

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 19 March 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 ELSIE LEUNG OI-SIE, G.B.M., J.P.
THE SECRETARY FOR JUSTICE

THE HONOURABLE MICHAEL SUEN MING-YEUNG, G.B.S., J.P.
SECRETARY FOR HOUSING, PLANNING AND LANDS

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

THE HONOURABLE STEPHEN IP SHU-KWAN, G.B.S., J.P.
SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR

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

CLERKS IN ATTENDANCE:

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

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT 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 *L.N. No.*

Import and Export (General) Regulations (Amendment of
Seventh Schedule) (No. 3) Notice 2003 68/2003

Inland Revenue (Amendment) Ordinance 2003 (5 of 2003)
(Commencement) Notice 2003 69/2003

Other Papers

No. 70 — The Lord Wilson Heritage Trust
Annual Report 2001-2002

No. 71 — Employees' Compensation Insurance Levies Management
Board
Annual Report 2001/2002

No. 72 — Vocational Training Council
Annual Report 2001/2002

Report of the Bills Committee on Housing (Amendment) Bill 2002

Report of the Bills Committee on Registration of Persons (Amendment)
Bill 2001

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Access to Mainland Aviation Market

1. **MR ERIC LI** (in Cantonese): *Madam President, in view of the growing importance and rapid expansion of the mainland aviation market, will the Government inform this Council of the actions it intends to take to assist all Hong Kong airlines to have access to this market?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, the provision of air services between Hong Kong and the Mainland is governed by the Mainland/HKSAR Air Services Arrangement (the Arrangement). The Arrangement provides a framework which is conducive to the development of air services between the two places. The airlines designated by either side may operate services in accordance with the capacity and routes set out under the Arrangement.

The format and framework of the above Arrangement are in principle similar to those of the bilateral air services agreements or arrangements between Hong Kong and our aviation partners. These bilateral air services agreements or arrangements are signed between Hong Kong and our aviation partners after consultation between the Government of the Hong Kong Special Administrative Region (SAR) and the Governments of the aviation partners concerned. In general, these agreements or arrangements provide airlines designated by each side with certain traffic rights including the routes and capacity for service operations. Airlines may operate scheduled air services in accordance with the provisions in the agreement or arrangement concerned.

In order to enhance Hong Kong's status as an international and regional aviation centre and a logistics hub, the SAR Government has been expanding Hong Kong's aviation network. To this end, we continue to discuss and conclude air services agreements and arrangements with new aviation partners. We also regularly review with our aviation partners our existing air services agreements or arrangements to progressively liberalize Hong Kong's air services network to enable airlines to expand services.

After the Government has concluded air services agreements and arrangements with aviation partners, it becomes purely a commercial decision of the airlines to utilize the routes and capacity provided for under these agreements and arrangements, including the development of new routes or increasing

services on a particular route. The Government's role is to provide an appropriate framework to facilitate airlines' operation and expansion of services.

There are close economic ties between the SAR and the Mainland. With the rapid economic growth of the Mainland, the demand for air transport between the two places will continue to grow. It is important for Hong Kong to further enhance our transport links with the Mainland to facilitate the flow of people and cargo. Since 2001 we have discussed with the Civil Aviation Administration of China (CAAC) annually expansion of the Arrangement, resulting in an increase in the number of routes and capacity that airlines of both sides can operate.

Statistics from the Civil Aviation Department show that there has been steady growth in air traffic between Hong Kong and the Mainland. Between 1999 and 2001, the number of passengers carried between Hong Kong and the Mainland increased by an average annual rate of 7.9% while the cargo carried increased by an average annual rate of 8.2%. In the first 11 months of 2002, the passenger and cargo carried increased by 7.8% and 31.1% respectively over the same period of 2001. We believe that there is good potential to further develop the Hong Kong/Mainland air services market.

At present, there are air services between Hong Kong and 39 cities in the Mainland and Hong Kong airline provides scheduled services to 19 of these cities. This shows that there is still room for expansion of services between Hong Kong and the Mainland. We support Hong Kong airlines to proactively develop these services under the framework of the Arrangement to strengthen the transport links between Hong Kong and the Mainland.

