonese): Madam Deputy, the Secretary for Health, Welfare and Food, Dr YEOH Eng-kiong, announced yesterday that the rates for CSSA will be reduced by 11% according to the existing mechanism. The reduction will be enforced this June for able-bodied CSSA recipients, whereas the rates for the elderly and the disabled will be reduced in two phases, that is, in October this year and next October.

There are some common factors in the reduction of CSSA rates and civil service pay cut, that they are made to take account of living expenses and that both use the year 1997 as the base year for calculation. However, one is for the extent of pay rise and the other is for the extent of deflation, so the people affected in both cases are treated differently. For civil servants, they can all be subjected to the "zero-three-three" timetable and have their salary reduced over a 23-month period, and this applies to all civil servants irrespective of age. For CSSA recipients, the general cases will have their rates reduced in one go, while the elderly and disabled recipients will have their rates reduced over a 20-month period. This approach as taken the Government leaves people with an impression that it is bullying the weak while acceding to the demand of the strong. In other words, the Government is prepared to compromise when confronted by individuals and groups who have bargaining power, while acting ruthlessly against the disadvantaged. Irrespective of the fat and lean years, those on CSSA are the poorest. Now at this moment in time, the Government is targeting at the weakest and the poorest in society, that is, the elderly, the vulnerable and the disabled, in a bid to solve the deficit problem. It is really acting in disregard of their voices and needs.

Dr YEOH has also stressed that this reduction in CSSA is an adjustment made in response to the deflation in recent years and in accordance with the relevant mechanism. He has attempted to describe this reduction in CSSA rates as fully justified. However, the naked truth is this decision on a reduction in CSSA rates is made in the interest of resolving the current deficit. The existing mechanism which is being used as a basis is not set up only today, but it was set up many years ago. But why was it not enforced a few years ago? A few years ago, the Government made an undertaking that CSSA rates would not be reduced and the gains from deflation would be offset by future inflation. That was the pledge made by the authorities. But why is a reduction proposed now? Since a pledge was made and the mechanism has not been enforced during the past several years, so why is a decision made to cut the CSSA rates this year

when there is a grave deficit problem? Obviously, that is due to the deficit problem, not because of the elderly, the vulnerable and the disabled. As a matter of fact, Madam Deputy, using the logic of Dr YEOH, we can cite another example and discuss with him the decision he has made.

Since 1997, the rents index for private buildings has been falling and the rental allowance under CSSA has also been reduced. I am not sure if Dr YEOH is aware that the Government has never considered lowering the rental for public housing units in accordance with deflation. Moreover, the Government has violated the spirit of the relevant legislation, and I believe Dr YEOH is aware of this. According to the law, when rental for public housing units is to be revised, the rental should not exceed 10% as a share of the mean household income of the tenants. Now this proportion has been rising and takes up 12.5% of the mean household income presently. We have had deflation over the past few years, so does that mean that any mechanism that will help the Government reduce its expenditures is good and should be strictly followed? As for those mechanisms which are good for the people, should they be simply ignored because they will increase government expenditure and hence regarded as bad?

Often times the Government will ask the people to ride out the storm together, but it should never resort to using such fancy words to pull the elderly, the vulnerable and the disabled into the deep. The life of these people is already hard enough, and now the Government is slashing their basic needs. Secretary, is this something a just and caring society will do? Thank you, Madam Deputy.

DR RAYMOND HO (in Cantonese): Madam Deputy, Hong Kong is now faced with an acute deficit problem. To solve it the Government has to economize besides increasing its revenue. Lest the problem will only worsen and economic recovery will be out of the question. If we are to economize, we must adopt different ways and means, such as reducing expenses and making the best use of our resources, and so on. While we enforce economizing measures, we must also take into account the needs of the public in formulating the relevant policies.

I believe the government of any country or place will hope that its people can lead an affluent life. When the economy flourishes and as circumstances

permit, welfare benefits will be provided to the poor; but when the economy declines, the adjustment system must be activated to map out relevant policies to ride over the difficult times. Now Hong Kong finds itself in such a situation. In the past, the Hong Kong Government has provided a lot of welfare benefits to the people, such as inexpensive medical services and housing. Now if the Government wants to reduce some of these welfare benefits because of the deficit problem, it is only understandable and sensible. But the problem is, how a balance should be struck when the Government implements a policy of reducing welfare benefits. And that is the most crucial point.

In my opinion, the Government should take into account the merits of individual cases in reducing the welfare benefits. An across-the-board approach should not be adopted for all CSSA recipients. For example, the disabled should be given social assistance. But given the current deficit problem, when the Government is compelled to reduce their welfare benefits, consideration must be made on the amount of welfare benefits to be reduced in the light of the degree of disability which they suffer. It is because some disabled persons do still have the ability to make a living, while some others are entirely devoid of such an ability. This example also serves to bring out another question, and that is, when welfare benefits for the elderly and the disabled are to be reduced, what the Government should do at the same time is to adopt some other matching measures. For example, when welfare benefits for the disabled and the elderly are to be reduced, the Government should conduct some publicity campaigns among employers to discourage discrimination against the disabled so as to increase their employment opportunities. At the same time, the Government should encourage commercial organizations to offer more concessions to the disabled and the elderly so as to reduce their expenses.

In the past, there were frequent reports of people cheating in CSSA applications. I hope that when the Government implements the policy of reducing welfare benefits, it will also enhance the supervision of the CSSA system in order to prevent abuse of resources.

Fiscal deficit is one of the greatest problems confronting the Hong Kong Government. In critical times as these, the Government should minimize expenditure, and so reducing welfare benefits is one of the ways to tackle the deficit problem. I hope that the Government, in reducing welfare benefits, can

formulate flexible policies to address the needs of the people, lest their confidence in the Government will not be restored.

Madam Deputy, I so submit.

MR MICHAEL MAK (in Cantonese): Madam Deputy, when the Chief Executive delivered his policy address in January, he claimed that he would create a just and caring society. As the head of the Hong Kong Special Administrative Region, the Chief Executive cannot make out a cheque to the people of Hong Kong that cannot be honoured. All eyes in Hong Kong are now set on the Chief Executive, waiting to see if he can honour his pledge. The motion on "Opposing cutbacks in welfare benefits" moved by Mr WONG Sing-chi today is in fact a reminder made to the Chief Executive out of goodwill. It is made in the hope that the Chief Executive will not again let the people of Hong Kong down and forget the pledge that he has made. Therefore, I support the motion moved by Mr WONG Sing-chi, and I hope that the Chief Executive will really do what he says and take concrete actions to prove to the world that he really wants to create a just and caring society.

Despite the persistent deflation in recent years, the charges collected by public utilities have not seen any reduction. Tariffs for gas and electricity, as well as transport fares remain expensive. Though these public utilities are making huge profits every year, they are not willing to ride out the storm with the people during this economic downturn. In addition, there are also some big consortia which, despite making huge profits, are constantly laying off their staff and reducing their salary. The Government is at its wits' end about all this fleecing of the public by large consortia and public utilities, and yet it is trying to slash CSSA rates and wield its axe at the disadvantaged. This is like robbing the poor to help the rich. It is a great shame for Hong Kong as an international metropolis that its Government is robbing the poor to help the rich.

Figures from the Social Welfare Department show that there are presently about 270 000 CSSA cases, of which many recipients are the elderly, the disabled, single-parents, low-income earners and unemployed persons. They belong to the socially disadvantaged groups in our community. Yesterday, the Government announced that it would implement an across-the-board cut of the rates for CSSA by 11.1% from this June onwards. The reduction in CSSA rates for the elderly and the disabled will be effected this October and in two

phases, that is, a 6% cut this October and a 5.1% cut next year. Those who will bear the brunt of this action are still the socially disadvantaged. The findings of a recent survey show that more than 60% of the interviewed CSSA recipients thought that they did not have a happy new year because they did not have any money to spend. In addition, close to 40% avoided meeting their friends and relatives because they were financially hard up. This is a true depiction of the life of these socially disadvantaged. I do not know if Dr YEOH and the Chief Executive are aware of that, or if they are simply pretending not to see and hear such pleas and cries for help?

The economy of Hong Kong has been in the doldrums ever since the Asian financial turmoil. While failing to come up with any sound policies to revitalize the economy, the Government is taking a precarious move to slash welfare benefits in order to reduce expenditure. This is putting the cart before the horse, a gross disregard of the grave consequences. For one thing, if the Government slashes welfare benefits, it is then really practising an ostrich policy. It fails to address the causes of the economic depression squarely and solve the unemployment problem which is structural. For another, its action is targeted on the public and the disadvantaged, while it refuses to shoulder the responsibility. This will only deal a further blow to public confidence in the Government and undermine its prestige which is already low.

Cutbacks in welfare benefits will only aggravate the disparity between the rich and the poor. The Gini coefficient which reflects such disparity quoted by the World Bank rose from 0.467 in 1991 to 5.25 in 2001. It is amazing to note that the problem of disparity between the rich and the poor in Hong Kong is even worse than that in developing countries like India and Ethiopia. Such cutbacks in welfare benefits will only make the rich richer and the poor even more poorer. With such polarization, one just shudders at hearing talks of creating a just and caring society in Hong Kong.

What should then be a just and caring society? The first and foremost condition is that the people's basic needs of living are protected. Welfare benefits are a kind of social institution indispensable to any just and caring society. The responsibility of a government is to formulate sound social policies. It should provide reasonable social security to its people through housing, medical and health care, education and welfare services. These will ensure that the people will enjoy a basic standard of living. I call upon our

Government to take actions to ensure a basic standard of living for its people and become truly accountable to the people. I so submit.

MR TAM YIU-CHUNG (in Cantonese): Madam Deputy, it is essential for any responsible government to consider issues like assisting the socially disadvantaged and providing housing, medical and health care and education to the needy to meet their basic needs of living. Over the past few years, Hong Kong has been experiencing an economic downturn, government revenue falls drastically and the fiscal deficits soar. Hence, welfare benefits are subject to tremendous pressure due to stringent resources.

It is the view of the Government that the CSSA system has always been subject to adjustments made in the light of inflation and deflation to maintain the actual purchasing power of CSSA payments. During the past few years, the Government has not reduced CSSA rates in the light of deflation, based on the optimistic assumption that the gains would be offset by future inflation. However, the worsening position of public finance has upset government plans and now in a bid to maintain this safety net provided by the CSSA Scheme, the Government has proposed a one-off downward adjustment of the CSSA rates. This drastic cutback, however, has aroused much controversy in the community. It is therefore imperative that the Government should sum up the experience and lessons drawn in handling the whole matter.

While the DAB agrees with the principle of adjusting CSSA rates according to deflation, we think that an across-the-board approach should not be applied to the rates for the elderly and the disabled, and the rate of reduction for them should be a mild one. It is disappointing to note that in this revision of CSSA rates, despite the fact that the reduction applicable to the elderly and the disabled will come into force at a later date and in two phases, the amount reduced is still the same as other CSSA recipients. I hope that apart from reducing the rates for CSSA, there will be no cutbacks in the other welfare benefits for the elderly, the vulnerable and the disabled.

With respect to services for the elderly, we can see that the people of Hong Kong enjoy an increasingly long life expectancy and so the number of elderly persons is growing. This is an indisputable fact. However, as we have no retirement protection system for a long period in the past, the Mandatory Provident Fund schemes will only come into full play in 20 to 30 years' time,

and as the elderly find it hard to land a job (only 7% manage to get one), so for quite a number of years to come, the Government will feel enormous pressure in providing services for the elderly.

The Government stresses again in this revision of CSSA rates that a review would be made of the existing social security arrangements for the elderly and that financial assistance would be given to them. In my opinion, the focus should be placed on how to help those elderly in abject poverty and without family support. The existing old age allowance (or commonly called the "fruit grant") and the CSSA system suffer from a problem in that the former is not sufficient in meeting the needs of the elderly and the latter has too stringent requirements for application. To help the poor elderly, we must think carefully on what we can do in respect of these two options. We need also to consider the criteria and methods involved. Apart from the cash payment model, the Government may also consider the introduction of a voucher system to help the poor elderly meet their necessary expenses. The merits of such a system lies in helping those elderly persons in genuine need and also ensuring that financial resources are effectively used.

Also, the Government should relax the absence restriction imposed on old age allowance recipients. With improvements in various social facilities on the Mainland, it may become a trend for many people from Hong Kong to live on the Mainland after retirement. However, the restriction on not leaving the territory for more than 180 days a year is barring many Hong Kong people from going to the Mainland to spend their retirement years. The Government should therefore abandon this kind of outdated thinking and lift the relevant restrictions and forge closer links with local authorities on the Mainland in respect of various social services and support. This will give the elderly the liberty to choose a place of residence which they think will better suit them.

To provide assistance to the impoverished elderly in poverty, the Government should also consider rental subsidy. With the redevelopment of more and more public housing estates, those elderly persons who used to live in old housing estates have to be rehoused in newly completed housing estates. Though the living conditions there are greatly improved, the rental may increase by many folds. For those elderly persons who are not on CSSA, it will be a painful choice for them as the new rental is many times that of the one they used to pay. They will have to pay a much more expensive rental if they move into the new units. But if they do not, they may lose contact with their long-time

neighbours. So it is really a dilemma for them. In such circumstances, the Government should relax the requirements on elderly persons applying for rental assistance for public housing. For those elderly persons affected by redevelopment, a scheme for remission of rentals should be set up to help them improve their living conditions.

Besides basic needs of living, those healthy and active elderly persons also have needs for activities. Therefore, the Government should provide more leisure and cultural facilities for them. I have received quite a number of complaints and comments from elderly persons in this regard. For example, there is a group of senior citizens from Kwai Chung who like to play cricket. They found a place in the neighbourhood for this game, some space on top of an impounding reservoir, and play their game there. Recently, the Water Supplies Department fenced off the area and installed an iron gate there. So they cannot play the game there anymore. In addition, there are also many cases in which elderly persons form themselves into groups, sometimes with a few hundred members, but they cannot find a suitable venue for activities, and they are also short of funds. For example, there are some senior citizens who want to dance or play some sports. It is hard for them to find an indoor venue for such activities and even if they manage to find one in their housing estate, they are often complained for making too much noise. So they are driven out wherever they go. In our opinion, services and welfare for the elderly do not simply mean giving them some money or CSSA. We should instill a sense of belonging in the elderly and provide them with support services so that they can learn more and enjoy their life. If these can be done, then we are truly bringing the welfare services into the greatest play.

I so submit. Thank you, Madam Deputy.

DR TANG SIU-TONG (in Cantonese): Madam Deputy, the elderly, the vulnerable, and the disabled are the weakest group among the disadvantaged in society. So despite the Hong Kong economy has remained sluggish during the past few years and public revenue is less than before, it has always been my wish that government welfare policies should provide a fair and reasonable safety net for them. For example, in terms of services for the elderly, the Government should continue to improve the housing and medical services for the elderly and not reduce their old age allowance (commonly called "fruit grant"). In terms of family matters, the Government should step up its efforts in combating domestic violence, set up an organization for recovery of alimony and reduce the burden

of single-parent families. In the area of rehabilitation, the Government should promote the concept of equal opportunities and provide suitable legal protection for the disabled. It should also ensure that sufficient places are available in sheltered workshops and day activity centres to meet the needs of the mentally handicapped. At the same time, I also support the establishment of a Social Welfare Development Fund to ensure that within a reasonable period of time, say, five or 10 years, welfare services will not be affected by cyclical movements in the economy so that there can be a steady growth in such services.

It remains, of course, that the money for such services will come from taxpayers and that the allocation and use of resources should be accountable to taxpayers as well. If welfare expenses are allowed to increase on a continual basis, it will not only increase the Government's fiscal deficit, but also deplete other resources for welfare services. Even in the foreseeable future, it would be hard to reduce welfare expenditure, the Government should at least endeavour to rein in its growth or even achieve resource savings in certain areas. The aim is to use the limited resources available to help most people and those who are most in need of help. Therefore, I think a review should be made of the existing welfare system with a view to making it more flexible and rationalized. For example, without affecting the quality of life of recipients, CSSA rates may be adjusted according to the Social Security Assistance Index of Prices. This will help prevent more people from falling into the CSSA net inadvertently or otherwise. It will also make people become self-reliant and the resources so saved can be used to help more disadvantaged groups.

The problems presented by the elderly, the vulnerable and the disabled cannot be solved simply by injecting massive amounts of money. Fostering the concepts of family and community can likewise achieve the effect of looking after these elderly, vulnerable and disabled people. On the community level, the Government may make good use of the Community Investment and Inclusion Fund to mobilize community forces to help these people in need. On the neighbourhood level, more people can be trained up to provide social services and expand the support network offered by the Government. For families, public bodies like the Women's Commission, the Commission on Youth, the Elderly Commission and the Equal Opportunities Commission, and so on, provide services mainly for individual social groups, seldom do they gear their services on a family-oriented basis. The result is that family problems are handled in a fragmentary and compartmentalized manner. What the authorities should set up instead is an independent commission for family matters and this would lead to a reorganization and integration of all sorts of family services so

that family problems can then be handled more effectively in a specialized manner.

In the long run, irrespective of whether or not the deficit problem or the economic downturn will go from bad to worse, there is really a need for the Government to answer the aspirations of the welfare sector. By this I mean the Government should, taking account of the impact of economic restructuring and ageing of the population, hence the increase in public demand for social welfare, review the existing state of affairs and compile a new white paper on social welfare policies to meet the current social needs. The formulation of a new social welfare policy would inevitably involve the regrouping and reallocation of social resources, hence it is vital that people from all sectors should actively participate in this process, instead of merely the Government and the social welfare sector doing the work alone.

Madam Deputy, I so submit.

MS CYD HO (in Cantonese): Madam Deputy, last week this Council passed a Members' motion with four "no"s. At that time, I pointed out that the shortcoming of the Government was that it did not have any fair mechanism which was commonly accepted and so the community could not join hands to solve the deficit problem. The proposal to reduce CSSA rates is meant to ask the 200 000-odd recipient families to shoulder \$1.8 billion expenses to alleviate the deficit problem. This is actually an extremely unfair thing to do. The first reason is that there is as yet no commonly accepted formula to work out CSSA rates that can truly reflect the living expenses of the lower class. The rate of reduction as proposed by the Government is 11.1%, that by the Democratic Party is 5.1%. Some academics are of the view that even a 5.1% cut is too much. The reason is that the spending pattern of families on CSSA in such items as clothing and food is totally different from the pattern used by the Government to work out this percentage.

The second reason is that the principle of those who have means will pay more is not put into practice. Families on CSSA use their monthly payment often to the very last dollar and they have to resort to loans if any emergency arises. On the other hand, there are indeed some financially capable persons in the community who can afford to pay more and they are willing to do so. But what the Government has been doing is to employ the divide and rule tactic and so when tax cut proposals are mooted, even if they are meant for discussions

only, these various groups in the community will all become nervous for fear that they will be cheated and made to bear the deficit in an unreasonable manner. This is most regrettable. For now is the moment we need unity the most, but what we see is that society is deeply divided. The Government should be held responsible for this state of affairs.

Yesterday the Government announced that CSSA rates would be reduced and it was reported that the reduction would not come into effect on 1 April. Therefore, I urge the Bureau Director to make use of this opportunity to set up a clearly defined mechanism for the increase or decrease of CSSA rates and to examine how the public can be convinced that this formula which takes into account the factors of inflation and deflation is reliable. I also hope that the Bureau Director can open a dialogue with all those affected and those people who are concerned about the disadvantaged, so that a consensus can be reached. Otherwise, the grievances among the people will continue to build up and once they pass the threshold, the grave consequences thus caused will be the last thing we wish to see.

Actually, there are other ways than CSSA payment in cash which we can offer to those in need, such as services. But unfortunately, the price for these services may be raised at any time or that these services may be cut. What I am referring to is, first, the redevelopment of public housing estates. Now there are many elderly persons who live in public housing estates and they may have to pay a rent of some \$500 only. But as these public housing estates are redeveloped, they will have to move to other estates. The rent they have to pay may double to \$1,000-odd. As some of these elderly persons do not want to apply for CSSA or they may not be eligible for it, they are at a loss as to what they should do when they are asked to pay a rent which is double the amount they used to pay.

Second, the increase in the fees and charges in the public sector medical system. It is true that the Bureau Director has retained the original price of rehabilitation beds for the elderly, but other fees are increased. Accident and emergency services used to be provided free, but now \$100 are charged. Fees for out-patient service, injections and medicine have also been raised. All these have made the elderly persons who already do not have any jobs and working abilities feel very worried. Actually the problem can be solved by some administrative measures. For example, a waiver system can be put in place and that is something which the Secretary also agrees to. Such a mechanism may handle applications for waiver once every year and so the elderly will enjoy a

waiver period of about half a year. In fact, why can the waiver period not be extended for the elderly? For unless these elderly persons win a Mark Six prize, they would not have any new income. If such a waiver system can be put in place earlier, then the worries of many elderly persons can be dispelled and they may no longer feel so worried about having no money to pay for medical services.

Third, out-patient Chinese medicine services should be set up in public hospitals. Now in many places in Hong Kong, the consultation fees for traditional Chinese medical practitioners are about \$50 to \$60, inclusive of two doses of medicine. Many elderly persons, irrespective of whether they are CSSA recipients or not, and those people from poor families would consult these practitioners of traditional Chinese medicine. Now in a bid to promote the regulation of traditional Chinese medicine, public hospitals provide about 5% of such service in the territory. But the consultation fees charged are as much as \$120. That becomes a great incentive for other practitioners of traditional Chinese medicine who used to charge less to raise their fees. Those elderly persons on CSSA who consult practitioners of traditional Chinese medicine may not get a waiver of the fees as there are no arrangements as yet for it. Then if those elderly persons who are unable to get CSSA or do not want to get it consult a practitioner of traditional Chinese medicine, their financial burden would be increased.

I understand very well what Dr YEOH said two days ago, that money does not fall from the sky nor grow from trees. The poor families know this very well, for they also hope that money could grow from the trees. But that is impossible. People would like to get a job, but the problem is there are not enough job opportunities around. The situation now is many people are out of work or they are underemployed. That is why we urge on the one hand that the Financial Secretary or some other officials should try their best to boost the economy and make our financial system and business environment sound; while on the other, we need to look after the disadvantaged. We should try to prevent them from being too financially hard up, otherwise their standard of living will drop to a very bad level drastically.