Enhancing the air links between Hong Kong and the Mainland will reinforce and strengthen Hong Kong's competitive advantages as a leading international and regional aviation centre and logistics hub. This will facilitate economic co-operation between Hong Kong and the Mainland as well as the development of the local tourism industry, bringing about positive impact on the economies of both places. Therefore, when discussing expansion of the Arrangement with the mainland authorities, it has been our objective to progressively expand traffic rights for both sides. As in the case of Hong Kong's air services arrangements with other aviation partners, the expansion of the Arrangement with the Mainland needs to be discussed and agreed by both sides.

MR ERIC LI (in Cantonese): *Madam President, it seems that a supplementary policy is attached to the Arrangement, which the Secretary referred to in his main reply, and that is, the "one airline one route" policy. However, the main mode of air services competition in the international market is the "through freight" or "one plane to destination" mode, and that is, no change of airlines or planes is required from the point of departure to the mainland destination. As the existing mainland aviation market is opening gradually and international competition will be introduced, may I ask the Secretary if the prevailing aviation policy of Hong Kong and the Arrangement will pose serious obstacles to Hong Kong airlines in their future competition? If so, how does the Government view the prevailing policy and when will this policy be adjusted or changes to this policy be promoted?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, I would like to thank Mr Eric LI for his question. I think Mr Eric LI has just referred to our "one airline one route" policy. In fact, on previous occasions, I have also mentioned in this Chamber that this policy is quite flexible. If the Government thinks we have to enhance competition in public interest providing the capacity of the relevant route can accommodate such, and that is, in addition to the airlines of our aviation partners, more than one local airline has operated on a substantive scale or the designated Hong Kong airline is no longer in operation, no longer operates the relevant route or that its service is unsatisfactory, we may consider designating more than one local licensed airline to fly the same route. Mr Eric LI said earlier that certain routes might not only be run by one designated airline operator and under certain circumstances, such services might be provided by more than one airline operator. Of course, the question of whether the relevant route will eventually be developed is a commercial decision that should be made by the local airline. If an airline is interested in developing a certain route, it can definitely submit an application.

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

MR ERIC LI (in Cantonese): *Madam President, I think the Secretary's reply is not sufficiently thorough. The Secretary said the existing policy does allow for*

certain flexibility but the fundamental policy remains unchanged and no consideration has been made in respect of any

PRESIDENT (in Cantonese): Mr LI, which part of your earlier supplementary question has not been answered by the Secretary?

MR ERIC LI (in Cantonese): *Madam President, my supplementary question was: When will the Secretary modify his policy, and that is, instead of acting passively, when will the authorities actively enhance its competitiveness?*

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

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, once again, I would like to point out clearly that our policy is very flexible. In fact, the same routes are operated by more than one local airline.

MR KENNETH TING (in Cantonese): *Madam President, can the Secretary confirm whether the newly amended Memorandum of Understanding on the SAR and mainland aviation services will be concluded next week before the Air Transport Licensing Authority makes a decision on an application by the Cathay Pacific Airways Limited for a licence to operate the Shanghai, Beijing and Xiamen routes? Can the Secretary tell us why the conclusion of the new Memorandum of Understanding has not been put off until a formal decision is made by the Air Transport Licensing Authority?*

PRESIDENT (in Cantonese): Mr TING, I am sorry. Can you relate this supplementary question to the Secretary's earlier reply? This is the only way I could allow you to ask your supplementary question.

MR KENNETH TING (in Cantonese): *Madam President, the Government said it is prepared to make arrangements, so that more than one airline is allowed to*

fly to every city on the Mainland. Since the Government has made such a decision, why has the conclusion of the new agreement not been put off until a formal decision is made by the Air Transport Licensing Authority?

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, I believe Mr Kenneth TING has just referred to the case in which the Air Transport Licensing Authority is currently considering the application of a certain airline to fly to the Mainland. I do not think I should comment too much on this here because the hearing is still ongoing today. As regards when a ruling can be made, I believe it is not our decision for this is the decision of the Chairman of the Air Transport Licensing Authority. We will review the aviation arrangements with the Mainland annually. If it is agreed between both sides that certain arrangements have to be updated, for example, increasing the capacity for service operations, then the new agreement must certainly be concluded as soon as possible. I believe Members also understand that such arrangements must be implemented as soon as possible for the airlines have to compile their summer flight timetables and schedules for there is actually a practical need.