Recently, an old song from the anti-war era, "Blowing in the Wind" becomes very popular again. One line from the song asks this question, "How many times can a man turn his head, pretending that he just doesn't see?" Unfortunately, this line strikes a chord now in the midst of all this clamour to

slash CSSA rates and services for the disadvantaged in society. During the time of the Chinese New Year, nine people chose to end their lives on one single day. Do our officials pretend that they just do not see? When will they ever learn to be just and caring in providing social services and support for the people who need them?

Madam Deputy, I support the motion moved by Mr WONG Sing-chi.

MR FRED LI (in Cantonese): Madam Deputy, yesterday the Government announced a cut of CSSA rates by 11.1%. This reduction is applicable to the elderly, the vulnerable and the disabled. No one is spared. The only difference, if any, is that some people will be cut once while some other twice over a period of two years.

Last Sunday, 90 different social welfare and non-governmental organizations came out and protested against the across-the-board cut in CSSA, accusing that it was a heartless and wicked move to take. No sooner had the voice of protest subsided than the Government started to wield its knife and slash the rates of CSSA drastically. It is disappointing to see that the Government is acting in blatant disregard of public opposition and bent its mind on its way.

What makes me feel most worried about this cut in CSSA rates are the children of families on CSSA. The CSSA recipients are already labelled as lazybones, which is not justified at all. It looks like those CSSA recipients who lead a somewhat happier life are branded as unpardonable. We can imagine the kind of pressure and stigma which the children of these families have to bear.

Apart from carrying this label, children from CSSA families do not lead an affluent life as the Government or some people would describe it. In 1999, the CSSA rates were revised and the standard rate for three- and four-member households was drastically cut. Many special allowances were cut at that time, such as the one for optical glasses. Now the Government wants to cut the standard rate across the board by 11.1%, and the meals allowance for students will also be cut in the light of deflation. This would pose enormous adverse impact on the development of school children. As the support given to CSSA families is constantly dwindling, do these children enjoy the same kind of opportunities for development as other children do?

Nowadays, what we need in raising a child is more than three meals a day. Members and I are aware, as parents, that to enable their child to earn a living or develop their potentials better in this knowledge-based economy, their child should be given more opportunities of development as the child grows up. The Democratic Party is not saying that children from CSSA families should be given lots of support, we are just hoping that the Government will not deprive them of everything, so bad that these children would think it is a luxury to take a bus ride to join some extra-curricular activities or to buy a \$10 ticket for admission to a museum.

Of the 472 000 CSSA recipients now, more than one fifth are children below the age of 15. If this group is added to those young people over 15 and are still at schools, the total number would account for as many as one quarter of the population of CSSA recipients. It would not be conducive to the prospects of these children and young people, as well as to the well-being of society, if their needs during growth are neglected.

In addition, I am also concerned about the ability of the elderly persons to adapt to this change. The Government has decided to effect the cut in the standard rate for the elderly over a two-year period. On the surface, it looks as if this is more desirable than effecting the cut in one go. But even if the cut is effected in phases, the rate will be cut by 6% in the first year. One of the consequences of a cut in CSSA rates is the impact on the quality of living of the elderly. The other is on the psychology of the elderly and that is not visible. We all know that old people fear changes. They like to prepare for the rainy days. Now they are told that effective from this October, their CSSA rates will be cut by some \$100-odd, and another \$100 or so the next year. How do you think they would feel and how they would take it?

I am not saying that our senior citizens are unable to take this. They have gone through the worst and the hardest of times. However, I am concerned that they would not dare to spend on food and other basic living expenses. I cannot help but ask, "Have we come to such a down-and-out situation that we have to force our old people to bear with such a fall in their living standard and make them worry about the future?"

We hope that the Government can be sympathetic to the needs of the elderly and the children. I would like to end my speech by quoting from the editorials of some of the best-selling newspapers in Hong Kong. The headline

of the editorial of the *Apple Daily* reads to this effect: "Wrong Decision to Shatter Social Stability". Another paper, the *Ming Pao*, says, "Do Away Double Standards as CSSA Rates Cut". Those double standards refer to the approach taken by the Government in the issue of civil service pay cut. As for the *Oriental Daily News*, it says, "Cut in CSSA Can Never Rid Depression". The *Hong Kong Daily News* says, "Life of Old People More Hard Up as CSSA Cuts". The headline for *Sing Po* is "Double Dealing Breeds Grievances". And *The Sun* says, "Disadvantaged to Bear High-handed Cut in CSSA". None of the major newspapers in Hong Kong are in favour of this proposed cut in CSSA rates. It is hoped that the Government will cease cheating itself and the people of Hong Kong, pretending that this will not lead to any undesirable consequences.

I so submit.

MR ALBERT CHAN (in Cantonese): Madam Deputy, many people compares CSSA to a safety net or a life-buoy. When the Government proposes to cut CSSA at a rate of 11%, one can say that this safety net is torn, or that the life-buoy is punctured. It is inevitable that people will be affected, and that means as many as more than 200 000 households or tens of thousands of people. It is expected that public discontent and grievances will further increase. Now that the community is not so stable, such a reduction would create another time bomb that will lead to more intense conflicts and clashes.

Expenses of CSSA recipients will invariably involve basic living expenses like clothing, food, housing and transport. For CSSA families, these items of basic living expenses have not dropped over the years. Rentals charged by the Housing Department have not been reduced, and so have transport expenses. It is true that clothing is now cheaper, but many households on CSSA would not spend so much on buying clothes. For food, many of them would only buy food before the market is about to be closed for the day and so their expenses on clothing is minimal. Hence, the use of the general price index as a means to assess the expenditure of CSSA families is totally irrelevant and it is not proper and reasonable.

On the issue of opposing the cut in rates of CSSA, those who hold such a view do not merely include grass-roots groups, religious groups, and so on, but also Members elected from geographical constituencies and even the academia,

for as many as 91 academics have jointly signed a declaration to oppose such a cut in CSSA rates. These academics are intellectuals and their concern about social issues is driven by the voice of their conscience which speaks out when they see such injustice being done. But the officials are entirely ignorant of this and they are doing things against the people, against the voice of their conscience. So I urge the Government not to make any decision in the name of fiscal deficit which is against the conscience and which oppresses the socially disadvantaged.

On the topic of CSSA again, Dr LEUNG Hung in his study points out that in the review of CSSA undertaken in 1998, the standard rates for households with three and four able-bodied members were slashed by 10% and 20% respectively. The special allowances payable to households with able-bodied members were also drastically cut. So it is not correct of the Government in using the 1997 figures for comparison. The review in 1998 is very much like a major operation performed on the CSSA Scheme. Now the Government wants to perform another major operation on the CSSA Scheme at this time of an economic downturn and when society is so unstable. It is a very dangerous thing to do, for if the body cannot bear this operation, it may lead to death. And death here does not mean the death of any person, but that of Hong Kong and its future.

Over the past month or so, I have held four residents' meetings in four housing estates in three districts on the issue of CSSA. There are some people who are in favour of reducing CSSA rates, on the general argument that some people have cheated to get CSSA. For example, some people make a false divorce. A woman is actually still living with her husband, but she makes a false divorce and applies for CSSA together with her children. She claims that she has divorced and her husband no longer takes care of the family. Some other cases of people cheating to get CSSA involve applicants who are employed but declare that they are out of work.

I talked with the residents and we said that if the standard rate was \$1,500 to \$1,700, no one would think that this would not be a reasonably enough amount to meet the basic living expenses. However, it would be illogical to use the rate of deflation to reduce the standard rate of CSSA. We can just see how people of different age and different background use \$1,500 to \$1,700 to live a life which is human. I hope the Secretary would list out how this sum of \$1,500 to \$1,700 can be used.

In the mid-1990s, the Panel on Welfare Services of the then Legislative Council invited Prof McPHERSON to conduct a study on the CSSA with a view to working out a reasonable rate. We have also asked the Government repeatedly to draw a poverty line, and if this poverty line is drawn, when CSSA rates are higher than the poverty line, then they can be reduced. But now since there is no poverty line, the proposal to reduce CSSA rates is based on some abstract and unconvincing concepts only. In my opinion, this is even more detestable than robbing a beggar of his rice bowl, for this would force those who live in abject poverty to lead a life worse than abject poverty. I think this is absolutely not acceptable in any benevolent society, nor a government which has any respect for the elderly. The Chief Executive always says that he respects the elderly, but the policies formulated by him often serve to oppress the old people and deprive them of their rights. This is driving them to despair.

In one of the residents' meetings, I met an old person who was also disabled. He was sitting in a wheelchair weeping, saying that if CSSA rates were cut, he would feel that there was no more hope in life and he would kill himself. This comment is a genuine one I heard at a residents' meeting. In one of these meetings in Tin Shui Wai, an old person said that it had been three years since he last bought any new clothes. It can be seen that many CSSA recipients do not use their CSSA payments on new clothing. Is this what Dr YEOH would like to see?

(THE PRESIDENT resumed the Chair)

Two days ago, Dr YEOH was accused by the media of losing his temper in this Chamber. I would think that this can be a good thing, for it shows that the Secretary is concerned about this matter. For if not, he would not care about it at all and would just think that this is only part of his job. So it would not be something which a Bureau Director should do if he or she has no feelings for the things they do. I therefore welcome this event and I respect the right of the Secretary to lose his temper. But I would ask him decide not to slash CSSA rates after this vent of spleen.

MR LAU PING-CHEUNG (in Cantonese): Madam President, on the eve of the announcement of the Budget by the Financial Secretary, Mr WONG Sing-chi has

proposed a motion to oppose cutbacks in welfare benefits for the elderly, the vulnerable and the disabled. It is evident that Mr WONG is concerned about the socially disadvantaged. He merits our respect. However, as the wording of Mr WONG's motion is rather concise, so when I prepared my draft speech, I could only speculate on the demands of Mr WONG from the wording of his motion.

As at the end of January this year, there are 267 609 CSSA cases and according to last year's Budget, welfare expenditure for the year 2002-03 is \$33.7 billion, or about 14.6% of the total public expenditure. Welfare expenditure is the largest item of public expenditure after education and medical and health care. In the face of such a huge deficit, I do feel that there is a consensus in society that the Government should try to increase revenue and cut expenditures so that a fiscal balance can be achieved. A fiscal balance is not just something stipulated by the Basic Law, it is also extremely important to the long-term development of Hong Kong.

As to how revenue can be increased and how expenditures can be cut, I think that is something which the community should strive to reach a consensus all the more. As the saying goes, what is more important is not in the shortage of something but how things are distributed, and likewise, what is more important is that people are uneasy rather than things are not evenly distributed. Frankly speaking, when revenue is to be increased, it means that taxes will be levied on those with a higher income and companies which make profits. When expenditures are to be cut, it would mean that some non-essential expenditures will be cut from the recipients of various welfare benefits and services. Unrest will be created if those with a higher income do not want to pay more tax and welfare recipients do not want to have some non-essential services cut. They may think that they are being pinpointed, and grievances are thus created.

Madam President, it is never easy to reach a consensus in society and some proposals acceptable to everyone must be raised by government officials who are smart enough to formulate them. The motion proposed by Mr WONG opposes cutbacks in welfare benefits for the elderly, the vulnerable and the disabled. The motion moved by Dr YEUNG Sum in this Council last week and amended by Mr YEUNG Yiu-chung opposed the adoption of an across-the-board approach to cut the rates of CSSA. However, specific details must still be considered.

Of the CSSA cases, those from elderly applicants number 143 931 and they account for the largest group of recipients, or 53%. Other groups of CSSA recipients include those with permanent disabilities (5.5%), those in poor health (7.7%), single parents (12.5%), low-income earners (3.9%), the unemployed (15.3%), and so on. The amount of direct financial assistance given to CSSA recipients is as much as \$16 billion. The amount would reach \$20 billion this year if old age allowance is also factored into this. In addition, government funding for services provided by various departments and voluntary agencies amounts to \$9 billion.

Madam President, although I do not come from the social welfare sector, I understand that cash payments to the recipients is not always the most effective way of help. It is because various welfare services can be more made fairer. For example, some CSSA recipients of poor health may be sent to homes for the aged operated by the Government and so their CSSA rates can be reduced since they are placed under residential care. These recipients can be given a smaller amount of pocket money. However, some unfairness may be created when some of these elderly people are placed in homes for the aged operated by some voluntary agencies or some private homes for the aged, for the amount of CSSA rates deducted by the Social Welfare Department (SWD) would be less.

In addition, the SWD may also consider giving assistance in kind in lieu of cash payment to those elderly persons who cannot look after themselves. The case would be like some meal delivery service or home-help service operated by some voluntary agencies. I would like to stress, however, that assistance in kind should not replace cash payment completely and a lot of money may not be saved. However, this would ensure that assistance needed by the recipients will be given to them and their needs of a basic living can be satisfied. Seen from another perspective, this can also eliminate the temptation to abuse CSSA.

The Government announced yesterday that rates for different kinds of CSSA recipients would be reduced by 11.1% in phases. I agree to this in principle. It is because all along CSSA rates have been worked out according to the consumption pattern of the recipients and the Social Security Assistance Index of Prices compiled by the Census and Statistics Department. The adjustment to be made follows the changes in that index which has fallen as a result of deflation in recent years. In other words, if the index can reasonably reflect the consumption of recipients, the adjustment to be made this time around

would not affect their quality of life. It remains of course, that if the index cannot reflect the real living conditions of the recipients, for example, the fact that transport fares and electricity tariffs have not seen any downward adjustment in recent years, then we should review the various components of the index, instead of making the criticism that the Government is reducing welfare benefits simply by looking at the adjustment of the rates. For this would only lead to emotive disputes and feelings of uneasiness.

Madam President, when we say that all people in the community should ride over the difficulties together, we should mean that those people with a higher income and those companies which make profits should pay more taxes, but for welfare recipients, they should reduce some unnecessary expenses to show that they too will shoulder some responsibility. I so submit.

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

(No Member responded)

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I am grateful to Mr WONG Sing-chi for moving this motion, and to Honourable Members for participating in this debate. I have listened very carefully to views expressed by Honourable Members and would like to respond by explaining the Government's social philosophy and our strategy to meet the challenges put before us in these economically challenging times.

As we have explained in this year's policy agenda, our vision for a caring society celebrates the rich diversity of our community, recognizing that each individual is endowed with different strengths and will get every opportunity to develop their potential. Our people or our human capital is the most important type of wealth in our society. Human capital refers to the capabilities and resources embodied in individuals, regardless of age and functioning abilities. The dimensions of human capital comprise health, self-image, resilience to stress, labour market skills, knowledge, and capacity for responsive personal relationships, as well as the networks of social support available to the individual.

While the accumulation and investment in these dimensions of human capital are basically an individual and family responsibility, the Government has in place a range of policy instruments, including but not limited to social services and welfare programmes, for the development and investment of human and social capital for the overall well-being of society. We provide social services and welfare programmes so that problems that may result in people needing assistance in the first place could be prevented, and that welfare recipients could be helped to continue participating in society and improve their capacity for self-reliance so that they can move off welfare more quickly, creating an ongoing investment in human and social capital.

Our social philosophy is therefore premised on the following four pillars. Firstly, we aim to create an environment in which all people, including older people, the vulnerable and the disabled, are provided with equal opportunities to develop their potential to the full, thereby enabling them to participate and contribute to our economic and social life. Secondly, we aim to provide additional and specific support to the disabled, the disadvantaged and vulnerable members of our community. Thirdly, we provide a basic income support safety net to help the needy. And fourthly, we aim to foster mutual care and support and to build up the social networks necessary for individuals and families to flourish. The Government sees its primary role as helping people to enhance their ability to help themselves and to boost their will-power to do so.

Following from the social philosophy and the four pillars I have just mentioned, the Government in the past five and a half years has put in a lot of resources and efforts to provide care and assistance for the physical and psychosocial well-being of the elderly, and to assist the disadvantaged, the poor and the unemployed with an emphasis on enhancing, not impeding, their will to self-reliance:

- (a) Government expenditure on services for elders is estimated at \$3.5 billion this year, doubles the \$1.7 billion spent in 1997-98. Our elderly services programme provides a full range of residential, home and community care and support services, depending on their needs and circumstances.
- (b) Government spending on welfare services for people with disabilities is estimated at \$2.6 billion this year, representing an increase of over 85% compared with the expenditure in 1997-98.

Major expansion and improvement of rehabilitation services have taken place, including the provision of additional places for pre-school, day and residential services; and initiatives to encourage and facilitate the self-reliance of people with disabilities and to promote their employment in the open market.

- (c) On providing financial support for needy elders, at present over 600 000 older persons are receiving financial assistance through either the Comprehensive Social Security Assistance (CSSA) or the Old Age Allowance (OAA), with an estimated expenditure of \$11.8 billion in 2002-03, representing an increase of about 50% compared to 1997-98.
- (d) For disabled persons, the total estimated expenditure in CSSA and Disability Allowance (DA) in 2002-03 is \$2.56 billion, representing an increase of 45% compared to 1997-98. For those who are temporarily disabled or in ill health and receiving CSSA, the expenditure in 2002-03 is estimated to be \$1.4 billion, which is a growth of 16% from 1997-98.

It can be seen from the above programmes and services that the Government has invested heavily to provide the necessary support to the elderly, the vulnerable and the disabled in our community, with the clear objective of helping people to ultimately help themselves and to facilitate their continued contribution and participation in the social and economic fabric of society.

Against the background of an ageing population, challenging economic situation and high unemployment, demand for social services and welfare programmes are bound to increase. On the other hand, given the unprecedented fiscal deficits and the importance of maintaining a simple and low taxation regime, it is unrealistic to expect continued expansion of our welfare budget as we have witnessed in the past decade. Therefore, the major challenge in the coming years is to continue to provide quality public service, including social services and welfare programmes while absorbing the reduction of operating expenditure mandated to balance the Government's overall budget.

Our strategy is to target our resources to those most in need while, at the same time, ensure accessibility to affordable services to the general community. We will help people to help themselves, encourage mutual help, promote

volunteerism and build social capital. Specifically, we will review our social security schemes to ensure a basic safety net for needy elders and people with disabilities, assist the unemployed and the needy to tide over their short-term financial difficulties, adopt more vigorous and rational gate-keeping for access to social services based on defined need, and re-engineer services to strengthen integration and networking.

I would now like to restate again the rationale for adjusting CSSA and DA rates. The exercise is not and should not be regarded as welfare cuts. We only propose, on the basis of a mechanism the Legislative Council acknowledged, to return the rates to their original intended buying power so as to ensure the financial sustainability of our social security system.

We have not made any adjustment to the standard payment rates of the CSSA and Social Security Allowance (SSA) despite continuous deflation since 1999. There is room for downward adjustment of the rates by 11.1% as measured by the specially compiled Social Security Assistance Index of Prices (SSAIP) to return the buying power of the benefits to their originally intended levels. On the other hand, the total CSSA caseload stands at 260 000 as at the end of last year, representing a year-on-year growth of over 10%. Based on this growing trend, we predict that the approved provision for CSSA in the current financial year of \$16 billion will fall short of the requirement, while the estimated requirement for 2003-04 will be about \$18 billion. In fact, the Finance Committee agreed to a supplementary provision of \$250 million for CSSA in 2002-03 at its meeting last Friday. Clearly such unabated growth in our social security system, which is funded entirely from general revenue, is unsustainable. As the number of families and individuals requiring financial support by the Government is bound to increase given the overall economic situation and high unemployment rate, the adjustment will enable us to ensure that the safety net can be maintained within our means and that existing resources go further to meet the increasing demand.

In the last couple of months, we have listened to the views of society. It was after extensive deliberations, and thorough and careful consideration of fiscal and welfare considerations, including the impact any adjustment of the payment rates may have on recipients, that the Executive Council approved the downward adjustment of 11.1% to the standard payment rates for CSSA recipients and those of the non means-tested DA under the SSA in accordance

with established adjustment mechanism. To allow for a cushioning period for the recipients to adjust their expenditure pattern, the adjustment for able-bodied CSSA recipients and DA recipients would be effective from June 2003, while those for non able-bodied CSSA recipients, namely the elderly, the disabled and those medically certified to be in ill health, would be adjusted downwards in two phases over two years, first by 6% in October 2003, followed by the second-phase adjustment effective from October 2004. This is to give these recipients a longer cushioning period to adjust their expenditure pattern, and reflect the general sentiments of the community that we should display more compassion for the sick and elders.

We have no intention to change the present rates of the OAA under the SSA, and they would remain frozen at the current level until inflation in subsequent years catches up. We will seek the approval of the Legislative Council with regard to the 2003-04 estimates of expenditure for the provision for CSSA and OAA calculated on the basis of the above proposal. We will review the existing social security schemes for elders with a view to developing a long-term sustainable financial support system that better targets resources at needy elders.

The Government will remain committed to providing a safety net for those who lack the means to look after themselves, and we expect that CSSA caseloads will continue to grow in the present economic climate and the ageing population. Therefore, even adjusting the CSSA and DA rates on the basis of SSAIP are by no means easy decisions, they are decisions we have to make.

In line with our philosophy to help people to ultimately help themselves, we will further intensify the support for self-reliance measures under the CSSA Scheme so as to help the able-bodied recipients to regain self-reliance as soon as possible, and keep unemployment caseloads under control. In helping these able-bodied welfare recipients, I wish to emphasize that our objective is to support, not impede their will for self-reliance.

Madam President, we will continue to invest in our human capital by building on the philosophy and the four social pillars we have just set out. We will provide social services and welfare programmes so that problems that may result in people needing assistance in the first place could be prevented, and welfare recipients could be helped to continue participating in society and

improve their capacity for self-reliance so that they can move off welfare more quickly, creating an ongoing investment in human and social capital. In these economically challenging times, we will also continue to re-engineer and rationalize our social welfare programmes and social security system so that they are more effective and efficient, and sustainable in serving the needs of recipients. I hope we can have the support of Honourable Members in moving forward in this direction. Thank you, Madam President.

PRESIDENT (in Cantonese): Mr WONG Sing-chi, you may now reply and you have up to three minutes 59 seconds.

MR WONG SING-CHI (in Cantonese): Madam President, our Government is poisoned by the fiscal deficit and the antidote that it uses is the elderly, the vulnerable and the disabled. They will all be swallowed in one gulp. Apparently, the Government does not appreciate the conditions of these people and the rate of the cut in CSSA rates is the largest among all items to be reduced. The groups to be targeted are the most vulnerable ones in society. We have lost all our hopes for this Government. It has become a robber baron instead of a Robin Hood. While Robin Hood robs the rich to help the poor, it is robbing the poor to help the rich. The Secretary for Health and Welfare plays such a role and he is robbing the poor. He is robbing the poorest in society. The Secretary for Security, Mrs Regina IP, is helping the powerful. Despite China being such a strong country, she is making legislation on Article 23 to protect it. What is the use of a government like the Hong Kong Government which is doing all these things?

The Government says that it does not matter, for a reduction in CSSA rates does not mean that the purchasing power of recipients is reduced. Then would Dr YEOH, the Secretary for Health and Welfare, say to those people who sell oranges in the supermarkets that since CSSA rates are reduced, then oranges which used to be sold at \$1.2 each should now be sold at \$0.8 each? Can we say that when CSSA rates are reduced, that does not mean that the purchasing power is also reduced? When things are sold at the same price, how can there be no cut in the purchasing power when the CSSA rates are reduced? That is really ridiculous.

The Secretary also said earlier that the action is enforced in accordance with the mechanism acknowledged by the Legislative Council. After checking this up, I find that the mechanism in question which has been revised and changed was introduced by the Government. It is also said that the past increases would not be recovered. The Legislative Council has never decided to amend the proposal made in the paper endorsed by the Finance Committee. No amendment has been made at all. But the Secretary still says that he is acting according to the mechanism. What the Government is doing is that it will act according to some mechanism which has never been agreed upon whenever it feels like it; and whenever it does not feel like it, it will conjure up some new mechanism and says that the previous mechanism is not right. So how can the people be convinced?

Madam President, it is obvious that most of the Honourable Members will support this motion. There are also some Honourable Members who try to distort my motion by saying that no cuts in welfare benefits mean that the purchasing power remains unchanged. But as I have said, we can just try to see if we can buy the same things with the reduced amount of CSSA payments. In any case, I also welcome these Honourable Members supporting my motion, because we all agree that the Government is not justified in slashing the welfare benefits of the socially disadvantaged. The Budget will be announced next week and so in the next few days, I hope Dr YEOH can reconsider how these old and vulnerable members of society can be assisted. I also hope that the people of Hong Kong can be united and fight for the benefits of the elderly, the vulnerable and the disabled and to urge the Government not to slash the welfare benefits of these people because it is poisoned by the fiscal deficit.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr WONG Sing-chi 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 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.

PRESIDENT (in Cantonese): Second motion: Compendium of Submissions on the Consultation Document on Proposals to Implement Article 23 of the Basic Law.

COMPENDIUM OF SUBMISSIONS ON THE CONSULTATION DOCUMENT ON PROPOSALS TO IMPLEMENT ARTICLE 23 OF THE BASIC LAW

MR SIN CHUNG-KAI (in Cantonese): Madam President, in September last year, the Security Bureau launched a public consultation exercise on the Consultation Document on Proposals to Implement Article 23 of the Basic Law. The Consultation Document was severely criticized by the community for merely advancing abstract legislative proposals without presenting any specific provisions, for thus enabling the devil to hide in the details, and for making it difficult for people to know precisely what acts the authorities wished to prohibit. The Secretary for Security even refused to publish a White Bill on the ground that "taxi drivers, staff of the McDonald's and the like will not understand such a bill anyway".

Addressing the Foreign Correspondents' Club on 27 January this year, the day before the Compendium of Submissions (Compendium) was released, the Financial Secretary appealed to the public, asking them to examine the Government's response to its analysis of the public opinions received. He said that by doing so, people would realize the Government's "sincere" and "open" attitude in listening to the people's opinions, and that they could thus judge for themselves that the consultation was a "genuine consultation".

Today, I wish to quote what Mr LEUNG Man-tao, Principal of Ngau Pang Sue Yuen, wrote in a newspaper article: "The cultural circles initially did not believe that the consultation exercise was bogus. However, after the

publication of the Compendium, we cannot but believe, much to our agony, that this is really a bogus consultation."

During the three-month consultation period, the Government received a total of more than 100 000 submissions from within and outside Hong Kong. There are some 97 000 submissions from within Hong Kong, carrying some 340 000 signatures. The submissions from outside Hong Kong amount to some 3 800 in number, carrying roughly 29 000 signatures. However, the Compendium published by the Security Bureau does not give any enumeration of the submissions received on the various legislative proposals mentioned in the Consultation Document, that is, whether these submissions are for or against the enactment of legislation. Nor does the Compendium contain any gist of the arguments put forward. Instead, it simply classifies the positions of the submissions as "supportive", "opposed" and "not identified". Regarding the requests for a Blue Bill or a White Bill and the opinions of those who do not have any positions on this, the Compendium gives only a very simple analysis. The focus is obviously on quantity instead of quality. Actually, the Consultation Document did not really consult the public on whether they supported or opposed the enactment of laws to implement Article 23 of the Basic Law. If the Government really wishes to know the position of the public, it should conduct a referendum or an opinion poll. However, the Government has not done so.

On the day of publication, the Government could not promptly provide the media with enough copies of the full-set, 19-volume Compendium for detailed reportage. The written requests of Legislative Council Members for copies of the full-set Compendium were also of no avail. Why was there such a blockage of information?

A responsible government and an accountable Bureau Director should at least tell society as a whole what kinds of views are presented in the submissions on the Government's proposal to enact legislation to protect the fundamental institutions of the state; on the proposed banning of local organizations affiliated to mainland bodies proscribed by the Central Government; and on the proposed expansion of police powers to enter premises for searches. In addition to classifying these views simplistically as "supportive" or "opposed", the Government should also gather the views expressed through the media and the findings of opinion polls during the consultation period for further analysis, collation and comment in the Compendium, so as to let the public know what views it has accepted or rejected and what justifications have been considered.

Only such a consultation process can realize the spirit of accountability and respect for public opinions.

The Compendium published by the Security Bureau last month is plainly slipshod. When questioned by Legislative Council Members, the Secretary for Security even resorted to the excuse that what the authorities had compiled was just a Compendium, not exactly a comprehensive collection of opinions. This kind of attitude is absolutely irresponsible. If the Secretary thought that there was not enough time, she should have lengthened the period of compiling the Compendium to ensure the impartial and comprehensive treatment of public opinions.

Being slipshod aside, the Compendium is neither impartial nor complete either. From past press reports, we notice that at least 35 submissions are wrongly classified as "not identified", "opposed" or "supportive". What is more, at least 13 submissions are missing from the Compendium. It is believed that the errors detected and the corrections received by Security Bureau officials should be still greater in number. The Compendium is really full of errors and omissions! And, press editorials and the views expressed by people in newspapers, forums and on other public occasions are also excluded from the Compendium!

The Secretary for Security once said in a press conference that the authorities had tried to classify the submissions as objectively as possible on the basis of their respective contents. But then, right on the day of release of the Compendium, the press and many community organizations already noticed that the submissions of some organizations had been unreasonably classified as "not identified". It was then reported by the press the following day that the submissions of the Hong Kong Bar Association, the Hong Kong Journalists Association and the Democratic Party were classified as "not identified", in marked contrast to their positions indicated in public criticisms of the government proposals. The Democratic Party has checked the records and found out that its submissions which are classified as "not identified" are clearly opposed to legislation, as evidenced by both their titles and concluding remarks.

The submission of Prof Frances D'SOUZA, a drafter of the Johannesburg Principles, is treated only as supplementary information and is not included in the Compendium. This is obviously not an "oversight". Besides, the submissions of some non-government organizations such as the China Labour

Bulletin and the Hong Kong branch of Amnesty International are not included in the Compendium. The following is an extract of the China Labour Bulletin e-mail received on 30 January: "When we enquired with a Security Bureau official responsible for compiling the Compendium, he confessed that the submissions received at the hearings would not be included in the Compendium, and that only those submissions received through the three channels listed in the Consultation Document would be handled.He also admitted that they had received the submission of the Legislative Council Panel on Security, but that 'this does not mean that the submission will be handled'. We then requested the authorities to publish this type of submissions in the form of an appendage. But the official flatly refused, saying that if we wanted Security Bureau officials to study our submission in detail again, we could post one more copy of it to them."

The Secretary for Security once told the media that only those submissions sent to the Security Bureau by post, fax and e-mail would be included in the Compendium. However, when we look up the Consultation Document, we find that there is no mention that the Security Bureau will not accept submissions sent to it through channels other than the three listed in the Consultation Document. Although the Secretary for Security said at the joint conference of the Legislative Council on 16 February that the submission sent by the Legislative Council to the Security Bureau would be included in the supplement of the Compendium, we simply do not know how many other submissions, not sent to the Security Bureau through the channels specified and the Legislative Council, have been excluded from the Compendium.

The Secretary for Security also said that views expressed in the press and public forums to Security Bureau officials would not be included in the Compendium. What an absurd and irresponsible policy! It reveals that the Government was not at all sincere, and that it was never its intention to conduct any comprehensive and open consultation.

The Compendium published by the Government on the Consultation Document should reflect the people's opinions impartially. The Democratic Party is of the view that the Government has sought to distort public opinions for the sole purpose of legislation.

When announcing the statistics of the Compendium, the Secretary for Security focused only on the analysis of local submissions. She also pointed out that the credibility of some submissions was not as high as others, because they

were either signed by the same person or just carried names with no signatures, suggesting that the names might have been copied from the telephone directory. Such comments were obviously made with the intention of belittling the value of signature forms as a means of opinion expression. Mr Robert CHUNG, Director of the Public Opinions Programme under the University of Hong Kong, has written an article, putting forward five major queries concerning the Government's analysis of public opinions:

The first query. If computations are based on 100 000 submissions, those in support of legislation will represent 67.5%, and those who are opposed to the proposal will amount to 28.2%. But if 369 000 submissions are used as the basis of computations, those in support will represent 36.9% and those against 60.2%. Why did the Government not adopt these two figures? Was it because it feared that there might be too many signatures against the proposal and this might overwhelm other kinds of opinions?

The second query. Why did the Government try to distinguish between "pre-printed opinion forms" and "signature forms?". Generally, in the former case, there was one signature on each form. In the latter case, there were generally 25 signatures on each. Apart from the fact that the latter is more environmentally-friendly, one really cannot see any essential difference between the two. If these two types of forms are treated similarly, those oppose the enactment of laws will obviously be in the majority; but if they are treated differently, there will be the illusion that the opinions for and against are just about the same in number.

The third query. In the press conference, the Secretary for Security did not say even a single word about the submissions from outside Hong Kong, which involved some 29 000 signatures. Why was nothing said about the submissions from outside Hong Kong?

The fourth query. Suppose a person supports the enactment of laws but somehow opposes the proposals in the Consultation Document, or suppose a person supports the enactment of laws but does not think that the process should start at this stage, how should his opinion be classified — for or against?

The fifth query. According to the Government, most people do not have any positions on a Blue Bill and a White Bill. But the point is this question was never put in the Consultation Document.

The Government has conducted a consultation exercise lacking in sincerity and has compiled a Compendium full of errors and omissions, in total disregard for public opinions. Therefore, on behalf of the Democratic Party, I hereby move this motion, condemning the authorities for compiling the Compendium of Submissions in respect of the enactment of laws to implement Article 23 of the Basic Law in a slipshod, incomplete and inequitable manner, distorting the views expressed by the public and organizations, and urging the authorities to commission an independent organization to analyse and summarize the views expressed by the public on the various proposals in the Consultation Document and to ensure that public opinions are fully and properly reflected and addressed. I so submit.

Mr SIN Chung-kai moved the following motion: (Translation)

"That this Council condemns the authorities for compiling the Compendium of Submissions in respect of the enactment of laws to implement Article 23 of the Basic Law in a slipshod, incomplete and inequitable manner, distorting the views expressed by the public and organizations, and urges the authorities to commission an independent organization to analyse and summarize the views expressed by the public on the various proposals in the Consultation Document and to ensure that public opinions are fully and properly reflected and addressed."

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

PRESIDENT (in Cantonese): Mr Howard YOUNG and Dr YEUNG Sum will move amendments to this motion respectively. Their amendments have been printed on the Agenda. The motion and the two amendments will now be debated together in a joint debate.

I now call upon Mr Howard YOUNG to speak first, to be followed by Dr YEUNG Sum; but no amendments are to be moved at this stage.

MR HOWARD YOUNG (in Cantonese): Madam President, the enactment of laws to implement Article 23 of the Basic Law has aroused lots of arguments and

disputes. Following the completion of the three-month consultation period, the Government has made quite a number of amendments to the proposals listed in the Consultation Document. Besides, the relevant Bill has also been gazetted and read for the First time in the Council today. As a result, the Liberal Party considers that at this stage, we should discuss the contents of the Bill pragmatically, instead of dwelling any more on issues of secondary importance.

The original motion condemns the Security Bureau for "distorting the views expressed by the public and organizations" in the course of compiling the Compendium of Submissions (Compendium). We are of the view that this accusation is open to question.

The Compendium as it stands is indeed marked by sloppiness here and there — for instance, a number of submissions submitted through the Legislative Council are omitted and the opinions of some organizations are also wrongly classified. The largest error of all is probably the classification of the Democratic Party's views as "not identified". It is small wonder that apart from "condemning" the authorities, the Democratic Party even goes so far as to demand "shelving" of legislation today. It is believed that following the debate today, no matter how the Democratic Party's views are classified in the Compendium, all people will come to know the Party's stance of opposing the enactment of laws.

However, I believe that if people can put aside their biases and read the Foreword to Volume One of the Compendium, most of them will agree that the Compendium is purely meant to make simple classifications of the submissions received and compile an index on them; its purpose is not to put words into the mouths of any organizations and individuals. What is more, the cases of wrong classification are not wholly about classifying opposing views as "supportive" or "not identified". In some cases, the reverse is even the case. Therefore, we do not think that the authorities have purposefully tried to distort the views of people and organizations. Honestly, suppose this had really been the intention of the Government, it is still hardly conceivable that it would have dared to distort the views of the Democratic Party and the Bar Association.

The sloppiness, we believe, was mainly caused by mistakes of the authorities in their great haste to deal with more than 100 000 submissions. Having said that, we of course do hope that the authorities can rectify the mistakes

as soon as possible, so as to present a true picture of the public opinions received. This is the only pragmatic attitude which should be adopted, and this is also precisely why we have sought to propose an amendment.

The original motion also urges the authorities to commission an independent organization to analyse and summarize the views expressed by the public. The Liberal Party thinks that the "unspoken line" behind this proposal is in fact the delay of legislation. The manpower and resources required to analyse all the 100 000 submissions in detail will not be any less than those required for investigating the short-piling incidents, and the whole process may take at least a year or two. Do they mean that the legislative work should not be proceeded with as long as the analysis is not completed? Besides, from the classification of submissions in the Compendium, it can be seen that even if the wrongly classified cases are disregarded, roughly 70% of all the submissions are still in support of the enactment of laws. That being the case, why is it impossible for us to activate the legislative mechanism without any further delay?

If one thinks that the Democratic Party is showing respect for public opinions in its appeal to the Government to commission an independent organization to analyse the submissions, then one will certainly be puzzled by the "tail" added by Dr YEUNG Sum's amendment. The Compendium shows very clearly that many organizations and people support the enactment of laws. Why then should this be shelved just because of some oversight and a small number of omissions in its classification of submissions? They are just trying to find fault with the Compendium!

The point is that if they wish to commission an independent organization to analyse public opinions, they should not insist on shelving the enactment of laws at this stage. If they have already decided that the enactment should be shelved, then why do they still make such a fuss and demand the commissioning of an independent organization to analyse public opinions? Are they not contradicting themselves?

All this reminds me of a lazy child who complains about dizziness this moment and then about bowel problems the next. His real purpose is just to avoid school. Honourable colleagues belonging to the Democratic Party initially requested the Government to publish a White Bill. Now, they demand the commissioning of an independent organization to analyse public opinions. They even say that they will not render their co-operation during the scrutiny of

the Bill. All this clearly shows that they are just trying to delay the matter as far as possible, and that they have always been opposed to the enactment of laws on national security.

The Liberal Party maintains that the latest legislative proposals announced by the Government can basically answer the aspirations of the various sectors of society. For quite some time in the past, many people demanded the publication of a White Bill. But the Bill has now been gazetted, and it has even been read for the First time today. Thus, we should no longer dwell unnecessarily on the methodology of analysis employed in the Compendium anymore. The various sectors of society may now start to conduct sensible discussions on the clauses of the Bill.

I wish to clarify that the Liberal Party is not going to support all the Government's proposals unconditionally, but we also think that the errors and omissions in the Compendium and the shelving of legislation are in fact two separate issues. The protection of national security is an important responsibility of the Hong Kong Special Administrative Region Government and Hong Kong people and at the same time, a requirement of the Basic Law. The matter should not be shelved simply because of some technical oversight in the course of opinion collation.

All over the world, in the most advanced and democratic countries, there are similar laws on the upholding of sovereignty and national security. If Members opposed to the enactment of laws know of any counter-examples, I hope that they can bring them up for discussion. I would very much like to know in which advanced and democratic countries there are no laws on the protection of national security.

The Liberal Party is of the view that there is already a lot more latitude in the latest legislative proposals than in the Consultation Document. For instance, the offences of misprision of treason and possession of seditious publications will be abolished, and the definitions of many offences are narrowed. From press reports, it can be noted that there is obviously much less opposition now. Since the Government has published the specific clauses, the various sectors of the community should focus on discussing the specifics, with a view to perfecting the provisions eventually passed.

Madam President, I so submit.

DR YEUNG SUM (in Cantonese): Madam President, in September last year, when the Security Bureau published the Consultation Document on Proposals to Implement Article 23 of the Basic Law, the Secretary for Security started to defend the consultation exercise on the Government's legislative proposals. She said at that time that it was not a bogus consultation. Memories of her words are still fresh. But having looked at the Compendium of Submissions (Compendium) published by the Security Bureau last month, we are convinced that it was really a bogus consultation, or even a shameful one!

At the beginning of the consultation, the Secretary for Justice told us very frankly that the Government of the Hong Kong Special Administrative Region (SAR) had consulted the Central Government on the legislative proposals to implement Article 23 of the Basic Law. In October last year, the Secretary for Security told Legislative Council Members even more clearly that the SAR Government had reached a consensus with the Central Government on the contents of Article 23 legislation and the legislative timetable concerned. Can we not see that in saying so, the Secretary was actually telling us the truth, telling us that the consultation was bogus, meant largely as a public relations exercise?

During the consultation period, members of the public raised all sorts of worries, pointing out that the proposals in the Consultation Document would affect people's rights and freedoms. But the Government simply dismissed these worries as "misunderstandings" and never attempted to address them seriously, nor did it respond to people's demands for withdrawing the harsh mechanism on proscribing organizations and the unnecessary expansion of police powers. The Government just turned a deaf ear to all dissenting voices: those supporting the enactment in principle but against any actions now; those supporting the enactment in principle but against the Government's legislative proposals; those against the enactment and demanding the Government to amend the Basic Law; and those asking for an extension of the consultation period and the publication of a White Bill. Even when it was found that the Compendium was full of errors and omissions, and also when the supplement was still being printed with every haste, the Government still decided to move the First and Second Readings of the Bill as scheduled. This shows that the Government really does not respect public opinions. Since it wants to pass the Bill three months later, the Government has chosen to ignore people's demand for further consultation on the provisions of the Bill.

In the Compendium published by the Security Bureau, the submissions of organizations and people are not analysed and summarized in detail, nor is there any collation of people's views on the proposed offences in the Consultation Document. Instead, there is just a simplistic classification of the views into "supportive", "opposed" and "not identified" as well as an array of figures pertaining to the demands for a White Bill or a Blue Bill. The Government's simplistic classification of the submissions received has oversimplified the complexity of the entire consultation exercise.

That the outcome of the Government's consultation is in support of enacting legislation does not surprise the Democratic Party at all because this is in fact the pre-set position of the Government. However, we are extremely startled by the Government's classification of the Democratic Party's submission as "not identified". Both the heading and concluding remarks of the Democratic Party's submission state clearly that the Democratic Party opposes the enactment of laws, and the relevant justifications are also stated. Regarding the omission of submissions passed to the Security Bureau through the Legislative Council or those handed to the Secretary for Security in person, they have resorted to the simple excuses of oversight and computer errors. This shows how slipshod and haphazard the whole consultation exercise and the compilation of the Compendium were. If Legislative Council Members so easily accept the Government's explanation that all is just due to simple oversight, I am afraid that the Government may thus be encouraged to continue to manipulate public opinions in this manner. Therefore, I hope that Members can deal with this practice of the Government very seriously. The Security Bureau just assigned the submissions received to Executive Officers for simple classification, thus leading to numerous errors. This is really an insult to the people's intelligence.

Even on the basis of the Government's classification statistics, we can see that the Government has ignored the fact that of the 370 000 signatures received, 60% were opposed to the enactment of laws. The Government instead adopted the number of submissions as the basis of computations and concluded that some 60% of the submissions were supportive of the enactment of legislation. And, this has been used as the justification for starting the legislative process. One can thus see that it is the Administration which is not credible, not the people's signatures. If the Government really wished to find out whether people were in support of the enactment of laws, whether they agreed to the publication of a Blue Bill, it should conduct a referendum or an opinion poll during the

consultation period to gauge the views of the majority. It should not just publish a consultation document on its legislative proposals and classify them in such a simplistic manner.

Under the principle of accountability, it is bad enough for a government to ignore public opinions. It is still worse and even unforgivable if a government seeks to hide the truth, distort the facts of history, twist public opinions and mislead the public. It is obvious that public opinions are not on the side of the Government, which is why it must tell white lies to mislead the public. For this reason, we must cast a vote of no confidence in the Government.

Regarding Mr Howard YOUNG's amendment, the Democratic Party does not agree to the deletion of the accusation that the consultation exercise is "inequitable" and "distorts" public opinions. The reason is that in their handling of the opinions collected during the consultation period and when compiling the Compendium, the authorities undoubtedly did something inequitable and distorted public opinions.

To begin with, in the Compendium, the authorities only included the submissions submitted to the Security Bureau through the three channels specified in the Consultation Document, and the submissions received through other channels were totally disregarded. This is absolutely inequitable. This is inequitable in two ways. First, the authorities excluded from the Compendium all press editorials, opinion poll findings, readers' letters and views expressed in open forums, thus preventing the public from knowing the views of different sectors on the Consultation Document. Second, the authorities did not make the exclusion clear in the Consultation Document, nor did they advise the public in advance during the press conference. This was inequitable to the public.

Second, in the Consultation Document and the press conference, the authorities deliberately tried to belittle the value of signature forms, the most popular way used by people to express their opinions. They also based their analysis on the number of submissions received, so as to enable themselves to draw the conclusion that most people were in support of the enactment of laws.