MR MA FUNG-KWOK (in Cantonese): *Madam President, my supplementary question is: The Government mentioned that the aviation rights of both parties would be progressively expanded. What is meant by "progressively" as mentioned by the Government? Does it mean that the number of stops will be progressively increased, the number of stops for passenger flight routes will be gradually increased, or that the number of operating airlines will be gradually increased? Furthermore, how will the Government progressively expand the arrangements for cargo flights?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, I would like to thank Mr MA Fung-kwok for his supplementary question. As regards the progressive expansion mentioned earlier, the increase in the number of routes is one of such items, to be followed by capacity for service operations and the number of scheduled flights. As to whether new routes should be developed or the number of flights be increased, it is not for the Government to decide for this is a commercial decision, which

should be made by the airlines. If the local airlines wish to develop new routes that are not available at present or increase the capacity for service operations, they are certainly welcomed to bring the issue to us. We often review the existing aviation agreements with our aviation partners, and in the course of our reviews, discussions will be held by the governments of both parties. I am not talking about the mainland authorities only, but rather all civil aviation arrangements or agreements. If our local airlines are interested in developing certain new routes or hope to increase the capacity for certain routes, they raise the issue with us and we will hold discussions with the relevant government, for all decisions must eventually be agreed by both parties.

MR MA FUNG-KWOK (in Cantonese): *Madam President, I would like to know what the Government means by "progressively", and that is, what the first, second and third steps are. Does the Government have any specific plan?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): *Madam President, it is very difficult for me to explain what the first and second steps are. In fact, many things can be done concurrently and it is most crucial that the airlines should identify the routes for capacity increase. From the perspective of the Government, it is necessary for us to provide a framework. Therefore, we have been working hard to conclude air service agreements with different places around the world. If we are successful in concluding an air service agreement, then the local airlines can develop routes to countries which have reached such agreements with us, and this is the duty of the Government. We have already concluded 50 air service agreements or arrangements and initiated eight agreements or arrangements, and we will continue to endeavour to conclude new agreements or arrangements. If the airlines feel that there is a need, they can always take up the issue with us.*

MR SIN CHUNG-KAI (in Cantonese): *Madam President, the Secretary said earlier in his reply that the question of whether the "one airline one route" policy would be liberalized would depend on many factors. I would like to make a comparison between the fare levels to see whether fare is one of the factors. For example, there is a great difference between the fare to Shanghai and that to Thailand, in which the fare to Thailand is much cheaper. Does it mean that the*

demand in the market is already so great that it can justify an open market? If not, what are the other considerations? It is because both the trips to Shanghai and Thailand take two hours.

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, I believe this depends on the supply and demand situation in the market. As regards Shanghai, which Mr SIN Chung-kai talked about earlier, at present, our local airlines have scheduled eight flights to and from Shanghai every day, and there are 16 flights daily if the number of return flights is included. In fact, in addition to Hong Kong airlines, seven mainland airlines also operate Hong Kong to Mainland routes. In other words, there are many choices. As I have said earlier, we would discuss the aviation arrangements with the Mainland annually and hope to fight for the opportunity to increase the capacity in the light of market demand for once the capacity is increased, our airlines can also increase the number of flights. In fact, since the conclusion of Arrangement in 2000, we have been increasing our capacity and the growth is quite satisfactory.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, the reply of the Secretary is very detailed, but he has not answered my question on what other factors there are in addition to fare. I think fare is a very important objective factor but I do not know what other factors there are in addition to fares. This is my earlier question.*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, I thought I have already answered Mr SIN Chung-kai's supplementary question because I feel that fares have to be determined by the supply and demand situation in the market. Of course, I understand what Mr SIN Chung-kai means, and that is, if the demand is very great but the routes are operated only by a few airlines or that there are only a very small number of flights, then fares will naturally be very high. I have been trying to answer Mr SIN Chung-kai's question. In fact, the route that Mr SIN is concerned about is already operated by many airlines. We will also strive to fight for more capacity and more flights in the light of such circumstances and hope that an increased number of flights and enhanced competitiveness will help lower the fares.