Third, the authorities grouped some submissions obviously opposed to the enactment of laws under the category of "not identified". Some examples of these submissions were those of the Hong Kong Bar Association, the Concern

Group on Article 23 of the Basic Law and the Democratic Party. Besides, the submission sent by Johannesburg Principles drafter Prof D'SOUZA in opposition to the enactment was only treated as supplementary information and excluded from the Compendium. This is also inequitable.

Fourth, in the Consultation Document and during the consultation period, the authorities never mentioned that people were consulted on their views regarding a Blue Bill and a White Bill. However, in the Compendium, separate statistics are given on a Blue Bill and a White Bill, and the authorities have refused to publish a White Bill on the ground that most people do not have any opinions about the choice between a Blue Bill and a White Bill. This is inequitable and distorts public opinions. Even if we disregard the submissions not having any opinions and look only at those which do express views on this issue, whether they come from within Hong Kong or places outside Hong Kong, we will see that those demanding a White Bill are in fact in the majority. The percentage of local submissions demanding a White Bill is 50.3%, while that of submissions from places outside Hong Kong is 100%, meaning that none of these submissions demand a Blue Bill.

Fifth, on the reason why a large proportion of submissions from places outside Hong Kong is against the enactment of laws, the authorities explain that many people overseas are influenced by media reports and have thus become fearful of Article 23 legislation. This is absolutely inequitable and unreasonable.

Although the Government has deleted or amended some of the extremely absurd and unreasonable legislative proposals, such as the offence of misprision of treason, the National Security (Legislative Provisions) Bill still contains other provisions which cause great worries among the public, one example being the mechanism on proscription of organizations. Under this mechanism, once the Central Government prohibits an organization by an open decree, the Secretary for Security can activate the proscription mechanism in Hong Kong and proscribe any local organizations subordinate to that particular mainland organization. Besides, under the Bill, the police are still empowered to enter people's premises for searches without applying for a warrant from the Court. And, in regard to the offence of handling seditious publications, the Government still refuses to adopt the proposal of the media on accepting "public interest" as defence. All these legislative proposals will still affect our rights and freedoms. In the Bill, the Government even adds a proposal on "proceedings in the absence

of any person" and "closed-door proceedings" for appeals against proscription, whereby the Court is enabled to hold proceedings in the absence of the appellant and any legal representative appointed by him. These provisions are most inequitable and deprive people of proper protection.

Article 23 provides that the SAR Government shall enact laws on its own. Ironically, the SAR Government has volunteered to hand back its autonomy in this respect to the Central Government, and by putting forward the Bill, it has, with its own hands, damaged "one country, two systems". This is most regrettable.

Madam President, the Democratic Party strongly demands the Government to withdraw the Blue Bill. I so submit.

MISS MARGARET NG: Madam President, the Government's proposals on the legislation of Article 23 of the Basic Law (Article 23) concern the most serious crimes against the state and affect fundamental rights. They were deeply controversial. Not even the Government can deny that the widest public consultation was essential. This, of course, should include a fair and proper report on the opinions expressed. The public did its part by extensive and intensive response. The Government failed to do its part. The only report on consultation is the Compendium of Submissions (the Compendium). This is a travesty. It is unfair to those who have taken the Government's call seriously and come forward with their comments and opinions. Many have taken a great deal of trouble to comment in detail and in depth, and with professional thoroughness.

The Government has completely failed to report to the public on the breadth and depth of the views expressed through all kinds of channels. All it has come up with by way of a report on the consultation is this "Compendium" of submissions received.

The Compendium is itself questionable, even as a Compendium of submissions received. To begin with, instead of being inclusive, the Security Bureau took an extremely narrow and exclusive view of what qualifies as a submission. It has to be sent directly to the Security Bureau by the writer of the submission in one of the three ways specified in the Consultation Document. Under this approach, the 240 submissions from deputations to the joint Panel of

this Council and forwarded to the Secretary for Security at the same time for her response were excluded, even though she or her deputy was present in the meetings in which the presentations were made. This is only one example of the absurdities.

The compilation was unprofessional. Experts whom the Article 23 Concern Group have consulted were amazed that the task was not entrusted to a separate and independent body. It is particularly important to do so because the issue was controversial and involves fundamental rights of the individual, and particularly because the Government has taken a partisan stance in promoting legislation. There is, therefore, a clear perception of conflict of interest were the Security Bureau to do the compilation of results of consultation itself. The public is bound to suspect that the Bureau will choose an approach calculated to favour legislation.

The Compendium has confirmed the public's suspicion. The categorization of the submissions into "support", "oppose" and "unclear" was meaningless, because "support" is defined as meaning "support the implementation of Article 23 by legislation", and "oppose" defined as meaning the opposite. The categorization does not show whether people support the proposals of the Government, or just support the principle of legislation, whether they support legislation now and with enthusiasm, or legislation only in the distant future and with reluctance. Since Article 23 starts with the words: "The Hong Kong Special Administrative Region shall enact", the categorization chosen can only be deliberately biased in order to extract the most apparently favourable result.

The categorization is unfair. The public has not been told that the Government is just interested in numbers supporting or opposing legislation. Had they known, they would have without doubt expressed themselves differently. Indeed, if this were what the Government wanted to know, it should have conducted a proper opinion poll through an independent agency.

Many people have expressed their indignation about being wrongly categorized. There are many well-known examples, and I need not repeat them here. The point I make is that the explanations given for the mistakes reveal that the sorting had been done in a hurry, by people hunting for particular code words rather than trying to understand the true position of the writer. It is unfair to treat the public like this.

It is not just to put the record straight that the Government must engage an independent professional agency now and do the exercise all over again, this time properly. The more immediate purpose is practical. Due process requires the Government to draft legislation only after having taken public opinions into account. Transparency and accountability must be satisfied. The Compendium does not even give any account of how well supported or strongly opposed are the major proposals, especially on the most controversial ones such as proscription, unlawful disclosure and extension of police power. These have been made part of the Blue Bill gazetted on 14 February. It is incumbent on the Government to explain what the public opinions on these matters were before any bill was drafted for the purpose of being introduced into this Council.

The Compendium chose to announce the number of submissions which supported the publication of a White Bill. It prefaces this by saying that only a small percentage of the submissions mentioned this matter at all — as if the vast majority of the public was unconcerned. But the public was far from unconcerned. The demand for a White Bill was a consensus among almost all sectors and an overwhelming call from the community. The Compendium is so misleading and so clearly inexcusably so, that it is impossible not to describe it as a distortion, indeed, a subversion of public opinions.

Madam President, the Blue Bill was published in the teeth of opposition. Its contents and language show that it is far from good enough, and little wonder, given the rushed job that it is. But new and controversial materials were introduced for the first time in the Bill. This is an issue of fundamental importance on which there has been no consultation.

The Compendium was shoddy, partly because of the Government's imperative to rush. The drafting of the Bill was rushed. Now this Council is being pressed to rush the Bill through enactment. This cannot be right. It is not right even for an ordinary piece of legislation, let alone the most important piece of legislation for the Hong Kong Special Administrative Region since reunification. This Council must not endorse this, disregardful of due process. The Bill must be sent back to the drawing board. Thank you, Madam President.

MR NG LEUNG-SING (in Cantonese): Madam President, all the related figures and statistics show that the consultation exercise on the enactment of laws

to implement Article 23 of the Basic Law has been a project of unprecedented scale. At the conclusion of the consultation period, the Government was faced with a total of 100 909 submissions, which must be analysed and collated within a specified timeframe. The scientific accuracy of collation, classification, statistical methodology and findings is clearly a matter of individual judgement. The reason is that all the raw data are themselves unclear and ambiguous in many ways. For instance, there may be duplicated opinion forms and all sorts of strange signatures. And, different ways of expressing opinions may easily lead to different conclusions. Even in the case of the Census or an opinion poll, where fixed and rigid formats are adopted, there is still the possibility of inaccurate conclusions. Equally, since people were asked to express their views in any format they liked during the consultation period, it was only natural for errors to occur in the process of classification and collation.

While people could express their views in any format they liked, they, of course, still had to follow one basic principle — all submissions must be sent to the Security Bureau by post, fax or e-mail before the end of the consultation period. It was sadly not possible for the Government to include all the verbal comments of a person on Article 23 in the Compendium of Submissions (Compendium) just because he happened to be a heavyweight, so to speak. If this really had to be the case, then should the Government record the remarks made by all audience in radio phone-in programmes every day? Was this feasible anyway? Or, should the Government include in the Compendium all the opinions expressed by this and that celebrity in the printed media? And, should all the opinions expressed in the chat zone of the Internet be treated similarly? If not, how can we realize the spirit that all views are equal, irrespective of the status of the originators? A well-known bishop has reportedly queried, "Who says there is a sacred law requiring all opinions to be submitted to the Security Bureau?" It is small wonder that some have dismissed this query as totally absurd and unreasonable. There is of course not any law or dogma in Hong Kong which requires that opinions must be submitted to government departments in writing. However, we do have a time-tested set of public consultation rules on the fair handling of all people's opinions. If a person really has something to say on Article 23 legislation, but somehow fails to write down his own opinions, he cannot possibly put the blame on others, can he?

As we can see, the Government has admitted that some errors were committed in the course of collating the submissions received during the

consultation period. It has also let people and organizations put forward their requests for corrections. Since this kind of opinions collation and classification can never meet the standard of mathematical precision and all conclusions can thus be queried, I am of the view that our more important concern should be to focus on and examine the actual contents of the submissions and to incorporate constructive findings into the relevant legislative provisions. We simply should not focus on labelling the submissions as either for or against the enactment of laws. The raw information of the Compendium are still being kept, so all members of the public are free to access the submissions and make their own judgements. And, Legislative Council Members may also refer to these submissions during the scrutiny of the Bill if they see the need to do so. The point is that even if we introduce an alternative classification or labelling system, we cannot possibly change the actual contents of the submissions and increase or decrease their value as reference. Therefore, if we agree that it is the unshirkable constitutional responsibility of the Government of the Hong Kong Special Administrative Region (SAR) to enact laws to implement Article 23 of the Basic Law, and if we also attach any importance at all to the actual opinions of people on this issue, we should not dwell unnecessarily on the triviality of how we should label each submission; still less should we use that as an excuse and try irrationally to defer the enactment of legislation indefinitely. As Legislative Council Members, we should bear the long-term security of the state and the SAR in mind and keep pace with the international trend of protecting national security according to the law.

Madam President, I so submit.

DR RAYMOND HO (in Cantonese): Madam President, the enactment of laws to implement Article 23 of the Basic Law (Article 23) has always been a contentious issue in society. And, precisely because the related consultation has been such a great concern among the various social strata and sectors, I do not believe the Government would still dare to run any risk and intentionally omit or distort any opinions in the Compendium of Submissions (Compendium) with the full knowledge that this was an impossible task.

Earlier on, Secretary for Security Regina IP admitted that the errors and omissions were due to oversight, and she also made a formal apology, saying that corrections would be made. The oversight of course indicates that the Government's procedures of handling and analysing the submissions warrant

improvement, but we should not hence delay the enactment of laws to implement Article 23. Under Article 23, the SAR Government is required to "enact laws on its own" to prohibit seven kinds of acts, namely treason, secession, sedition, subversion of the Central People's Government and theft of state secrets. Since Hong Kong has been reunited with the Motherland for more than five years and "one country, two systems" has been successfully implemented, now should be an appropriate time to discharge our constitutional obligation under the Basic Law, that is, making relevant laws to protect national security.

Since Hong Kong is a Special Administrative Region of the Motherland, the Article 23 legislation is not purely an internal affair of Hong Kong but also a matter which involves the security of the entire country. Therefore, we should not only pay attention to our own concerns and ignore the importance and urgency of enacting legislation to protect national security.

The Government's compilation of the Compendium is indeed marked by oversight here and there, but this does not mean that it has not listened to the wide spectrum of views in society. In fact, the Bill has incorporated some major amendments to the original proposals, including the definition of "war" under the offence of treason as actual warfare or armed conflicts, not as ordinary demonstrations or riots; the abolition of the common law offence of misprision of treason to allay people's anxieties relating to "failure to make a report" and "mutual surveillance among friends and relatives"; the immunity of non-Chinese nationals to the offence of treason both inside and outside the SAR; the deletion of "public disorder that would seriously endanger the stability of the Hong Kong Special Administrative Region", thus limiting the offence of sedition to "public disorder that would seriously endanger the stability of the People's Republic of China"; the adoption of "serious criminal means" in place of "serious illegal means"; and, the addition of a clear provision under the offence of theft of state secrets that "it is a defence for a person to prove that at the time of alleged offence he did not know and had no reasonable cause to believe that the information concerned was protected." All these amendments show precisely that it is not impossible to amend the relevant provisions, and that discussions are still possible.

The Government has not published a White Bill as demanded by some members of the community, but the publication of the National Security (Legislative Provisions) Bill as a Blue Bill does not mean that its provisions cannot be amended in response to the views of the community. In fact, all

sectors of society can continue to express their views on the Bill, in a serious and candid manner, through this Council and other channels after its submission to this Council for scrutiny. I am convinced that Members will faithfully discharge their duty and scrutinize the Bill with the utmost seriousness.

Madam President, I so submit. Thank you.

MR IP KWOK-HIM (in Cantonese): Madam President, the DAB would like to express its appreciation of the efforts made by the Administration to compile the 18-volume Compendium of Submissions (Compendium) relating to the enactment of laws to implement Article 23 of the Basic Law (Article 23). It was certainly no easy task to collate some 100 000 submissions and 300 000 or so signatures. For this reason, the Government has in fact done a satisfactory job. The Democratic Party criticizes that the Compendium is slipshod, incomplete and inequitable, but honestly, just how many "errors and omissions" has the Democratic Party found, bearing in mind there were 100 000 submissions? Secretary Regina IP has made an open apology on some technical errors and omissions. So, is it fair to move this motion and escalate the matter to such a level?

When the Joint Conference of the Panel on Security and the Panel on Administration of Justice and Legal Services held its public consultation on 1 November 2002, Mr LAU Kong-wah and I separately requested the then Chairman of the Hong Kong Bar Association, Mr Alan LEONG, to clarify the Bar's position on enacting legislation to implement Article 23. At that time, I asked Mr Alan LEONG, "Am I correct in interpreting that the Bar does not oppose Article 23 legislation?" Mr LEONG replied, "Your interpretation is correct." Then, Mr LAU Kong-wah continued to question Mr LEONG and he replied, "We (the Hong Kong Bar Association) are of the view that Article 23 does impose an obligation on the SAR Government to enact legislation on the issues stipulated under Article 23. As pointed out in the paper of the Bar Association, the enactment of laws should conform to three principles." This is an exact quotation of tape-record 02:00:39 of the Joint Conference. Mr SIN Chung-kai and Secretary Regina IP were also present.

On the one hand, the representative of the Bar Association told the Joint Conference that it was not opposed to the enactment of laws, but on the other, he went to great lengths to oppose that in the media, drawing reference to "cooking

a frog with cold water", and saying that Article 23 legislation would erode the rule of law in Hong Kong. This is quoted from Page A06 of the *Apple Daily* on 10 December 2002. In brief, the Bar Association sometimes said "yes" and sometimes said "no". Therefore, how can it be said that it is wrong to classify the position of the Bar Association on the enactment of legislation as "not identified"? Should we blame the Compendium for being slipshod and incomplete? Or, should we instead blame the submissions concerned for their unclear, hard-to-define positions? I believe society will somehow come up with a fair and correct answer to this question. Some Members and organizations have lashed out at government officials, saying that they have purposefully sought to distort the views of those people and organizations against the enactment of laws. Actually, if we can analyse such an accusation sensibly, we will see one point. As many as 65 organizations are already classified as "opposed", so even if there are two or three organizations more, or even 20 or 30 more, will there be any significant impact on the conclusion? We really cannot see any particular intention or motive which might have driven the Security Bureau to wrongly classify the submissions of those organizations opposed to the enactment of laws, such as the Bar Association. In fact, some organizations and individuals supporting the Article 23 legislation have reflected that the Compendium has classified their submissions as "not identified". One of these organizations is the Hong Kong Island Federation, for which I serve as the Vice-Chairman.

In his article which appeared in the *Hong Kong Economic Journal* on 21 December 2002, Mr Alan LEONG referred to the procession on 15 December 2002 against the enactment of laws on Article 23 and pointed out that "many of 60 000 or so participants were in principle supportive of the enactment of laws on national security". This is quoted from the *Barristers' Forum* on Page 19 of the finance columns of the *Hong Kong Economic Journal*. Besides, during the public consultation session on 21 November, Miss CHAN Shue-ying, the representative of the Democratic Party, also said in this Chamber, "We (naturally the Democratic Party) are naturally in total support of protecting national security."

Since the Democratic Party is "in total support of protecting national security", do we still need to commission an independent organization to analyse the submissions already dealt with by the Compendium? Members will agree that it is simply impossible and unrealistic to expect that all the 7 million people in Hong Kong can share exactly the same position. Since the consensus of

society is not opposed to the enactment of laws, or is at least supportive of protecting national security, the DAB maintains that the focus of society now should turn to scrutiny of the specific provisions of the Bill, with a view to ensuring that the Bill eventually passed in the future can protect national security as well as the rights and freedoms of Hong Kong people. The DAB will oppose the original motion and the amendments today. It hopes that the scrutiny of the Bill can commence as soon as possible.

Madam President, I so submit.

MR FREDERICK FUNG (in Cantonese): Madam President, the Compendium of Submissions (Compendium) released by the Security Bureau at the end of last month on the enactment of laws to implement Article 23 of the Basic Law (Article 23) contains more than 100 000 local and overseas submissions as well as almost 370 000 signatures. This shows that the enactment of laws on Article 23 has become a topical issue in town and even a great concern of the international community. For this reason, the Government should really handle the views of society on Article 23 legislation in an objective, pragmatic and impartial manner, so as to ensure that the voices of all are heard and treated seriously in the formation of a general social consensus on the enactment of laws to implement Article 23. But it is a pity that the authorities have resorted to various means to belittle the views against the Government's position. The Hong Kong Association for Democracy and People's Livelihood (ADPL) and I must express our regret at this, and we hope that the authorities can adopt prompt remedial measures to bring forth a true reflection of public opinions.

First, the ADPL and I have great reservations about the methodology of submission classification adopted in the Compendium. The submissions of individuals and organizations are simplistically divided into the two categories of "supportive" and "opposed". This classification methodology is much too simplistic, unable to reflect public opinions fully. According to the authorities, "if a submission does not state whether it supports or objects to the enactment and simply expresses views, concerns or proposals", it will be classified as "not identified" due to its ambiguous position. The ADPL and I both have doubts about this classification methodology. In case an organization or individual submitting a submission is supportive of enacting legislation but opposes the contents and proposals of the Consultation Document, or if a submission

supports the enactment in principle but objects to the commencement of the actual legislative work at this stage, how are the relevant views to be classified — for or against? The submission of the ADPL in fact states our position on Article 23 legislation very clearly, and it also puts forward our views on the contents of the Consultation Document. However, the Government still classifies our submission as "not identified". The ADPL is disappointed at the classification methodology adopted by the Government. And, we already issued a statement early this month, requesting the Government to classify our submission as Category B, that is, the category of submissions "opposed" to the enactment of Article 23 legislation.

Besides, in the Compendium, submissions are first divided into "local" and "overseas" according to their places of origin. Then, they are further classified into submissions from organizations, those from individuals, standard letters/pre-printed opinion forms and signature forms. A local academic research institution has made its own computations on the basis of the above classification system. Its findings are to our surprise different from those announced by the Government.

For instance, if 100 909 submissions are adopted as the base for computation, the rate of support for Article 23 legislation will be 67.5% and the number of submissions opposed to that will amount to 28.2%. But if the number of signatures is adopted as the base of computation, then 36.9% of all the 369 612 signatures are supportive of Article 23 legislation, and 60% of the signatures are against that. The two bases of computations yield entirely different results. Some of those who signed up to show their opposition may be opposed to Article 23 legislation in principle; some may have views similar to those of the ADPL — they are opposed to the idea because the contents of the Consultation Document do not follow the Johannesburg Principles and thus restrict the freedoms of speech and association. Yet some others may not think that now is an appropriate time to enact laws on Article 23. We thus see that the reasons for opposition are many, and a simplistic classification of submissions into "supportive" and "opposed" simply will not work. I therefore think that there is a great problem with the classification methodology of the Compendium.

The ADPL and I view that although people may oppose Article 23 legislation for different reasons, society as a whole does undeniably have strong

reservations about the authorities' insistence on the enactment of laws; some are even thoroughly against the idea. Even the simple computations mentioned above can already show that the signatures against the enactment clearly outnumber those in support. But the authorities have distorted people's opinions and fabricated all sorts of excuses. They stress in the Compendium that there are problems with many pre-printed opinion forms and signature forms. They even single out a list in a submission, saying that the organization concerned may have extracted the information from a certain data bank. But then the Security Bureau does not give any further information on this to explain in detail what problems are found with these submissions. Does this mean that the authorities are usually skeptical of submissions against its proposals? That some are stirring up troubles? That some are purposefully putting up opposition to challenge the Government and the decision-makers?

In conclusion, the ADPL and I think that since people all differ in levels of education, the authorities simply should not expect all submissions to contain well-written and unique views. As I pointed out just now, people may oppose Article 23 legislation for all sorts of reasons, but their positions are similar anyway — there should be no enactment of laws now, or the contents of the Consultation Document should not be adopted in the legislation. The Government must not make any light comments that these people are just "parroting" others' voices. Nor should it say that some people simply will not bother about some particular legislative provisions. Such an approach will only result in a simplistic division of Hong Kong people into two groups and a situation under which one group is rallied against the other. The Government often says that it wishes to build up solidarity in Hong Kong, and has even set up a working group on this. But whenever the Government implements any policy or takes any actions, it will invariably damage our solidarity, splitting society in rival factions. Madam President, I do not think that such an approach can make people holding different opinions accept the classifications in the Compendium.

With these remarks, I support the motion and the amendment.

MR AMBROSE LAU (in Cantonese): Madam President, in the recently published Compendium of Submissions relating to the Consultation Document on the enactment of laws to implement Article 23 of the Basic Law, a small number of submissions are inappropriately classified. The Hong Kong Progressive

Alliance (HKPA) is of the view that the government departments concerned should be given a minor demerit, but not a major demerit. The HKPA also views that the Government does not need to commission an independent organization to collate the submissions again, nor should it shelve the legislative procedures for the National Security (Legislative Provisions) Bill.

Most of the errors are just the result of mere oversight. Members should not thus criticize the Government for having any ulterior motive and for distorting public opinions. In fact, because of its pledge to publish the findings of consultation as soon as possible, the Government worked hard to collate 100 000 submissions in a matter of less than two months. Errors are unavoidable in such a great hurry. After all, there are only a small number of wrongly classified submissions, and one simply cannot see how this has in any way distorted the overall position of the submissions received. And, the Government made mistakes in handling submissions on both sides, showing that it did not purposefully try to distort views against the enactment of laws. More importantly, we should remember that one who has admitted one's mistakes should be forgiven. We can say that since the Government hastened immediately to admit its mistakes, it was in fact responsive to advice and prepared to handle people's views pragmatically.

For this reason, the HKPA thinks that there is no need to escalate the matter to such a level of seriousness. Once the Government has corrected its mistakes, any further demand from the Legislative Council for the commissioning of an independent organization to collate the submissions will only waste public money. There is another point. Suppose some people are still dissatisfied with the classification and collation done by the independent organization, are we going to commission yet another independent organization? Frankly speaking, every classification system has its own limitations. The methodology adopted by the Government was relatively simple, so it inevitably had more limitations. But the most important thing is that the Government has publicized all the classification criteria and submissions for the judgement of the community.

I do not think that it is at all reasonable for people to demand shelving the legislative procedures for the National Security (Legislative Provisions) Bill just because they are not satisfied with the Government's classification of the submissions. To classify people's submissions is the job of the Government, and to enact legislation is the duty of Legislative Council Members. Members

should not seek to shirk their important duty as legislators, should not ignore their civic obligation and should not forget all about national security by using the administrative blunders of the Government as an excuse.

Madam President, I so submit.

MR ALBERT HO (in Cantonese): Madam President, the publication of the Consultation Document on Proposals to Implement Article 23 of the Basic Law (Article 23) instantly aroused heated and extensive discussions in society. In participating in heated discussions, members of the public all hoped that the Government would sincerely conduct a consultation exercise, really listen to people's views and then carry out an objective, in-depth and detailed analysis of the public opinions received. However, what makes people feel so dejected and frustrated is the embodiment of the Government's so-called analysis and collation of submissions after the consultation exercise on no more than a Compendium of Submissions (Compendium) compiled in such a slipshod manner. The attitude and methodology adopted by the Government in compiling the Compendium was unquestionably sloppy (as illustrated by the many examples cited by Honourable colleagues), but what is even more noteworthy is the absurdity of its figure-juggling.

The Government's methodology of opinions collection on the dissolution of the two former Municipal Councils was entirely different from the one adopted in this case. In the former case, the Government offered a very detailed analysis of many figures, and the classification of opinions then was far more detailed. Why is there such a big difference? Perhaps, last time, the Government might have thought that it enjoyed great popular support. But this time around, since public opinions are not on its side, it has sought to twist them to suit its pre-set and "unchangeable" conclusion. The Government has juggled with the figures by ignoring the number of signatures and making an unreasonable distinction between signature forms and pre-printed forms. The reason for all this is very simple. It just wishes to pre-empt the emergence of a clear outcome, a clear outcome that a vast majority of people in fact question the need to enact legislation now, or even the very need for legislation.

The conclusion of the Secretary for Security and her remarks delivered in this Council indicated that many people were in principle supportive of the enactment of laws. To make sure that such a conclusion could be reached, the

Government tried to do everything it could to juggle with the figures. I remember that during one meeting, I repeatedly asked the Secretary what was meant by being supportive of enacting legislation. I also asked her whether one would be counted as supportive if one did not object to the proposal in principle but somehow did not agree to the present manner of enactment or the need for any legislation now. She even could not give me an answer to such a significant question. The reasons were very simple: the creation of confusion and the distortion and raping of public opinions.

Mr IP Kwok-him also distorted the views of Mr Alan LEONG. He only quoted the part on their question to Mr LEONG in relation to whether the Bar Association was in principle opposed to the enactment of laws. The Bar Association stated very clearly that it did not oppose that in principle. But after studying all of the Bar Association's opinions, we will understand their analyses of and worries about the different kinds of problems. We will also see that these barristers, who are so knowledgeable and concerned about this issue and who have spared so much time from their profession practice to offer advice, all do not support the present manner, pace and underlying mindset of the enactment. The answer is so very simple. Why did Mr IP Kwok-him still try to confuse others? Why did he still say that the position of the Bar Association was ambiguous?

Similarly, he also queried the Democratic Party. No doubt, the representative of the Democratic Party did say that we would not object to the enactment of laws to protect national security. I said this too. But do not forget that I also asked, "We already have many existing laws to provide comprehensive protection to public order and national security. Why then should we still need to enact such a comprehensive law? Why should our freedoms be tightened? More importantly, why should there be a proscription mechanism on top of the requirements of Article 23. How can this be compatible with the repeated pledges of the Chief Executive and the Secretary, that Article 23 legislation will not curtail Hong Kong people's fundamental rights and freedoms?"

Madam President, before the completion of the Compendium, the Secretary had already issued the drafting instructions. After the publication of the Compendium, many errors and omissions were discovered, and many corrections were required. But before the publication of the amended version, the Government already hastened to publish a Blue Bill. What does that tell us?

That tells us that the Government was never sincere in consulting the people, and not only this, its integrity in the whole consultation process is also questionable. If not, why has the Government ignored the wide consensus on publishing a White Bill to enable us to understand the intent and details of the enactment. If not, why has the Government acted against the people? Does the Government think that if it listens to people's opinions, its prestige would suffer? My greatest worry is that there is a secret agenda, and everything has been decided. Can the people of Hong Kong still air their views? Is there still any possibility of amendments? The approach of the Government has really injured "one country, two systems". The consequences are very far-reaching.

Thank you, Madam President.

MS EMILY LAU (in Cantonese): Madam President, I rise to speak in support of Mr SIN Chung-kai's motion and Dr YEUNG Sum's amendment.

In fact, when I first read the amendment of Mr Howard YOUNG, I had, for some time, thought about supporting him as well. Why? Madam President, it is because he comes from the Liberal Party and when he could stand forth and say that the Compendium of Submissions (the Compendium) is "slipshod and incomplete", that it has inaccuracies and omissions, and that he is disappointed with it, I thought that was quite good already. If these comments are brought to foreign countries, telling them that these are agreed by the Legislative Council, I believe that would be a very severe condemnation of the Secretary and the authorities. But after some further discussions, we found that Mr Howard YOUNG had deleted such words as "inequitable, distorting", "commission an independent organization to analyse.....", and so on. For this reason, I will not support Mr Howard YOUNG's amendment.

Earlier on, I have listened to the speeches of many colleagues who had tried very hard to back up the Secretary. Indeed, it is difficult for them to defend the Secretary in some cases, although the Secretary had apologized and admitted the mistakes. Some colleagues said that cases of inaccuracy and omission, sloppiness, carelessness, and so on, are few and far between. But the truth is that the Secretary had disregarded over 360 000 signatures. Instead, she had only counted in the 100 000 submissions and the conclusion so drawn was that there were more people supporting legislation than people opposing it, which is a very different picture. Mr Ambrose LAU said earlier that only a

small number of submissions were categorized wrongly. The fact is that they are not in a small number and worse still, the mistakes are grave. How did the Secretary make the computations? She merely used the 100 000 submissions favoured by her as the base for computation, from which she concluded that 67% were supportive of legislation and over 20% were in opposition. But if she calculated on the basis of the 369 000 signatures, the result should be that 60% were opposed to legislation. Does it not show that she had been selective? That is why we say that the Compendium is inequitable, that it has distorted the views expressed by the public and organizations.

I understand Mr IP Kwok-him's point. He said that the supportive view expressed by the Hong Kong Island Federation, of which he is the Vice Chairman, was considered unclear and hence wrongly classified under the category of "not identified". Madam President, there is actually another organization, namely, the Federation of Hong Kong and Kowloon Labour Unions, which view was also regarded as not supportive of legislation. What exactly is it all about? What the Government is trying to say is that it is not biased towards any side and it is wrong to think that the Government had only classified the opposition views under the category of unidentified position, for some supportive views were also put under this category. But this only serves to show that the way the submissions were handled is a mess, and this just cannot be clearer. The Government had failed to tell which were the supportive views and which were the opposing views. That the Compendium was compiled in such a manner has indeed completely affected the prestige of the SAR Government.

Mr Howard YOUNG made a good point earlier. He said that it would possibly take two to three years to analyse the 100 000 submissions. It is precisely because the task must take two to three years that the legislation must be shelved. The reason for shelving it is that all the submissions must be fully analysed. If not, what is there for us to argue? Now that 100 000 submissions have been received and their analysis is said to be requiring two to three years. But then, they considered it unnecessary to spend two to three years on them and instead, they came to the view that it should take two to three weeks only. Let us see what has happened now. They are telling lies. That is the problem. I do not understand why colleagues have to join the Secretary in this sheer lunacy. In fact, the Government might as well say that it would not receive any submission, not even one, because in that case, the Government would not have to do the analysis; it could simply turn a blind eye to public opinions and do

whatever it likes, for it would be called a tyrant anyway. But at least, the Government would not have to tell lies. However, the Secretary did not choose this course. Instead, she called on the public to submit their views and at the end of the day, she said that she was very happy to have received 100 000 submissions, which she considered to be unprecedented. But in a blink of an eye, she said that the analysis had been concluded. What the Secretary has done is as bad as the practice adopted back in the '80s to address appeals for direct elections to be held in 1988. At that time, the Government commissioned a company named AGB McNAIR which had come up with 10 questions to consult the public on whether they wished for direct elections in 1988. I believe such practices are a disgrace to Hong Kong and so, I do not think that this is an unimportant trivial matter.

Madam President, I notice the practice in the United Kingdom. As a matter of fact, there are many things in the United Kingdom that I find disagreeable, particularly in respect of the rule of law and human rights, for the United Kingdom is very conservative in these areas. However, in respect of public consultation, the United Kingdom has in place a code of practice, in which many practices may be worthy reference to Hong Kong. I do not agree with what Mr NG Leung-sing said earlier on. He said that the procedures for consultation have been in place in Hong Kong for a long time and the problem now is that there are many irregularities in the procedures. Perhaps let me give a brief account of a number of things that the United Kingdom will do when conducting public consultation. To genuinely conduct a public consultation, the target of the consultation must be clearly identified, particularly those people who would be specifically affected, and assessments would be made. Insofar as the present situation in Hong Kong is concerned, assessments must be made in respect of the Hong Kong Alliance in Support of the Patriotic Democratic Movement in China, the Falun Gong, the press and also many people, including us, the democrats. Nevertheless, the Government has not carried out the least bit of work in this area.

Moreover, the code of practice also stipulates that the consultation document must be as concise as possible and that it should provide information as well as the arguments of the critics. It should give a clear account of the areas in which opposition has been met, in order to make it easy for people to provide input. Madam President, the code of practice also highlights the need to conduct analysis in a careful and open manner, and to give reasons to explain

why some of the opinions are not accepted when publishing the summary of the submissions. Have we done this? No. As the Government has introduced seven offences, it should give a clear account of what opinions have been received in respect of all the seven offences one by one, rather than saying that who in the consultation exercise have expressed support for a Blue Bill and who would go for a White Bill and then kicking off the legislative procedures.

Furthermore, the code of practice of the United Kingdom also says that conclusion must not be drawn on the basis of simple counting. That is to say, no decision must be reached by way of simple counting only. But our Government has even done the counting selectively. Besides, the views of some representative organizations must be given due attention. They have certainly put forward in-depth views and so, the Government should analyse and respond to them. Therefore, since we have conducted so many public consultation exercises, I hope that not only the Security Bureau, but also other Bureaux will make reference to this point.

Finally, I wish to say that there are still views in the community that public opinions have been distorted. Madam President, despite the fact that the consultation period has ended, I received from a citizen today a document which has also been sent to the Secretary. He said that he considered the advertisement recently put up by the Government to publicize the enactment of laws to implement Article 23 of the Basic Law utterly abhorrent. He considered that the advertisement had gone too far in saying that supporting legislation on Article 23 is tantamount to taking out insurance for the state. He said that in most cases, the Government should only put up advertisements on non-controversial issues, such as telling the public not to leave their children at home alone, publicizing the need to maintain slopes, and so on. This person, who called himself a "Hong Kong citizen", said that when the pros and cons of legislation on Article 23 remain greatly controversial and when they are still pending studies and debates by various sectors of the community, the authorities should not use public money, on their own decision, to occupy public airwaves and to produce and broadcast this advertisement which purely serves to whitewash the Government's position and legislative intent, in an effort to brainwash the public. Madam President, I hope that the Secretary will really pay heed to the views of the people. This citizen was indignant. The Secretary should have received his opinion. I certainly hope that the Government will shelve the enactment of laws on Article 23. I so submit.

MR LAU KONG-WAH (in Cantonese): Madam President, last week, the Democratic Party made proposals consisting of four "notes" in relation to the Budget. Today, I am going to put forward my views, which also consist of four "notes", on the motion of the Democratic Party.

Regarding this motion of condemnation proposed by Mr SIN Chung-kai, I was actually amazed by it at first, for the Secretary had already offered her apology to the community openly at the joint meeting and taken some remedial measures which were not opposed by anyone at the time. In fact, as clearly pointed out by Mr IP Kwok-him earlier on, it is indeed difficult to categorize some of the submissions. I think it is understandable if, out of the 100 000 submissions received, one or two dozens of them were put under a different category. But if we condemn the Government after it has made apologies, I think that does not amount to gentlemanly behaviour.

While the community can have diverse views on the procedures of consultation, their views should be professed by way of civilized discussions. But what we have seen so far are often personal attacks. Criticisms are targeted on the person rather than the issue itself, seemingly with the intention to drag down a government official. Recently, the Secretary has revealed that she had been viciously attacked and that even her daughter has been implicated. This is certainly not agreeable to the general public. These practices, which are not civilized, should be condemned.

Moreover, before the reunification, during the deliberations on the provisions on treason, subversion and sedition in the Crimes Ordinance in 1996, the Democratic Party did not raise any objection. The offence of "possession of seditious publications" was also discussed back then, but the Democratic Party did not raise any objection at all. Nor did they propose the publication of a White Bill prior to the introduction of the legislation. But today, when faced with the same issues, why do they invariably raise objection to everything? Why did they, on the contrary, support everything during the British rule? Such inconsistency and application of double standards show that they are not honest.

The Government has proposed nine amendments and taken on board some of the voices and views of the community, including those of the DAB and also some proposals of the Democratic Party. However, they have not given a response and worse still, they even said sarcastically that the Government had

deliberately put forward harsh proposals so as to drive a hard bargain. When the Government agrees to make amendments, it is said to be "driving a hard bargain"; when it refuses to make amendments, it is said to be despotic and overbearing. Madam President, they are indeed difficult to please. Dr YEUNG Sum even proposes to shelve the legislative procedures, and some democrats have gone so far as to propose a 50-year consultation exercise. I think all these suggestions are grossly ridiculous.

If we look at developments around the world, we can see that some countries are attacking other countries as they please. Now, we are going to enact legislation to protect the security of our own country, but this is still opposed by some people. Are these people trying to protect the interest of their compatriots or the interest of those countries which attack other countries as they please? This is departing farther and farther away from the wish of the Chinese people, which is not rational.

This approach of the Democratic Party, which is not gentlemanly, not civilized, not honest and not rational, is not graceful. I simply cannot accept this motion.

Madam President, recently, I have read an article written by Mr Martin LEE in a magazine, in which the enactment of laws on Article 23 of the Basic Law used to attack the DAB, and elections and votes were also discussed as related issues. After reading this article, the feeling that immediately sprang up in me was this: Is it really the case that the interest in elections and the interest of political parties could override national security and the lives of the people? This is saddening indeed.

Madam President, I have a wish for the future deliberations on the bill. I wish that the officials responsible for taking this piece of legislation forward can continue to listen to different views in a modest manner, and that people who oppose legislation can express their views without having a guilty conscience. We should conduct the deliberations in a rational, stringent and serious manner, and this will ultimately benefit the community. Thank you, Madam President.

MS AUDREY EU (in Cantonese): Madam President, I speak in support of Mr SIN Chung-kai's original motion and Dr YEUNG Sum's amendment.

During the consultation on Article 23 of the Basic Law (Article 23), the Security Bureau received a total of 100 909 submissions, involving as many as 369 912 signatures. Such enthusiastic public response is rarely seen in recent years, evident that members of the public are very concerned about the enactment of laws on Article 23.

In spite of such voluminous inflow of submissions, the Security Bureau managed to finish handling the submissions in just one month's time. In fact, the Compendium of Submissions (Compendium) alone already reflects that the public consultation exercise was conducted in a slipshod manner. Other colleagues have cited many examples, so I will not repeat them here. The only point that I would like to raise is that while the Government has actually admitted and apologized for its mistakes, promising that a supplement to the Compendium would be published, we have yet to see it so far. But today, the Government has tabled this National Security (Legislative Provisions) Bill to the Legislative Council for the First and Second Readings. Madam President, when the Compendium was published, I felt that I had been deceived as I found that in this consultation, the Government had only made a simple classification of the submissions by classifying them into Category A — supportive of legislation to implement Article 23; Category B — opposed to introducing legislation to implement Article 23; and Category C — not identified. If it was perceived well beforehand that the submissions would be classified as simple as Categories A, B and C, why did the Government not conduct a referendum? That the Government has treated such an important and controversial issue in such a hasty manner is outrageous and irresponsible.

Moreover, the classification of submissions into these three categories is fraught with problems. Many people do support legislation in principle for this is stipulated in Article 23, just that they have great reservations about the legislative proposals in the Consultation Document or are even entirely opposed to those proposals, or they do not support the commencement of legislative procedures at the present stage. But according to the Government's classification methodology whereby submissions are classified into categories A, B and C, these people may be considered as supportive of legislation. Mr IP Kwok-him said earlier that the former Chairman of the Hong Kong Bar Association, Mr Alan LEONG, had been wavering in his position. This is, in fact, due to the Government's methodology of classification which is totally unacceptable and misleading.

Furthermore, this methodology had resulted in as many as 4 334 submissions being grouped under the category of position not identified. It is questionable as to whether the Government has considered the views expressed in these submissions. The most laughable thing is that many colleagues who spoke in support of the Government had kept on defending the Government and explaining things out for the Government. They said that the Government could not have made the mistakes on purpose given that the mistakes were so "glaring". Madam President, I think this only shows that the Government has despised and rejected whatever views that it dislikes and considers to be dissenting.

Neither the quality nor the quantity was given weight in this consultation exercise. If quality was considered important, the Government should have set out and analysed the reasons given by the supporters and critics in respect of each legislative proposal. As for quantity, counting the signatures of the people is the most direct way to weigh the level of support and opposition. If this method is adopted, it could be concluded that 222 690 signatures were opposed to introducing legislation to implement Article 23, and the number would far exceed the 136 557 signatures supporting legislation. In analysing the public opinions, the Secretary purposely played down the importance of these submissions in signature form, saying that these submissions did not list out concrete reasons for their opposition. However, she did not conduct any analysis on the other reasons for opposition either. She even went further to say that many of the signatures were duplications and therefore their credibility was open to question. I wonder if the Secretary is an expert in handwritings. Anyhow, her remarks have reflected the Government's disrespect for dissenting views.

On the amendment of Mr Howard YOUNG, whether he has revised the word "regret" to "disappointed" is not my main concern. However, I consider his deletion of the part about commissioning an independent organization to analyse the views expressed by the public most unacceptable. For such an important piece of legislation and such a controversial issue, any responsible government should commission an independent expert to conduct the consultation and an analysis of the submissions. This is a most basic requirement. Mr YOUNG asked earlier whether this would mean that we should be spending two years again as in the case of the short-piling incident. Madam President, I think it will not take us as long as two years, but even though it is going to take us two years, this is still not a good reason to suggest that the

relevant work should be completed hastily in one month or several weeks. Why can the legislative procedures be kicked off when public consultation and analysis of submissions have not yet been concluded?

Madam President, finally, I wish to speak on national security, as many colleagues have remarked that the protection of national security must be supported. Meanwhile, we also see extensive publicity launched by the Government on the need to take out insurance for the state. Madam President, what does it mean by taking out insurance for the state? In fact, if we look at the Blue Bill introduced by the Government for First Reading today, we will see that the state has turned into the Government and that national security has actually turned into the stability of the rule by the Government. So, when it comes to taking out insurance, who will enjoy protection? Now, legislation will be enacted to implement Article 23 and, particularly, insofar as the most typical political offences of subversion and sedition are concerned, the laws to be enacted under Article 23 will serve as a means of the Government to suppress dissidents or dissenting voices. However good we think this Government or the incumbent Government is, no one can guarantee that there will never be a bad government in Hong Kong or all future governments in Hong Kong will certainly be good. When Hong Kong is still different from other democratic countries in that we cannot advocate a change of government or its stepping down by way of election or legitimate means, for whose protection the insurance is taken out in enacting legislation on Article 23? Madam President, I hope that Members, in considering this issue of national security and when making such comments as the people would be plunged into misery and suffering, will come to see that enacting legislation under Article 23 is meant to introduce some political offences to suppress dissenting views and voices. The issue of enacting legislation on Article 23 should be considered on this premise. Thank you, Madam President.

MR HENRY WU (in Cantonese): Madam President, I support Mr Howard YOUNG's amendment and urge the authorities to rectify the inaccuracies and omissions in the Compendium of Submissions (Compendium) as soon as possible. In fact, I think the inaccuracies and omissions made in the process of compiling the Compendium are just minor ones. So, theoretically, it is still justifiable for me not to support even Mr Howard YOUNG's amendment which expresses "disappointment". But as the Government is willing to admit and rectify its mistakes, I think it is no big deal to express disappointment at a government

which is willing to shoulder responsibilities for its performance in this incident. On the contrary, this can serve as a warning to government departments and make them learn a lesson, so that when handling similar tasks in the future, particularly when handling the technicalities, they can be more vigilant and work positively to make improvement, thereby enabling work to be carried out more smoothly and satisfactorily.

Madam President, while I am somehow disappointed with the mistakes made in the course of the compilation of the Compendium, I absolutely will not go so far as to use the word "condemn". In fact, the authorities have managed to collate over 100 000 submissions from all quarters of the community in only about one month's time. This is indeed no small feat and we should actually consider whether the authorities deserve some commendation. Even if they do not deserve any commendation because of some minor defects, we can only express disappointment at most. Condemnation is definitely unwarranted.