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

MR ABRAHAM SHEK: *Madam President, will the Secretary advise this Council: What consultative mechanism is in place between the SAR Government and the Central People's Government in determining the arrangement for the provision of air services between Hong Kong and the Mainland? In particular, what review process is in place to take into account the changes in market conditions in order to allow more flexibility and adjustment to be made in such an arrangement, including the availability of sufficient capacity entitlement for Hong Kong airlines?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, I would like to thank Mr Abraham SHEK for his question. I also mentioned earlier that we would hold annual discussions with the CAAC and should the need arise, such discussions could be held as the occasion demands rather than just an annual exercise. As regards the issue of enhancing capacity, it mainly depends on the need of local airlines. As I said earlier, if the airlines wish to develop routes that are not available at present, they can bring up the issue with us and the Government will be prepared to hold discussions with the CAAC. As mentioned by Mr SIN Chung-kai just now, if the capacity to Shanghai or other places is not enough, that is, when market demand is greater than the present capacity, the Government will certainly hold discussions with the CAAC. As I explained earlier, over the past two years, through reviews and annual updates, our capacity has grown quite satisfactorily and Members can see that our local airlines have increased their number of flights to Beijing and Shanghai.

MR ABRAHAM SHEK (in Cantonese): *Madam President, my supplementary question is how transparent that mechanism is. Furthermore, many mainland airlines operate flights to Shanghai but only one Hong Kong airline provides such services. Under the existing review mechanism, can one more airline be allowed to operate this route, in order to meet the demand in the market?*

PRESIDENT (in Cantonese): Mr SHEK, is this part of your earlier supplementary question?

MR ABRAHAM SHEK (in Cantonese): *Yes, Madam President, it is the second part of my supplementary question.*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, in that case, I will answer the second part of the question.

I believe Mr Abraham SHEK may also be aware that, in fact, only one local airline operates flights to Shanghai, and the Government has always maintained close contact with the airline to hold discussions. As the details of the discussions are business sensitive, they cannot be disclosed but the airline itself is certainly fully aware of the details and has been a party to the discussions. If more than one airline is interested in developing routes to Shanghai in the future, it can certainly submit its request under the relevant mechanism. We all know that the Air Transport Licensing Authority is now considering the request of a certain airline to fly to Shanghai and if the application is successful, we may also consider the requests of other airlines.

PRESIDENT (in Cantonese): Second question.

MTR West Hong Kong Island Line Phase 2

2. **MR IP KWOK-HIM** (in Cantonese): *Madam President, the Government decided in January this year that the planning work for the Mass Transit Railway (MTR) West Hong Kong Island Line (WIL) Phase 2 (from Belcher Garden to Kennedy Town) be held in abeyance until the way forward for the Western District Development (WDD) reclamation was clear. In this connection, will the Government inform this Council:*

- (a) *when it intends to announce the latest arrangements in respect of the WDD reclamation project; and*
- (b) *of the factors, apart from the reclamation project, it will consider in deciding whether or not to implement the WIL Phase 2 project?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President,

- (a) One of the objectives of the WDD reclamation project is to provide residential land to meet the long-term housing demand of Hong Kong. According to the 2001 census, the growth of Hong Kong's population in the long term is slower than that previously anticipated, leading to a corresponding decrease in the long-term housing demand. The Government is therefore re-assessing the housing demand of Hong Kong in the long term. Based on the assessment results, we shall review the need and the development timetable of individual New Development Areas or reclamation projects under planning. As far as reclamation projects are concerned, our policy is that minimum reclamation will be carried out only when it is necessary. During the review, we shall take into account the public's wish to minimize reclamation and the cost-effectiveness of individual projects. We envisage that the preliminary assessment could be completed by the middle of this year, when we will decide and announce whether the proposed reclamation projects in Western District, Sham Tseng and Tsuen Wan will be shelved or postponed.
- (b) The proposed WDD would be the most significant factor affecting the viability and design of the WIL Phase 2 from Belcher Station to Kennedy Town Station, costing about \$6 billion including reclamation cost. The reason is the scale of the WDD would impact on the catchment population of WIL Phase 2 as well as the location of the proposed Kennedy Town Station.