Although the authorities have made some minor mistakes in the classification of submissions during the compilation of the Compendium, those are minor technical mistakes which have not substantially affected the overall consultation exercise, and it is believed that the results published basically would not have been very much different from the actual results. Moreover, after discovering the inaccuracies and omissions, the authorities have expeditiously given explanation and offered apologies to the public, and they have taken steps immediately to rectify the mistakes. Such prompt response is indicative of the transparency of the consultation exercise and the authorities' sincerity as well as their responsible and serious attitude in handling this issue. Since the authorities have adopted the positive attitude expected of all government departments of admitting mistakes and promptly making rectifications, coupled with the fact that the rectified results basically do not differ much from the original results, my principle of supporting the early completion of legislation on Article 23 of the Basic Law and my expectation for its early completion remain unchanged.

Madam President, the Government is duty-bound to exert itself to safeguard national and regional security, with a view to protecting the lives and property of the people from threats. The sooner the completion of the legislative procedures for national security, the more it will be in the overall interest of Hong Kong people, and these legislative procedures should not be delayed or impeded. Therefore, I cannot support the amendment which calls on

the authorities to shelve the legislative procedures. On the contrary, I urge the authorities to complete the legislative procedures on the National Security (Legislative Provisions) Bill as soon as possible, in order to ensure that the people can be given comprehensive protection under a complete legislation on national security.

Madam President, I so submit.

MR LEUNG FU-WAH (in Cantonese): Madam President, the Government published the Consultation Document on Proposals to Implement Article 23 of the Basic Law on 24 September last year to launch a three-month consultation exercise. As at 24 December, a total of close to 100 000 submissions were received. This shows that the general public as well as people overseas are very concerned about this legislation. Subsequently, the Security Bureau completed the classification of the 100 000 submissions and compiled a compendium in one month and four days, informing the public of the results of the consultation. However, this has aroused dissatisfaction from some people and organizations. They are dissatisfied that the Government has classified their submissions under the category of "not identified", for they consider that the stance espoused in their submissions is categorical. Examples are the submissions from the Democratic Party and the Hong Kong Bar Association (the Bar Association). They are also dissatisfied that the Government has not incorporated the verbal opinions of some organizations into the Compendium of Submissions (Compendium).

The authorities have classified the submissions into three categories, namely, "supportive", "opposed" and "not identified". Some people criticized this methodology of classification of being oversimplified, whereas some said that it will lead to division in society. But if only we can take a look at the submissions, we will note that many of them did express their views using such words as "agree", "support" and "oppose" in black and white, which cannot possibly be replaced by other words. Moreover, most of the 90 000-odd submissions with names, identity card numbers and addresses provided also expressed this type of opinion. It is sensible and reasonable for the authorities to use the mainstream views as the basis for classification. Certainly, we cannot deny that there were indeed cases in which the authorities had classified the submissions wrongly. But if we assert on this ground that the Government has made this a big laughing stock and that the Government has distorted public

opinion in a bid to create the history that many people support the legislation, then these remarks are not only oblivious to the reality, but also an insult to the intelligence of the people. If it is really the intention of the Government to distort public opinions in order to create the history that many people are supportive of the legislation, then the Government is downright stupid, because as the Democratic Party has said, if one intends to distort public opinions, he should have done so thoroughly. However, the Government has even classified the submissions of some organizations in support of the legislation under the category of "not identified". For example, the submissions from the Hong Kong Island Federation as mentioned by Mr IP Kwok-him earlier, and the East Kowloon executive committee of the Hong Kong Union of Chinese Workers in Western Style Employment, an organization affiliated to us, are also grouped under the category of "not identified".

When their submissions are classified as "not identified", can they therefore simply put the blame on other people? Did these organizations and groups clearly express their views on the enactment of laws under Article 23 of the Basic Law (Article 23) in their submissions to the Government? I am afraid that in some cases, the problem is caused by the ambiguous attitude of not stating in unequivocal terms whether they support or oppose the legislation.

Take the submission of the Bar Association as an example. Although its submission stated that in most areas, the existing laws of the Government of the Hong Kong Special Administrative Region (SAR) are sufficient to prohibit such acts as treason or sedition and there is no need to enact additional laws, the Bar Association also stated that if legislation is to be enacted, pure expression of opinion should not be criminalized and proposed that for all offences under Article 23, the consent of the Secretary for Justice for any prosecution should be obtained in future. Judging from the contents of its submission, while the stance of the Bar Association cannot be considered as supportive of the legislation on Article 23, there is still no ground for us to conclude that the Bar Association is firmly opposed to legislation. Given this ambiguity in the stance of the Bar Association, no wonder the authorities have classified its submission under this category.

Madam President, I have with me a full version of the submission by the Bar Association, and I would like to quote a few lines from it. In paragraph 10 on the second page, it is stated that "The Bar has no objection to any proposal which seeks to put existing laws dealing with the matters listed on Article 23 in a

systematic way". In paragraph 14 on the third page, it says, "Any drafting under Article 23 must be unambiguous, drawn narrowly and with precision." In paragraph 56 on page 13, it says, "If it is considered that an offence should be enacted to outlaw subversion, the Bar submits that anything short of actual violence or acts which induces actual violence should not be considered as an offence." In the conclusion part of the Bar Association's submission, that is, in paragraph 65, it is stated that "Legislation under Article 23 may provide the SAR Government with a good opportunity to conduct an extensive overhaul of the existing laws on the matters". Then in paragraph 66, it says that the new legislation must conform to standards of the two international conventions as provided for in Article 39 of the Basic Law. From these lines quoted by me, we cannot conclude as to whether the Bar Association supports or opposes the enactment of legislation.

Madam President, the world is changing dramatically. A war between the United States and Iraq is heating up. No matter what the result will be, the world order is likely to undergo another major reconsolidation since World War II. How can our country stay aloof from all this? People who have a discerning eye will know that China has become one of the key forces checking the influence of the United States in Asia and plays a pivotal role in rewriting the world order. The threats to national security that may arise from and associate with this development do give cause for concern. It is true to say that these are matters of world and state diplomacy. But it absolutely does not mean that they have nothing to do with this SAR of ours. Irrespective of what passports Members present here are holding, and despite the fact that they may still be uncertain about their identities, we, being here in this SAR which is a member of our country, are absolutely duty-bound to shoulder the responsibility required of every national of preventing national security from being threatened. Therefore, on the amendment of Dr YEUNG Sum, Chairman of the Democratic Party, which proposes to "shelve the continuation of the legislative procedures for the National Security (Legislative Provisions) Bill" on the ground that the authorities have handled the submissions of the people and organizations in a slipshod and incomplete manner, the wording of the amendment simply does not make sense. More importantly, Dr YEUNG Sum has completely disregarded the fact that the Government has earnestly accepted the views of various sectors of the community after the consultation exercise by proposing nine important amendments to address the concerns of the political and business sectors, the academia, the press and overseas communities in various areas, and given clear responses in respect of specific legal provisions. That he has proposed the

shelving of legislation so rashly only gives the impression (and actually highlights) that the Democratic Party takes a perfunctory attitude towards the duty required of all nationals to protect national security.

Madam President, no legislation in the world can be perfect and flawless. Being members of the legislature, we should strive for a piece of legislation that can afford the best protection to public interest. When the Government published the Consultation Document last year, the democrats as well as some members from the religious sector and legal profession cried out loudly that "the devil is in the details", demanding the Government to publish a White Bill for they wanted to see the legal provisions. After the publication of the Compendium in respect of legislation on Article 23 by the Government last month, the Democratic Party again criticized the Compendium of having "distorted the opinion of the people and organizations", demanding the Government to commission an independent organization to compile another compendium. The Government published the Blue Bill last week and took on board public opinion by introducing amendments to many proposals which had aroused concern. But Dr YEUNG Sum is proposing the shelving of the legislative procedures. What they have done is entirely meant to cause delays to the making of legislation to implement Article 23. Now that they are asking for the termination of legislative procedures on such an important piece of legislation concerning national security because the Compendium is compiled in a "slipshod" manner, this unjustifiable concept of putting the cart before the horse.....

Madam President, I oppose the amendment.

MRS SELINA CHOW (in Cantonese): Madam President, Ms Audrey EU said earlier that the purpose of enacting laws on Article 23 of the Basic Law (Article 23) was to deal a blow to the dissidents. Certainly, many people who oppose this legislation will subscribe to this view, for they may consider themselves as dissidents. No wonder they have been so resolute in opposing legislation on Article 23. To call a spade a spade, it is because they hold that legislation on Article 23 must not be made and they will exert themselves to oppose it, come what may. Since this is their established position, they will exhaust all means to block or delay legislation on Article 23, including this motion today and Dr YEUNG Sum's amendment. In fact, it is clear that this is the objective that they wish to achieve.

The amendment proposed by the Liberal Party is consistent with our attitude towards legislation on Article 23. That is, we aim to find out whether the Government has really committed mistakes in handling the submissions received during the consultation with an objective attitude and a cool head. So, Mr Howard YOUNG's amendment to Mr SIN Chung-kai's motion is proposed purely out of good intention. We proposed the amendment on the assumption that Mr SIN Chung-kai's motion has no ulterior purpose or an axe to grind. But Dr YEUNG Sum is very honest. He considers that the motion is not clear enough and so, he adds "a tail" to it, explaining why they are doing this. In fact, we know only too well what this is all about.

If, as alleged by Mr SIN Chung-kai, the Government has made mistakes, the Democratic Party is absolutely at liberty to suggest that the authorities be condemned and express regret at this. This is a matter of the perceived gravity of the problem, as different political parties and different Members will have different reactions or attitude in dealing with these mistakes. The Liberal Party does agree that some mistakes were made, and the Secretary has already apologized for them. Such being the case, how should we react? We should require the authorities to rectify the mistakes. This is what they should be doing, and this is what this Council should be doing too. If these are administrative mistakes or mistakes that have to do with compilation and yet, if we insist on ascribing this to conspiracy and seize every opportunity to wrong the authorities, then we must ask whether this is necessary. In our view, this is not something that we should do.

I think it is most important that we must not allow ourselves to be led astray by some remarks, thinking that those mistakes were made in the Compendium of Submissions because the Government had refused to listen to public opinions. The only proof as to whether the Government has listened to public opinions is to examine whether it has made any improvement after the consultation. Only this is the best way to ascertain whether the Government has taken on board different major opinions. Certainly, no one would be entirely satisfied disregarding what opinions are accepted by the Government. I trust that every political party and even every individual may consider that there is still room for improvement. Doubtless, this will be the job of this Council after the introduction of the Blue Bill to the Legislative Council.

I am not sure whether it is in this morning or the morning yesterday when I heard the remarks of the Chairman of the Hong Kong Bar Association.

Obviously, the Chairman of the Bar Association also considered that many improvements have been made by the Government after the consultation exercise. The Bar Association is now concerned about four areas only, and the Liberal Party also agrees with some of the concerns raised by them. We hope that during the deliberations of the Blue Bill, we can make the Government listen to as many of our voices as possible, so that improvements can be made as far as possible. In fact, the objective that we wish to achieve is to truly protect national security through legislation, rather than using legislation to deal a blow to the dissidents, so to speak. It is because Hong Kong is a free place where many people hold different opinions and in particular, they hold opinions that are different from the Government. This territory must be able to accommodate these opinions, and we must not allow these opinions to be suppressed by our laws. This is our duty. It is wrong to think that anything about protecting national security is meant to suppress views different from that of the Government. I think if we draw an equal sign between them, it would be unnecessary to hold any further discussions, and it would be unnecessary to further consider introducing legislation for this purpose. It is because if we do hold this view, then whatever we say, or whatever changes made, whatever discussions held or whatever improvements made to the provisions would actually be meaningless.

I must say that I am a bit puzzled now. We know that there are lots of views in the community, and people have been putting forward many different opinions and questioning the Government's proposals time and again. But having listened to these views, we found that their queries revolve around a couple of issues only, such as secret trial, state secrets, and so on. On these issues, we must examine them very carefully. But is it true that there are now far less queries about other issues? We should focus on the reality in our work, rather than only thinking about ways to suppress the legislative procedures in relation to Article 23.

MR CHEUNG MAN-KWONG (in Cantonese): Madam President, on behalf of the Democratic Party, I would like to respond to the views of a number of Members.

First of all, I wish to respond to Mr Howard YOUNG's amendment. Mr Howard YOUNG has made the point that Mr SIN Chung-kai's motion today is like a child looking for excuses of not going to school. Why? It is because no

matter how the Government has classified the opinion of the Democratic Party, the Democratic Party will respond by opposing legislation on Article 23 of the Basic Law anyway. He is right. The Democratic Party opposes the enactment of laws to implement Article 23 now. This is a position firmly held by the Democratic Party, and there is no reason for us not to admit this. We have also stated that in order to put up opposition against it, we will make an all-out effort to debilitate, expose, attack, oppose and burn Article 23, and we will exhaust all legitimate means to this end. For instance, we walked out of this Chamber this afternoon in protest of the legislation; we burnt an imitation green paper this afternoon; we joined a candlelight assembly last night with over 1 000 participants; we moved this motion tonight to expose this bogus consultation on Article 23. We have only one objective for all of these initiatives and that is, to debilitate, expose, attack, oppose and (most preferably) burn Article 23 mercilessly. It is because we take a negative stand against making legislation to implement Article 23 now. Since we are against it, we will work unreservedly and seize every opportunity to fight for this cause by, among other things, moving this very insignificant motion tonight.

Besides, I also wish to respond to Mr IP Kwok-him. He said that Mr SIN Chung-kai's motion was meant to escalate the issue to a higher plane of principle. My friends here, and citizens of Hong Kong who hear my voice, what else is there that has escalated the issue to a higher plane of principle as brazenly as Article 23? What else is there that has unduly stirred up more troubles than Article 23? Article 23 is a Hong Kong version of China's National Security Law, and it serves to extend China's despotic national security concept to Hong Kong. It has been over 50 years now. The history of the past 50 years or so clearly tells us that politically, it has been an established practice in China that the country is ruled by the Communist Party. This is even written in the Constitution as one of the four cardinal principles, and it has always been the case that the Communist Party takes precedence before the country itself. The so-called national security actually means the security of the Communist Party behind the country, rather than the security of the people. Over the past 50 years, has there been a time when the freedoms of the people are secure? Has there been a time when their human rights are secure? Has there been a time when even their lives are secure? So, the enactment of laws on Article 23 will only protect a country ruled by the Communist Party, a country with a history of over 50 years of suppression of its people, thus enabling this country to deprive the people of their freedoms and security by a legitimate and safe means. This

is the fundamental purpose of making this piece of legislation. All people who study Chinese history do know about this.

According to a television advertisement put up by the Government, enacting legislation in respect of Article 23 is to take out insurance for the country. This is nonsense, a gross contamination of the airwaves. The country takes out insurance for itself at the expense of the freedoms of its people, and it has taken out insurance for itself by putting its people in danger for 50 years. Does Hong Kong need such insurance? Given the existing undemocratic political system in Hong Kong, I do not consider it worthwhile to take out insurance for the country and the Communist Party behind the country at the expense of freedoms and then allowing them to suppress the people safely and legitimately.

Mr LAU Kong-wah stated four "nots" earlier. He said that the Democratic Party was "not honest", "not civilized", "not gentlemanly" and "not rational", and he concluded that the Democratic Party was "not graceful". I also would like to state four "nots": The Democratic Party will not be a pawn for the draconian law; it will not be a pro-government party; it will not be a disguise for the Government to cover up the shame of dictatorship; and it will not be a traitor to the rule of law. Regarding Mr LAU Kong-wah's comment that the Democratic Party is "not graceful", I would respond to it also with a "not" and that is, Mr LAU Kong-wah's four "nots" *vis-a-vis* what they have done to support the introduction of legislation on Article 23 today are actually "not anything short of gibberish".

Thank you, Madam President.

MS CYD HO (in Cantonese): Madam President, the consultation on the enactment of laws to implement Article 23 of the Basic Law (Article 23) began on a high note with contents so complicated that not even the legal profession could understand, but ended on a simple classification of the submissions into categories A, B and C. No wonder many members of the public feel that they have been cheated. Indeed, we have been asking the Secretary again and again what criteria would be adopted for gauging public opinions. But judging from the methodology used for conducting the analysis as announced by the Government, there is neither quality nor quantity to speak of. In respect of

quantity, although 175 800 signatures were listed out, 67.5% of the opposition view were not given due attention. Why do I say so? It is because despite the fact that some 67% of the submissions had indicated opposition, the Government still did not spend more time on the analysis to respond to the concerns of more than 200 000 people and instead, a Blue Bill was introduced in less than two months' time. In respect of quality, the Government did not classify the submissions from all sectors of the community by further breaking down the submissions under each category into supportive views, opposition views, responses to government proposals, reservations, and so on. The Government has not carried out the least bit of work in this area and so, there is neither quality nor quantity to speak of.

Mr Ambrose LAU said earlier that even if more money was spent on commissioning an independent organization to conduct an analysis of the Compendium of Submissions (Compendium), it would only be a waste of public money. I do share his view to some extent. If we only conduct the analysis, and if we only apologize for mistakes, and if we only classify the submissions, but if the opinions obtained from the consultation will not be reflected in the speed, contents and scope of legislation, then we would indeed be throwing public money down the drain. But if it is said that we must be thrifty, then I think we must be thrifty to the letter of the word. If it is stated from the outset that consideration would not be given to the results of the consultation, then even the consultation should not be conducted in the first place. In the guidelines for the drafting of legislation issued by the Department of Justice, consultation is also not stipulated as a must. It is only stated that if consultation has to be conducted, then it must go through certain procedures. Indeed, there have been many cases before in which consultation was not conducted prior to the enactment of a bill into law. However, the Secretary said during the consultation period that she did not wish to see that the Bill was forced through the Legislative Council by a majority vote, for she hoped that the Bill would command support from the community. Then why has this matter developed to a state as nasty as such?

I wish to ask the Secretary a question and I hope she will respond to it later. Insofar as this consultation is concerned, how much of our money was spent on this Compendium, an area of work which is not reflected in the legislative procedures or the contents of the Bill? If what has been done is putting makeup on a deceased person, then this "makeup" is very expensive indeed.

I would also like to respond to Mr Howard YOUNG's amendment. He said that some Members were "looking for bones in an egg". When it comes to the making of legislation, we certainly must pick up any bone in an egg, for a "bone" in the legislation will cause people to be "choked to death". Members from different parties have also tried very hard to look for bones in other bills. If not, it would be unnecessary to form Bills Committees to scrutinize the bills. Why should we slacken our efforts this time around to the neglect of the security of the people? Mr Howard YOUNG said earlier that opposition views are welcome. We already put forward our views last week, in proposing that studies of constitutional reforms be conducted in the furtherance of democracy. That is a way to protect the security of the people. However, the Liberal Party opposed this. They even opposed that studies be conducted. On the one hand, they are helping to push the people to the brink of a cliff and on the other hand, they do not even let the people put on a safety belt, thus making the people stand at a very dangerous place.

Moreover, I wish to speak on the recent publicity on television which draws an analogy with insurance. This type of soft-selling is actually no better than the Government intimidating the public some months ago about the damages that would be done to Hong Kong if we failed to enact laws on our own, for the Central Authorities would then enact such laws for Hong Kong. However, there is also another Announcement of Public Interest (API) by the Government, telling the people not to take out insurance rashly in order to be smart consumers. In that API, an insurance agent was going after a citizen, persuading him to put down his signature. But the citizen said that he must read clearly all the terms in the policy before he could decide whether or not to take out the policy and that the insurance agent could not ask him to sign rashly before he had read the details clearly. This is precisely the reason why members of the public are demanding the Government to introduce a White Bill. With regard to this national insurance policy, is it meant to protect the security of the people through the security of the state, or is the premium paid by sacrificing the security of the people in order to ensure the security of the ruling regime? The latter is certainly our worry. If we ask the people to take out insurance, then I must remind the people that firstly, they must take out the insurance only with their consent and when they have read the terms clearly. Secondly, they must see clearly how much the premium is. They must not let the Government arrange for the payment of premium by autopay because in that case, they would not even know that money is taken out from their assets every month. They must be careful with this. Thirdly, they must see clearly whether the agent has taken

advantage of the policy by drawing a hefty commission from it. For things that we are not empowered to do under Article 23, such as the provision on subordination of a local organization to a mainland organization, why should this be also incorporated into the Bill? Why has the Government seized the opportunity to expand its powers? Fourthly, they must make sure whether there is a cooling-off period. For some insurance policies, no signature is initially required so as to offer a trial period of two months, and one could simply revert the policy if he does not like it. But now, our situation is irreversible. Fifthly, are there other forms of insurance to protect the security of the people? For instance, do we have in place a democratic constitutional system and independent human rights commissions for risk hedging purposes? The answer is in the negative.

Madam President, in using the concept of insurance to expound my views on national security, I intended to be dramatic, exaggerated and unjustified in response to the dramatic, exaggerated and unjustified arguments put up by the Government. Today, in a financial newspaper there is a more impartial commentary written by a member of the advertising sector. He said that if that API was presented by arguing or reasoning on the basis of facts, or on the principle that the more the truth is debated, the clearer it becomes, it would not serve its purpose and it would be all the more difficult for its arguments to sound convincing, for the issues involved are cardinal questions of right and wrong. When it comes to the freedom of speech and closed-door trials, it is absolutely not easy to obtain an unanimous agreement in the press. This API is clever in that it puts aside the question of who is right and who is wrong, and uses a magnified common consensus to produce a leverage effect. Madam President, it cannot be clearer that the conclusion so drawn shows the Government's neglect of right and wrong, thinking only about achieving the objective of enacting legislation. Today, I am pursuing a very simple attitude in life — honesty. So, I support Dr YEUNG Sum's amendment, and I hope that an independent organization can be commissioned to conduct an objective analysis for us.

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

MR MARTIN LEE (in Cantonese): Madam President, opponents of the proposal of enacting legislation under Article 23 of the Basic Law can be classified as follows: people thinking that Article 23 should be amended; people

considering it unnecessary to legislate at this moment; people thinking that the public should first be genuinely consulted by way of a White Bill, which means that consultation should be conducted by way of a White Bill first; and people opposing the Government's proposed enactment on the grounds that the public has not been genuinely consulted by way of a White Bill or, in other words, people opposing to the proposals or many of the proposals raised by the Government.

Such an inadvertent blunder could have been avoided had Mr IP Kwok-him and government officials known this classification. They are still thinking that they have done an excellent job. The same is true of the Secretary for Security. According to her logic, we have to support the Government's legislative proposals if we agree national security must be protected. By the same logic, it is like asking Members this question: Do you support your mother? Of course, we do support our mother. This answer can then be extended to imply that we support the Government's proposal because the Government should be treated as our mother. This is downright illogical.

According to Mr LAU Kong-wah, the Democratic Party has no reasons to condemn the Secretary since she had already admitted her mistakes, and it was not gentlemanly for the Democratic Party to have done so. Actually, why do we have to condemn the Government. Precisely, it is because it has failed to conduct a genuine consultation, and it has neglected public opinion. Moreover, it is reluctant to issue a White Bill and, instead, it is trying to push the legislation through. All this we must condemn. However, many royalists have behaved very strangely. On the one hand, they have criticized the Hong Kong Bar Association of not making its position clear. Yet, they should have known that the Secretary has already tendered her apologies. In other words, the Secretary has admitted her mistakes. Nonetheless, some royalists are still protecting her. This is most absurd.

Then Mr LAU Kong-wah directed his accusation at me. I was indeed very pleased to learn that he had read an article written by me in *Next Magazine*, though he merely quoted the last paragraph in questioning me if I considered the interest of my political party more important than national security and the people's lives. This accusation is very serious indeed. Each time after listening to Mr LAU's speech, I would describe it as "forever" unforgettable. I was really very lucky that he had quitted the United Democrats of Hong Kong when I was elected its chairman.

The article, in which reference was made to the strong opposition from the Democratic Alliance for Betterment of Hong Kong (DAB) to the issue of a White Bill, was very simple in content. Though it was widely opined that the Government should accede to the people's suggestions and issue a White Bill, the DAB objected to this. Why? This is because the DAB was afraid of the imminent elections. Should the legislative exercise fail to be completed swiftly before late July, the DAB will suffer. It will suffer even more when the Legislative Council elections are held next year. Taking no notice of "one country, two systems", the DAB, merely concerned with its own political interest, considers its interest more important than social unity and the human rights and freedoms enjoyed by the people of Hong Kong. Under such circumstances, the public must not let the DAB "get away". The public must bear this in mind when casting their votes in the elections. What the DAB has done is purely in the interest of the elections. The public must bear this mind when casting their votes in the elections. The truth is we certainly do not have no regard for national security and the people's lives.

Some people have also advanced some very interesting arguments, with someone suddenly referring to the United States' attack on Iraq. We certainly do not agree to this war, particularly when the war is to be launched without the support of the United Nations. I wonder if the speaker was implying a possible attack on China by the United States should we fail to enact the legislation. To me, these remarks sound baffling.

Madam President, our opinions are absolutely clear — only that some people are reluctant to really understand what we mean. Mr CHEUNG Man-kwong — our Mr "No" — is terrific. There were four "nos" in his response today and there was another "no" at the end. The masses have sharp eyes. They know it all too well what is wrong. Frankly speaking, the Blue Bill proposed by the Government has seen some improvement. However, that does not mean the Bill is perfect. In general, there are still a lot of inadequacies. It is for this reason that we oppose the Bill. It is as simple as that. We will give our support only when everything is properly done. Actually, the Hong Kong Bar Association has commented a long time ago that it is perfectly possible for the Government to enact legislation by way of a bill. This implies that it is possible to legislate under Article 23 without putting our freedoms and human rights in jeopardy.

When it comes to the provision on "proscription of organizations", I do not consider it essential. The relationship between Hong Kong and China was a matter of grave concern to us when I was a member of the Basic Law Drafting Committee. If the Central Authorities proposed to possess a certain power, we had to consider whether the Joint Declaration would be violated as a result. If the power was deemed necessary despite violating the Joint Declaration, we would demand that the request be put down in writing if no other alternatives were available. Madam President, Article 19 of the Basic Law is a case in point. The relevant provision is about national security and facts about national acts — strictly speaking, "acts of state" and "facts of state" are two separate issues but they were mixed up and turned into "facts about acts of state" — and it was suggested that supporting documents would be required. I commented at that time that this was acceptable, provided a clause on written request for certification was written into the Basic Law, and it was subsequently put on record. I also insisted in my response to a proposal raised in relation to Article 18 of the Basic Law to apply national laws that it must be put down in writing should national laws be applied. This explains why all national laws to be applied in Hong Kong are listed in Annex III. The relationship between the Central Authorities and the Hong Kong Special Administrative Region (SAR) is clearly set out in Chapter II, with all the powers required in reservation by the Central Authorities being put down in writing. This is different from the current approach with respect to the exercise of such powers to issue supporting documents and the like. The current approach, not explicitly stated, has actually violated all the provisions in Chapter II of the Basic Law. Neither has Article 23 stated that a certain organization proscribed in China should likewise be proscribed in Hong Kong. It is merely stated that political organizations or bodies of the SAR are prohibited from establishing ties with foreign political organizations or bodies. Therefore, this is the eighth sin, not the seventh sin. We must oppose it.

For the reasons mentioned above, I think I can generalize that the Government's proposal is still full of flaws. So, why can we not oppose it? I think Members of this Council should vote against it too. Thank you, Madam President.

MR MICHAEL MAK (in Cantonese): Madam President, a Consultation Document was issued by the Security Bureau earlier to consult the public on the

proposal of legislation under Article 23 of the Basic Law (Article 23). I think the objective of the Consultation Document is very clear, that the Government wishes to listen to the voices of the general public.

Although a referendum is unlikely, I think it is still necessary for the Government to collect data and information in a comprehensive manner should it wish to solicit the views of the majority of the public as far as possible. In my opinion, most people do not support or agree to the legislation. I find it extremely regrettable that the Compendium of Submissions (the Compendium) is riddled with mistakes and utterly unprofessional. Even though I am not professional, I appreciate the speech delivered by Dr David LI very much. Let me repeat his remarks, though I am sure I cannot reproduce his charm: "I have no idea what Regina IP was trying to do. Yet I feel that she has behaved in an unprofessional manner. This Regina IP rang up bankers, asking them if they had really expressed their views to me. I am very unhappy about this" I think the story did not end here. My colleague, Dr LI, is highly professional. He can see that Secretary IP is utterly unprofessional, for she did not believe he was trying to reflect the views he had gathered. Although the Secretary stated that the Compendium was compiled by Administrative Officers and Executive Officers responsible for the task, I can simply not see her sense and direction in questioning the views expressed by the relevant people? How can her subordinates work according to her instructions?

The Compendium is indeed riddled with mistakes. From the experience gained by me in management for so many years, we should be pursuing quality. But what does quality mean? How can quality assurance be achieved? In brief, it means zero defect. How can I tell whether the Secretary has zero defect? When the Consultation Document was initially published, there was no way I could tell what sort of classification she was expecting from us. Neither did she propose to categorize the collected views into categories A, B and C, as what she has done now.

I do not support the Article 23 legislation, nor do I consider it necessary to see a White Bill. This is because I once asked Secretary IP and relevant officials of the reasons for enactment at this stage. I also requested Secretary IP to give me 10 reasons — I meant 10 indicators — for enactment at this moment. I have conducted an opinion poll among the electors in my constituency. Not only was the poll conducted in an extremely fair and equitable manner, the electors were allowed to remain anonymous as well. According to the findings,

80% of the voters do not support the Article 23 legislation. In their opinion, this legislation will affect democracy, freedom, and expression of opinions and will also lead to conviction simply by one's expression of opinions. In particular, they are very often required to liaise with certain foreign organizations (though they are mostly academic organizations) and converse with their clients (patients) to understand their situation. It is not at all surprising that political subjects might come into their conversations, and conviction simply by one's expression of opinions can thus be possible. As such, they are extremely worried. Though 20% of these electors consider it necessary to enact laws on Article 23, they do not insist that this must be done and that this should be done at this stage.

Furthermore, I consider it a great shame that "secret trials" and "conviction in absentia", though not mentioned in the Consultation Document at all, have appeared in the Blue Bill. I was so shocked that I nearly blacked out on the spot. How can this be allowed to happen in a democratic country? This is really a big retrogression.

I also feel quite ashamed after hearing the speeches delivered by two Honourable Members earlier. According to one of them, it is impossible for us to enact a perfect piece of legislation. However, our role as legislators is to strive for perfection. At least, flawed or problematic provisions must be mended. We can indeed consider ourselves a tailor who is responsible for making law. As a good tailor, we must not make split-pants. So, can we accept conviction simply by one's expression of opinions? If we do, how can the next generation cope? As such, I hope the relevant Members or Members supporting this proposal made by the Government — I bet he will certainly lend his support for his fever for this legislative proposal has shot up to 40 degrees — to consider this carefully. To me, it is an absolute shame and regret for someone to have insisted that this piece of legislation, which is going to cause such profound impact on our next generation and Hong Kong as a world-class city, be handled from this perspective and with this attitude. Should the legislation be enacted, no one can possibly escape from the long arm of this law.

Some Members have also criticized the bizarre signatures in the Compendium. I guess there is nothing unusual for signatures to look weird. No one can read my signature. I took out a banknote a moment ago and tried to read the signatures on it. I could not figure out the Managing Director who signed this \$20 note. Actually, this signature looks nice — Antony LEUNG has

only put down his name, not his signature. Signatures always look weird, do they? They are simply illegible. How can one reject the views expressed by certain people because their signatures look weird and refuse to incorporate their views into the Compendium for this reason alone? How can Honourable Members and the public accept this Compendium which has been compiled in such a slipshod and unprofessional manner?

Thank you, Madam President.

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

MR LEE CHEUK-YAN (in Cantonese): Madam President, the slogan "draconian laws by Chief Executive and bogus consultation by Regina IP" has been chanted throughout the dispute over the enactment of laws on Article 23 of the Basic Law (Article 23). The handling of the Compendium this time does prove one thing, that the consultation was bogus. The Government has given the public a very clear message that it is trying to hard-sell its established position to the public in a greatly distorted manner. The Hong Kong Bar Association, the Democratic Party and the Hong Kong Journalists Association have all been classified as having an unidentifiable position. I would like to mention an organization in particular because it has specially written me a letter to express its hope that the Secretary can make corrections because its position is not at all unidentifiable. The organization I am talking about is the International Confederation of Free Trade Unions, a labour organization representing some 100 million members around the world. In a letter specially addressed to me, it asked me why it had been categorized as "not identified" because it had made its opposition very clear. I know it has written to the Secretary as well. I hope the Secretary can rectify the errors.

As mentioned by me earlier, the positions of some organizations were mistakenly categorized as being "not identified". The Hong Kong Confederation of Trade Unions (CTU) has been even more unfortunate in that its submission has disappeared. I hope the Secretary can crack this mystery of disappearance for me. How could the submission possibly disappear? I have personally handed it to Mr Timothy TONG, but it is now found missing in the Compendium. I only realized after making some enquiries that our views had

to be submitted by fax, by e-mail or by post. I wondered if views submitted by hand were not acceptable. I asked the relevant staff but I was told that views submitted by hand were acceptable. I do not know what has happened so far. Neither do I know where my submission has gone. I hope the Secretary can help me crack this mystery.

Throughout the process, members of the public can only conclude that the entire Compendium is compiled in such a way as to minimize the voices of opposition as far as possible. The 190 000 people who had signed and the 60 000 people who had joined the processions were all treated as if they were transparent. Those who joined the processions were reduced as "sheep". In other words, they were looked down upon as sheep, not as humans, for sheep are unable to think and judge. Is this the intention of the Government? Is the Government trying to belittle the voices of opposition while inflating indefinitely the voices of support, so that we could eventually hear the Secretary say the vast majority of the people support legislation? The entire Compendium was distorted in such a way that the vast majority of the people eventually turned out to be supportive of the legislation. We can thus see that the entire consultation process was a farce in which public opinions were brutally distorted by the Government.

After distorting the public opinions, the Government took its next step by tabling the Blue Bill. However, there are a lot of things we disagree in the Bill. First, a number of Honourable Members, members of the public and organizations have expressed strong opposition to the mechanism for "proscription of organizations". The Government is actually trying to introduce the proscription mechanism adopted on the Mainland into Hong Kong. When an organization is deemed to have put national security at risk or involved acts of subversion, the Mainland can take action to proscribe it. Insofar as the Mainland is concerned, it is very clear that certain comments or acts that fundamentally manifest human rights will be subject to proscription and will in the end be considered as acts endangering national security. If certificates premised on this concept are issued by the Mainland to the Secretary, immediate actions will have to be taken. The Secretary may even request the police to enter premises to conduct searches. This is an apparent attempt to create white terror. The Secretary will eventually be given the proscription power too. In my opinion, this power will very easily lead to abuse by the executive authorities.

We can only "wait and see" for this is what the Secretary wants us to do. However, I am reluctant to do so because I do not want to see a piece of legislation being turned into "a knife hanging over our heads". And then we still have to wait and see if it will hack down on us. Does it make any sense? I do not want to see this happen because I simply do not want this knife to exist. It is totally meaningless for this knife to exist and then we are required to wait and see if it will hack down on us. This piece of law is definitely not what we want.

Second, I have strong opinions about the offence relating to serious unlawful means and serious jeopardizing acts. This offence involves many so-called serious offences. Actually, certain circumstances or situations will easily lead to a sudden loss of control and will possibly lead to loss of control; serious damage to properties or serious interference of electronic systems, essential facilities or systems; and operational failures. All of these can occasionally happen in some uncontrolled processions or assemblies and people involved may even be described as having used violence. There are already a large number of laws, such as the Crimes Ordinance and the Public Order Ordinance (POO), in Hong Kong. The Secretary certainly knows that these laws can already handle many of the offences listed under the serious jeopardizing acts. So why does the Government have to enact one more piece of law to protect national security, bearing in mind the suspect can be sentenced to life imprisonment if he is charged with such offences as subversion and secession?

In my opinion, the enactment of laws to implement Article 23 is tantamount to giving the POO an additional safeguard. The POO has already acted like a protective cover for the existing political regime. Now that the Government is proposing to add another protective cover made of steel. Moreover, this steel cover can at any time be used as an instrument to suppress the people. We definitely do not want to see a law to be enacted and then used as a tool for suppressing people holding opposing views, freedom of speech and freedom of association. It is definitely against our wish to see the Government present in a forced manner the legislation to this Council by way of a Blue Bill and then bulldoze it through under the protection rendered by the royalists.

I think the people of Hong Kong should take to the streets to voice their opposition to the Bill. What this Council can do is very limited. It relies ultimately on the power of the people, who have to take to the streets to voice

their opposition. Otherwise, we will have to wait and see how much freedom would be left for the people of Hong Kong. Thank you, Madam President.

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

(No Member responded)

PRESIDENT (in Cantonese): Mr SIN Chung-kai, you may now speak on the two amendments. You have up to five minutes to speak.

MR SIN CHUNG-KAI (in Cantonese): Madam President, Mr Howard YOUNG's amendment of seeking to change "condemn the authorities" to "expresses disappointment" reflects the extent to which he is dissatisfied with the consultation exercise carried out by the Government. Nonetheless, his view and aspiration are different from ours since he has proposed in his amendment to delete the accusation that the authorities have handled the Compendium in an inequitable manner and distorted public views. Moreover, he has proposed to delete the request for commissioning an independent organization to analyze and summarize the views collected.

We do not support the deletion of the accusation of inequity and distortion because the authorities have evidently distorted public views in an inequitable manner in handling the public views collected in the consultation exercise, and in compiling the Compendium.

In the first place, it is inequitable that only submissions forwarded to the Security Bureau through the three channels mentioned in the Consultation Document were included in the Compendium, whereas submissions published through other channels were disregarded. Unfairness can be seen in the following two cases. First, comments expressed through newspaper editorials, poll findings, articles from the public, and forums are excluded from the Compendium. As a result, there is no way for the public to grasp the views of various sectors of the community on the Consultation Document. Second, the failure of the authorities to make this clear in the Consultation Document or inform the public beforehand in its press conferences is unfair to the public.

Second, in the Consultation Document and press conferences, the authorities made a deliberate attempt to belittle the signature forms through which most public views were expressed and jumped to the conclusion that the majority of the public were supportive of the proposal to legislate by using the quantity of the submissions as the basis for analysis. According to the analysis of Dr Robert CHUNG, Director of the Public Opinion Programme of the University of Hong Kong, the majority, or 67.5%, of the respondents, are supportive of the proposal to legislate if 100 909 submissions are used as the base for computation. However, the majority, or 60.2%, of the respondents oppose the proposal if 369 612 signatures are used as the base instead. As signature forms contain largely opposition views, the authorities alleged the forms of being fraught with irregularities, namely containing signatures signed by the same person, illegible signatures, dubious names, overlapping signatures, and so on. It was even alleged that one of the signature lists generated on-line might have possibly been randomly picked from telephone directories. In order to form the conclusion that the majority of the respondents are supportive of the proposal to legislate, the Government has resorted to the unfair practice of distorting public opinion by omitting the opinions expressed on signature forms.

Third, opinions apparently opposed to the proposal to legislate were put under the "not identified" category. Examples are submissions from the Hong Kong Bar Association, Article 23 Concern Group, the Democratic Party, and so on. Even the opposing submission from Prof Frances D'SOUZA, draftsman of the Johannesburg Principles, was excluded from the Compendium as supplementary information. This is unfair too.

Fourth, the authorities have neither indicated in the Consultation Document nor during the consultation period that public views on the issue of a Blue Bill or a White Bill will be sought. However, these views were subsequently counted separately in the Compendium for statistical purposes. Moreover, the proposal of tabling a White Bill was rejected on the grounds that most members of the public had not indicated their preference on the issue of a Blue Bill or a White Bill. This is unfair and a distortion of public opinions. In the absence of a proposal of issuing a Blue Bill or a White Bill, if the figures of "preference not indicated" are excluded, we will find that the majority of the submissions, originated locally or from places outside Hong Kong, actually demanded the tabling of a White Bill — with more than half, or 50.3%, of all the local submissions demanding the issue of a White Bill, whereas the number of

overseas submissions demanding a White Bill is 100%. There is not a single submission demanding a Blue Bill.

Fifth, it is totally unfair and unreasonable for the authorities to have attributed the overwhelming opposition in overseas submissions to fears about Article 23 of the Basic Law among people living outside Hong Kong because of the influence of newspapers. I support Dr YEUNG Sum's amendment, so I would like to urge Honourable colleagues to support Dr YEUNG's amendment and vote against Mr Howard YOUNG's amendment. I so submit.

SECRETARY FOR SECURITY (in Cantonese): To start with, Madam President, I would like to sincerely thank the Honourable Members who have spoken on the motion and amendments today, for they have given us a lot of valuable opinions on the collection of public opinions and, in particular, the handling of the Compendium.

Following the publication of the Compendium and findings of the collection of public opinions on 28 January, we made it clear in this Council that corrections would be made. In this connection, I would like to update Honourable Members on corrections already made. At a joint meeting held by the Panel on Security and the Panel on Administration of Justice and Legal Services (the joint panel meeting) on 6 February, it was pointed out by Members that some submissions in the Compendium published by the Security Bureau were apparently wrongly categorized and some others were missing. In this connection, individuals and organizations disputing the categorization of their submissions or suspecting omissions were openly invited to inform the Security Bureau in writing before 20 February. I believe all views have been gathered since today is 26 February. Now let me first report to Honourable Members.

Among all the submissions received during the said period, only 32 requested to be re-categorized. One submission from the Law Society of Hong Kong requested to be changed from Category B (the content of the submission enables it to be identified as "opposed") to Category A (the content of the submission enables it to be identified as "supportive"). Twenty-three submissions, including those from the Hong Kong Bar Association, Hong Kong Journalists Association, Hong Kong Association for Democracy and People's Livelihood (ADPL), Mr SIN Chung-kai, and so on, requested to be changed from Category C (submissions identified neither as A nor B) to Category B. Seven submissions from the New Territories People's Association, Sha Tin Kin

Ching Sports Association, and so on, requested to be changed from Category C to Category A. Finally, one submission from an individual requested a change from Category A to Category C.

These 32 corrections represent only 0.03% of a total of 100 000 submissions received by us. Mr Michael MAK said he would seek to achieve "zero defect" in terms of quality assurance. I believe I have outdone Mr MAK for only 0.03% of the submissions have been categorized wrongly.

Insofar as the addendum is concerned, we will incorporate 22 additional submissions into the Compendium as requested. These submissions include those from SynergyNet, Dr Frances D'SOUZA, International Bar Association (IBA), and so on.

As regards the handling of submissions forwarded by this Council, as I have explained on previous occasions, submissions presented to the Legislative Council Secretariat and directly to the Security Bureau at the same time would have been included in the Compendium.

Of the 272 submissions presented to this Council during the consultation period, 109 were submitted to the Security Bureau direct, so they have been included in the Compendium.

Moreover, 122 submissions were found missing because they were not sent to the Security Bureau direct. Instead, they were attached to the notes of meetings prepared by the Legislative Council Secretariat as appendix and did not reach us until much later. These submissions were made by the New Youth Forum, Hong Kong University of Science and Technology Students' Union, Hong Kong Christian Institute, and so on. Nevertheless, we stand prepared to heed good advice have agreed to include all these submissions in the Compendium.

Insofar as the remaining 41 submissions are concerned, the relevant organizations or individuals have presented their views to the Security Bureau and the same were already reflected in the Compendium. However, in view of the small discrepancies between the submissions forwarded by them to the Security Bureau and those to this Council, the latter were included in the Compendium separately to ensure the completeness of record. In this connection, an exceptional measure was taken to include the 163 submissions forwarded to this Council in the Compendium.

In conclusion, 22 submissions, which were added at a much later stage, and 163 submissions, which were forwarded through this Council for exceptional incorporation into the Compendium, were preliminarily categorized as follows: 35%, or approximately 60 submissions, belong to Category A (supportive of legislation or the proposals of the Consultation Document); 60%, or approximately 100 submissions, belong to Category B (opposed to legislation or the content of the Consultation Document); and 5%, or about 10 submissions, belong to Category C.

I hope Honourable Members can see that we have tried to categorize the views collected in a pragmatic manner to the best of our ability. There is no question of distortion of facts to achieve the Government's desired result (that is, to solicit as much support as possible). The Government has certainly not done this. The categorization of views is entirely based on facts.

As regards how the Government is going to deal with the corrections, we are prepared to publish Volume 20 as an addendum because it will not be environmentally friendly if the entire set of Compendium is reprinted. In other words, the existing 19 volumes will not be amended. An additional volume will be incorporated as Volume 20 instead. This new Volume will include:

- lists of re-categorized individuals/organizations and their new categories;
- the full text of the 22 submissions added afterwards; and
- 163 submissions submitted to the joint panel meeting of the Legislative Council but not to the Security Bureau.