MR IP KWOK-HIM (in Cantonese): *Madam President, residents of the Western District have all along been striving for the western extension of the MTR; they have been waiting for it for a long time. In the main reply, it is stated that an essential factor holding up the construction of Kennedy Town Station of WIL Phase 2 was whether the WDD reclamation project would be implemented. There are no other reasons. The Secretary also stated in part (a) of the main reply that the relevant assessment would be completed by the middle of this year, and a decision on whether the project would be shelved or postponed would then be made. If it is decided that the project should be shelved, it means that the project will not be implemented. In this case, can I take it to mean that*

the Government can, by the middle of this year, confirm whether the MTR station at Kennedy Town will be built? Does it mean that Kennedy Town Station will not be cancelled just because the reclamation project will not be carried out?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, I will tackle the last part of Mr IP's supplementary question first for it is more straightforward. I think Mr IP's concern is whether this will cause inconvenience to the residents of Kennedy Town in transport. However, there will not be great linkage difficulties even if the Government decides not to build WIL Phase 2 by the middle of this year, as Kennedy Town is only a kilometer away from the proposed Belcher Station. This is only a hypothetical scenario set against the assumption that findings of the assessment prove the building of WIL Phase 2 not necessary. Since we have considered providing feeder services, we believe the decision will not cause inconvenience to the residents of Kennedy Town. By the middle of this year, we will consider the issue taking into account other information not available at the moment. Population, which indirectly affects the implementation of the reclamation project, is one of our considerations; the population size should be large enough to make the building of WIL Phase 2 viable.

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

MR IP KWOK-HIM (in Cantonese): *Madam President, maybe I have not made my supplementary question clear which is in fact quite simple. Should the WDD reclamation project not be implemented, would the Kennedy Town Station be cancelled?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Yes, Madam President.

DR YEUNG SUM (in Cantonese): *Madam President, the Secretary has associated the construction of MTR stations with the reclamation project and population of public housing estates. I believe patronage level is the concern of*

the Government. However, I hope the Secretary will also take heed of the efforts made by residents of the Western District in striving for the Western extension of MTR over a decade. Apart from patronage, the Government should also think about the interest of society, as well as the convenience of the public

PRESIDENT (in Cantonese): Dr YEUNG Sum, please state your supplementary question direct.

DR YEUNG SUM (in Cantonese): *I thus hope that the Secretary will take account not only of the population size in considering the issue.*

PRESIDENT (in Cantonese): Dr YEUNG Sum, please state your question direct. It is useless just stating your "hope"; you should put your supplementary question.

DR YEUNG SUM (in Cantonese): *Madam President, I have already stated my question. I hope the Secretary will take account not only of the population size and patronage level when she considers the issue. Apart from patronage, will the Secretary consider such other social factors as the convenience of the public and the reasonable expectation of the people for they have striven for the extension for more than a decade?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, regarding Dr YEUNG's supplementary question, I have to point out that providing convenience for the public is definitely our primary concern in considering the construction of any transport systems. What is the point of building transport systems if not for the convenience of the public? However, we should also consider the cost-effectiveness of constructing a new railway system, in particular, WIL Phase 2. We have to examine whether the fares can be set at a reasonable level when the transport system comes into operation. We have compared WIL with other lines of MTR to find out what makes a station viable. In considering the viability of WIL Phase 2, we will not cancel the project just on the ground that

the population size is not large enough. The Southern Island Line (SIL) and the WIL Phase 2 will be considered as an entire loop. We hope that with the extension of the railway to other densely populated areas, its cost-effectiveness can be raised. On the other hand, we have also requested the MTR Corporation Limited to consider applying new technology, that is, switching to light rail from heavy and medium rail. I am not referring to the light rail system now running in Hong Kong, but another kind of light rail technology of lower building costs. We have been looking for an option that is not only cost-effective, but also convenient to the public.

MR JASPER TSANG (in Cantonese): *Madam President, does the Government consider that the population size in the area of Belcher Garden can sustain a railway service, but not so in the case of Kennedy Town? If yes, will the Secretary provide estimate figures on population to illustrate the decision of the Government?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, for WIL Phase 1, the section ends at Belcher Garden and the daily marginal patronage level is 100 000 passenger trips. As for WIL Phase 2, the daily marginal patronage level will be 40 000 passenger trips by 2016. If the WDD reclamation project is carried out, the patronage level of that section will increase by 16 000 passenger trips, adding up to 56 000 passenger trips in total. Therefore, Mr TSANG was right, the catchment population of Belcher Station of WIL Phase 1 is much larger than that of Kennedy Town Station.