Volume 20 of the Compendium will be printed and distributed to the advisory centres of various District Offices, the Legislative Council Secretariat and major public libraries. Furthermore, the entire set of Compendium will be reproduced in CD-ROMs for distribution and uploaded onto the website of Article 23 of the Basic Law for public inspection.

According to our timetable, Volume 20 of the Compendium, along with its CD-ROMs and on-line version, will be available within March. At this point, I would like to give Honourable Members an account of our follow-up and corrections.

It is evident from the above factual account that 0.03%, or a mere 32 submissions, as I said earlier, were wrongly categorized out of the 100 000 submissions received by us. I totally disagree that such a small percentage can be described as "riddled with mistakes" or "a terrible mess". Such an exaggerated description is totally incompatible with the facts. How can a 0.03% error be described as "riddled with mistakes" or "a terrible mess"!

I am deeply concerned about these categorization mistakes and therefore I went through the wrongly categorized submissions again. I do hope Honourable Members will not mistake me for trying to defend my colleagues. I feel that they should indeed be forgiven for having put some of the submissions in a wrong category. This is particularly so with a few submissions, including the one submitted by the ADPL. We have actually received a written request from the ADPL that we should make correction by putting its submission under the "opposed" category. Having read its submission, I had great sympathy with my colleagues and I understood why the submission was not put under the "opposed" category. In the second paragraph of the ADPL's submission, it reads: "From the legal perspective, in view of the provisions of the Basic Law, (it is stated in Article 23 of the Basic Law that acts endangering national security must be prohibited) and in view of the spirit of our constitution and obligations, we are in principle not opposed to the enactment of legislation by the SAR Government with respect to acts set out in Article 23 of the Basic Law. However, the legislative exercise must be conducted in a narrow, clear and specific manner, with the principle of minimum legislation adopted as the guiding principle. In other words, the essential legislative work prescribed in Article 23 must be performed by the SAR Government in strict conformity with the abovesaid principle and in compliance with the relevant provisions of such covenants as the International Covenant on Civil and Political Rights. Provisions related to the criminal law of the People's Republic of China must not be borrowed or adopted. Otherwise, we will vote against the Bill concerning legislation under Article 23 of the Basic Law." The submission is indeed well-presented. These principles appeared to me to be very similar to ours. I therefore fully understood why my colleagues had not put it under the "opposed" category.

In addition, I would like to say a few words on the Hong Kong Bar Association's submission. In retrospect, several Members noticed that Mr Alan LEONG had publicly declared on numerous occasions, from formal meetings to occasions attended with me, that he was not opposed to legislation in principle.

This point was also raised by several Members earlier in the debate. In addition to verbal references, I have also gone through the lengthy submission presented by the Hong Kong Bar Association. I do not blame my colleagues for having failed to identify the submission as "opposing" views. As far as I remember, the submission, which is kept in my office, contains 50 pages and there are more than 200 paragraphs and numerous intricate points in it. It can be said that the submission has made painstaking efforts to teach the Security Bureau how to proceed with the legislative work. Even though there is no mention of "sovereignty" in Article 23 of the Basic Law, the submission has requested us to provide a definition for this term. Will we go beyond the principle of "essentiality" if we accede to its request? Then it went on to ask us to provide a definition for "China" and questioned the necessity for the inclusion of territorial seas under dispute in China's boundary. Though its good intention is appreciated, the Hong Kong Bar Association is obviously trying to instruct the Security Bureau what should be done. Under such circumstances, how dare we induce that its submission represents "opposing" views? If I see it as "opposing" views, the Hong Kong Bar Association might on the contrary leave a dishonoured record in history, and we might have offended it. For these reasons, I will definitely not blame my colleagues for handling the matter in this way.

Members can be assured that many mistakes of categorization are totally inadvertent. As pointed out by some Members, many submissions cannot be identified easily for they are fundamentally ambiguous. Nonetheless, the position of the majority of the submissions is very clear for there is a clear indication of either for or against. For this reason, the 0.03% error has in no way impeded the Government's grasp of the views collected. The Government has been questioned by some Members for having failed to listen to public opinions because not all the views collected have been analysed. I entirely share the view of a Member who spoke earlier, though I have forgotten who it was. I think the Member was perfectly correct in pointing out that it is most important to look at the "product" presented by the Government in order to determine whether it has listened to public opinions. In other words, the drafting of the Bill can fully reflect whether the Government has truly listened to public opinions.

Examples have been cited by Members to show that numerous views have been incorporated into the Blue Bill introduced by the Government. I would like to take this opportunity to dwell on this at length. Let me quote treason as

an example. The Hong Kong Bar Association and the Law Society of Hong Kong have proposed to clearly define "war" as "actual war or armed conflict", with the Hong Kong Bar Association further proposing that "the offence of treason shall not be applicable to non-Chinese nationals". The Liberal Party has proposed to "narrow the scope of the offence of 'assisting public enemy' as appeared in the offence of treason". Insofar as misprision of treason is concerned, both the Hong Kong Bar Association and the Law Society of Hong Kong have proposed that "the common law offence of misprision of treason should be repealed and no more relevant statutory offences be added". As regards secession and subversion, the Hong Kong Bar Association has proposed to "delete reference to 'threat of force' and 'resist the exercise of sovereignty'". The Democratic Alliance for Betterment of Hong Kong (DAB) has proposed that sedition should be exclusive of "incidents endangering the stability of the SAR". In response to a concern raised by Mr SIN Chung-kai with respect to the impact on the information and technology sector, an element of intention inciting others to commit an offence is added in the element of handling seditious publications. The proposal of "deleting the offence of possessing seditious publications" was raised by library management staff, the Liberal Party, and so on. Insofar as theft of state secrets is concerned, a proposal was raised by Prof Albert CHEN, the Liberal Party and the DAB to "strictly confine the definition of 'unauthorized access' to such criminal acts as hacking, theft, bribery, and so on". The Law Society of Hong Kong and the Hong Kong Progressive Alliance (HKPA) have proposed to clearly define the scope of information with respect to "the relationship between the Central People's Government and the SAR". Insofar as the proscription mechanism is concerned, the Hong Kong Bar Association and the HKPA have proposed to "scrap the proposal of setting up a special tribunal". Under a proposal by the DAB, the New Territories Heung Yee Kuk and a number of District Councils, the criteria for exercise of investigation power is upgraded so that "only police officers of or above the rank of chief superintendent of police can authorize the exercise of emergency investigation power". Finally, the Law Society of Hong Kong has made a procedural recommendation that "an accused who is charged with an offence of treason, subversion, secession, sedition or any unlawful acts of disclosure can elect to be tried by jury".

We can thus see that the entire Bill reflects the shadows and traces of public opinion gathered during the consultation period. The views expressed by the Government and the public, including numerous professionals and organizations, have converged in every word and sentence. In retrospect, I

found that I heard the least from the DAB, which has always been standing by my side. As such, I entirely share the view of the Honourable Member who suggested all of us to examine the Blue Bill produced by the Government. That it has reflected and accommodated so many different views is the best evidence that the Government has listened to the views collected, from the submissions collated in the Compendium to the views expressed through various channels such as forums, phone-in programmes, the mass media and other forms of media. The Government has indeed been listening to all these views very seriously.

Now I would like to respond to a few relatively simple questions. I was asked by Mr LEE Cheuk-yan to crack the mystery of the disappearance of his submission. We have carried out an investigation in connection with Mr LEE's alleged lost submission. Without a doubt, the submission from the Hong Kong Confederation of Trade Unions (CTU) was handed personally by Mr LEE to the Permanent Secretary, Mr Timothy TONG, but it was not listed in the Compendium. Actually, the written submission submitted by Mr LEE the other day was carried on a plastic sheet of three to four feet by two feet instead of an ordinary sheet of paper. Maybe it was because of its rather novel format, or maybe it was due to our lower intelligence that we, believing that all written submissions should be in paper form, somehow overlooked the plastic sheet. Also, maybe it was because my colleagues' misunderstanding that the CTU would later submit a written submission in paper form again that they did not treat what was carried on the plastic sheet as a written submission. We have nonetheless promised to include all the submissions submitted via the joint panel meeting of this Council in the Compendium. The one submitted by the CTU will definitely be included too. What I mean is, the views presented on the plastic sheet by Mr LEE will be included, though I have to enquire about the whereabouts of the plastic sheet.

Moreover, several Members have expressed dissatisfaction with our allegation that some signatures appear to be dubious and others resemble names picked at random from telephone directories rather than signatures. This point was also raised repeatedly by Mr SIN Chung-kai too. Indeed, we found that some of the signatures were dubious. I am not just saying that the signatures looked very free and cursive — that is not what I mean, because many people's signatures are actually very free and cursive — but then those signatures really gave an impression that someone had put down those signatures on behalf of a lot of people. Some of them not only did not look like a signature, without including a Hong Kong identity card number, but also looked like they had been

photocopied from a telephone directory. For such kind of signatures, there is reason for the Government to become suspicious. That is because if anyone can simply use a telephone directory, or print out a large number of such names as Chans, Lees, Cheungs, Wongs and Hos, to represent expressions of opinions for or against the proposal, then the authenticity should really be doubtful. Nonetheless, I must emphasize that these dubious signatures or name lists have been included in the Compendium under the "opposed" category.

I would also like to respond to an interesting question raised by Ms Cyd HO for she wanted to know the amount of public money that has been spent in completing the Compendium in just more than a month. I can tell Honourable Members that our method was the most effective and the least costly. Except for the inevitable expenses incurred by the Printing Department for the production of numerous copies of Compendium, the Security Bureau has not incurred any extra expenses in terms of manpower. What I mean is, though a total of 20 staff members were deployed at the same time at the height of the production to analyse the submissions, none of them were granted any overtime allowance. Very often, they were required to work late into the night. They were dedicated to the job without receiving a cent in overtime allowance. The job was entirely done within the Security Bureau's existing manpower and resources. I am very proud of my colleagues for their dedication to their work and their ability to finish analysing more than 100 000 submissions in just more than a month.

Though I dare not question the necessity of today's debate, we indeed reported to this Council in early February when I apologized for the inadvertent mistakes made. Besides agreeing to correct the mistakes and take follow-up actions, I also explained what follow-up actions would be taken. The Security Bureau totally disagrees that it is necessary to negate or even suspend the legislative exercise just because there are a few mistakes in the Compendium. We feel there is simply no justification to do so.

A number of Members questioned earlier the necessity of legislation on Article 23 of the Basic Law. Actually, I made our position known in a lengthy debate conducted on 10 December and 11 December with respect to legislation on Article 23. As such, I do not think it necessary to give another detailed reply to this question again. I only wish to point out that the Security Bureau will provide Members with a document in which a comparison is drawn between the

Blue Bill and the bills of similar national security laws enforced in five common law jurisdictions, namely Britain, the United States, Canada, Australia and Singapore. Members will be able to see that similar national security legislation and offences relating to treason, subversion, spying and secession are in place in these advanced common law jurisdictions to protect their governments. Likewise, our proposed Blue Bill also seeks to protect our Government. We have never mentioned the need to protect a certain political party. I think a Member was being too far-fetched in raising such views as "the party is more important than the people". Can anyone tell me which provision contains the word "party"? This is probably a case of imagination. In comparison, our provisions are more liberal and reasonable than the laws enforced in other parts of the world, particularly similar provisions in place in advanced common law countries. We see no reasons at all why this important legislative task should be put on hold simply because of the trivial mistakes made in the course of producing the Compendium.

I implore Honourable Members to vote against Mr SIN Chung-kai's motion and Dr YEUNG Sum's amendment. Thank you.

PRESIDENT (in Cantonese): I now call upon Mr Howard YOUNG to move his amendment to the motion.

MR HOWARD YOUNG: Madam President, I move that the Honourable SIN Chung-kai's motion be amended, as set out on the Agenda.

Mr Howard YOUNG moved the following amendment: (Translation)

"To delete "condemns" after "That this Council" and substitute with "expresses disappointment with"; to delete ", " after "in a slipshod" and substitute with "and"; to delete "and inequitable" after "incomplete"; to delete ", distorting" after "manner" and substitute with "and for categorizing wrongly"; to delete "the public" after "the views expressed by" and substitute with "some members of the public"; and to delete "commission an independent organization to analyze and summarize the views expressed by the public on the various proposals in the Consultation Document and to ensure that public opinions are fully and properly

reflected and addressed" after "and urges the authorities to" and substitute with "rectify the inaccuracies and omissions as soon as possible".

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

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.

(Members raised their hands)

Mr Howard YOUNG rose to claim a division.

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

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

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

Functional Constituencies:

Mr Kenneth TING, Mr James TIEN, Mrs Selina CHOW, Mr HUI Cheung-ching, Mrs Sophie LEUNG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam

LAU, Mr Henry WU, Mr Tommy CHEUNG and Mr LAU Ping-cheung voted for the amendment.

Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Miss Margaret NG, Mr CHEUNG Man-kwong, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mr SIN Chung-kai, Dr Philip WONG, Mr WONG Yung-kan, Mr Timothy FOK, Dr LAW Chi-kwong, Mr Abraham SHEK, Ms LI Fung-ying, Mr Michael MAK, Mr LEUNG Fu-wah, Dr LO Wing-lok and Mr IP Kwok-him voted against the amendment.

Geographical Constituencies and Election Committee:

Dr TANG Siu-tong, Dr David CHU and Mr Ambrose LAU voted for the amendment.

Ms Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr Andrew WONG, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Chin-shek, Mr LAU Kong-wah, Ms Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-chung, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG, Ms Audrey EU, Mr NG Leung-sing, Mr YEUNG Yiu-chung and Mr MA Fung-kwok voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 29 were present, 11 were in favour of the amendment and 18 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 29 were present, three were in favour of the amendment and 25 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

MRS SELINA CHOW (in Cantonese): In accordance with Rule 49(4) of the Rules of Procedure, I move that in the event of further divisions being claimed in respect of the motion on "Compendium of Submissions on the Consultation Document on Proposals to Implement Article 23 of the Basic Law" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mrs Selina CHOW be passed. Does any Member wish to speak?

(No Member responded)

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 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.

I order that in the event of further divisions being claimed in respect of the motion on "Compendium of Submissions on the Consultation Document on Proposals to Implement Article 23 of the Basic Law" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): Dr YEUNG Sum, you may move your amendment.

DR YEUNG SUM (in Cantonese): Madam President, I move that Mr SIN Chung-kai's motion be amended, as printed on the Agenda.

Dr YEUNG Sum moved the following amendment: (Translation)

"To add "; hence, this Council urges the authorities to shelf the continuation of the legislative procedures for the National Security (Legislative Provisions) Bill" after "to ensure that public opinions are fully and properly reflected and addressed". "

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Dr YEUNG Sum to Mr SIN Chung-kai's motion, be passed.

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.

(Members raised their hands)

Dr YEUNG Sum rose to claim a division.

PRESIDENT (in Cantonese): Dr YEUNG Sum has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Miss Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Dr LAW Chi-kwong and Mr Michael MAK voted for the amendment.

Mr Kenneth TING, Mr James TIEN, Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Henry WU, Mr Tommy CHEUNG, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr IP Kwok-him and Mr LAU Ping-cheung voted against the amendment.

Geographical Constituencies and Election Committee:

Ms Cyd HO, Mr Albert HO, Mr LEE Cheung-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr LAU Chin-shek, Ms Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG and Ms Audrey EU voted for the amendment.

Mr CHAN Kam-lam, Mr Andrew WONG, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Dr TANG Siu-tong, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Mr MA Fung-kwok voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 29 were present, five were in favour of the amendment and 24

against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 29 were present, 16 were in favour of the amendment and 12 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr SIN Chung-kai, you may now speak in reply. You still have three minutes seven seconds.

MR SIN CHUNG-KAI (in Cantonese): Madam President, the Secretary for Security challenged the authenticity of the signature campaign. I also would like to take this opportunity to challenge the Government. If the Government has misgivings about the authenticity of the signature campaign, it could determine the wish of the people by a referendum. However, I believe the Government does not have the courage. Nor does it have the resolve to truly listen to public opinions. The reason is simple. Earlier in commenting on whether the Government has listened to public opinions, the Secretary said that it was most important to look at the result or the end product, and since the result was that the Government had proposed amendments to the Bill in response to some opinions, it followed that the Government had paid heed to public opinions.

Meanwhile, in the many opinion polls conducted in the past, including the one conducted by *Ming Pao* in December last year, the following question was asked: After the end of the consultation period, what do you think should be the next step? Some 47% of the respondents said that a White Bill should be introduced; 13% opined that the consultation period should be extended; 13% stated that legislation should be withdrawn; and 14% held that a bill should be tabled at the Legislative Council in accordance with the established procedures.

The Government had, therefore, taken on board the opinion of that 14% of respondents and turned a blind eye to the opinions of the rest of over 70% of the respondents. Is this an instance of respecting public opinions? Now, the Government's "product" is a Blue Bill, not a White Bill, and this shows that the Government has not in the least respected public opinions. Obviously, the reason why the Government can have its own way is that there is readily very strong support for the Government in this Council.

Mr Howard YOUNG told us that the Democratic Party was playing truant. In fact, the Democratic Party does not want to play truant. The Democratic Party is only worried that it will be taught the wrong values if it attends classes at school.

I remember that in history lessons that I attended as a child, I always found a Chinese idiom difficult to understand. But today, I deeply understand the meaning of this idiom, "助紂為虐" (meaning helping a tyrant to do evil). Why can the Government actually do whatever it wants in the name of Article 23 of the Basic Law (Article 23)? That is because the Government has the support of some Members of the Legislative Council and so, it can successfully trample on the rights of the people using Article 23. Honourable colleagues, some of you here are indeed helping a tyrant to do evil.

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

(Members raised their hands)

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

(Members raised their hands)

Mr James TO rose to claim a division.

PRESIDENT (in Cantonese): Mr James TO has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Miss Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Dr LAW Chi-kwong and Mr Michael MAK voted for the motion.

Mr Kenneth TING, Mr James TIEN, Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Henry WU, Mr Tommy CHEUNG, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr IP Kwok-him and Mr LAU Ping-cheung voted against the motion.

Geographical Constituencies and Election Committee:

Ms Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Mr Andrew WONG, Dr YEUNG Sum, Mr LAU Chin-shek, Ms Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG and Ms Audrey EU voted for the motion.

Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Dr TANG Siu-tong, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Mr MA Fung-kwok voted against the motion.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 29 were present, five were in favour of the motion and 24 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 29 were present, 17 were in favour of the motion and 11 against it. Since the question was not agreed by a

majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 2.30 pm on Wednesday, 5 March 2003.

Adjourned accordingly at eight minutes to Midnight.

Annex I**DUTIABLE COMMODITIES (AMENDMENT) BILL 2002****COMMITTEE STAGE**

Amendments to be moved by the Secretary for
Financial Services and the Treasury

ClauseAmendment Proposed

1

By deleting subclause (2) and substituting -

"(2) Subject to subsection (3), this Ordinance shall come into operation on 1 April 2003.

(3) Sections 10, 11 and 12 shall come into operation on 1 October 2003."

3

In the proposed section 8A -

(a) in subsections (3) and (4), by adding "deputed by him in that behalf" after "officer";

(b) by adding -

"(4A) The Commissioner or the officer mentioned in subsection (1) or (3), as the case may be, shall give reasons in writing to the applicant or licensee, as the case may be, for refusing an application to grant or renew a licence in respect of any premises, or for revoking a licence granted in respect of any premises, under section 7."

6

By deleting paragraph (b).

ClauseAmendment Proposed

20

- (a) In the proposed regulation 98A(1) -
- (i) in paragraph (a), by deleting "he issues" and substituting "is issued";
 - (ii) in paragraph (b) -
 - (A) by deleting "he";
 - (B) in subparagraph (i), by deleting "prepares" and substituting "is prepared";
 - (C) in subparagraph (ii), by deleting "receives" and substituting "is received".
- (b) In the proposed regulation 98A(2), in the definition of "relevant document", by deleting everything after "that" and substituting -
- "-
- (a) is issued, prepared or received (as the case may be) in the course of the business of the warehouse; and
 - (b) relates to -
 - (i) the movement of goods into and out of the warehouse, including delivery orders, goods receipt notes, invoices, credit notes, invoices, credit notes, debit notes, bills of lading or air waybills and air consignment notes; or
 - (ii) payments made and received in the course of the business of the

ClauseAmendment Proposed

warehouse, including ledgers, statements of accounts, profit and loss accounts, balance sheets and auditor's reports.".

- (c) By deleting the proposed regulation 98A(3).

Annex II**INLAND REVENUE (AMENDMENT) (NO. 2) BILL 2001****COMMITTEE STAGE**Amendments to be moved by the Secretary for
Financial Services and the Treasury

<u>Clause</u>	<u>Amendment Proposed</u>
1(2)	By adding "Financial Services and" before "the Treasury".
2(a)(ii)	In the proposed definition of "password", by adding "in relation to a return required to be furnished under this Ordinance" after "Commissioner" where it last appears.
2(b)	In the proposed section 2(5), by deleting everything after "includes a reference" and substituting - "to - (a) the affixing of a digital signature (supported by a recognized certificate and generated within a period during which the certificate is valid) to; or (b) the inclusion of a password with, the return for the purpose of authenticating or approving it."."
8	In the proposed section 51AA - (a) in subsection (2)(c), by deleting "is" and substituting "are";

ClauseAmendment Proposed

- (b) in subsection (5)(b), by deleting "person or return" and substituting "persons or returns";
- (c) in subsection (6), by deleting paragraph (b) and substituting -
 - "(b) how a digital signature is to be affixed to, or a password is to be included with, a return furnished under this section; and";
- (d) in subsection (7), by deleting "Ordinance" and substituting "section".

Appendix**WRITTEN ANSWER****Written answer by the Secretary for Security to Mr LAU Kong-wah's supplementary question to Question 5**

Police's record shows that most of the tourists were not assaulted because of serious crimes, such as robbery. In 2002, a total of 81 tourists were involved in wounding and serious assault cases. Among these cases, 42% were caused by minor dispute. This is largely similar to the situation in 2001 where 66% of wounding and serious assault cases were related to minor dispute. Information revealed that victim and offender of some cases in fact knew each other, for example, they were tourists from the Mainland or overseas countries who were visiting Hong Kong together. The increase in such crimes does not imply that tourists have become targets of serious crimes.