MR LAU PING-CHEUNG (in Cantonese): *Madam President, how does WIL Phase 2 relate to Route 7? For example, does the construction of WIL Phase 2 has any bearing on the Government's decision on whether or not to build Route 7? Will the construction of Phase 2 affect the scale and length of Route 7?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, since railway and highway construction projects each have their own advantages and shortcomings, we will now consider them together. WIL Phase 2 and Route 7 are definitely interrelated. In fact,

the SIL of the MTR also has a bearing on the Phase 2 project. We will take into account the impact in different aspects when we conduct our analysis. For example, railways may be more environmentally friendly, while highways may offer a greater degree of flexibility. Thus, we have to give careful consideration to striking a balance between the needs in these two aspects. In the long run, if the population of the Southern and Western Districts increases, there may be a need to build both the railway and the highway.

MR HENRY WU (in Cantonese): *Madam President, the Government stated in part (a) of the main reply that decrease in housing demand was the main reason for halting the WDD. However, in view of the prevailing fiscal deficit, the Government should know clearly the importance of better utilization of resources. The population in the Western District has, at present, reached a certain level, housing development in the district and improvement of its traffic facilities may attract more people to live in the district. Should long-term housing demand be the only consideration? It is stated in part (a) of the main reply that "as far as reclamation projects are concerned, the government policy is that minimum reclamation will be carried out only when it is necessary," and that "it shall take into account the public's wish to minimize reclamation". Since the Secretary is also responsible for environmental protection work, will this induce her to think that the scale of the original reclamation project is too large, and should now be reduced? Apart from the consideration on long-term housing demand, does the Secretary think that there are too many planned reclamation projects and thus wish not to develop in this direction?*

PRESIDENT (in Cantonese): Mr WU, next time when you ask your supplementary question, please be precise and concise. *(Laughter)*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, Secretary Michael SUEN will provide more information on the housing policy later. I will first answer Mr WU's supplementary question on harbour reclamation. In fact, this is not a question of my personal view or personal preference, for we have the Protection of the Harbour Ordinance. The Ordinance states that: "the harbour is to be protected and preserved as a special public asset and a natural heritage of Hong Kong

people, and for that purpose there shall be a presumption against reclamation in the harbour." It is provided in another provision that: "all public officers and public bodies shall have regard to the principle stated in subsection (1) for guidance in the exercise of any powers vested in them." We act in accordance with such guidelines.

PRESIDENT (in Cantonese): Secretary for Housing, Planning and Lands, do you have anything to add?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, perhaps I may give a brief supplementary answer. In Hong Kong, the amount of land available for use is limited. In catering to the housing need of the public, we have to compare the cost-effectiveness of different options. For example, the cost of reclamation will be higher than that of developing existing land in the New Territories. We have to consider the merits of different options.

In respect of the WDD reclamation project, we have planned several options, and conducted consultations on them. In 1998, it was estimated that the land to be produced under the reclamation project could accommodate a population of 130 000. However, in the course of consultation, many people considered the scale of reclamation too large. The project was later amended and the number of people to be accommodated on the reclaimed land was reduced to 70 000 in 2000. However, the public considered the scale of reclamation could still be reduced during public consultation. Nevertheless, since the seawall should be of certain length, should we further reduce the scale of the reclamation project to a capacity of only 20 000 to 30 000 persons, we have to consider whether the project is cost-effective. These are the factors we have to consider. We will announce the scale of the reclamation by the middle of this year after we have summed up all the factors.

MS CYD HO (in Cantonese): *Madam President, the Government submitted to the Legislative Council a new town planning initiative including plans on railway, reclamation and urban renewal. The entire blueprint presented to us then was very beautiful. Now, the Government has pointed out that population growth*

will be slower than that previously anticipated. Does it imply that projects on urban redevelopment, improvement of living conditions and re-planning will be abolished altogether with the shelving of the reclamation and railway projects? With the improvement of facilities after redevelopment, the population in old districts will increase. However, it seems that the railway project and the other projects will be cancelled altogether. Is this the case?

PRESIDENT (in Cantonese): Which Secretary will answer this supplementary question? Secretary for Housing, Planning and Lands.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, the answer is in the negative. Since land has been reserved for redevelopment and development projects, we will proceed with urban renewal projects like the redevelopment of Kwun Lung Lau, Lung King Street, Cadogan Street, First Street and Second Street. Regarding comments on the inadequate provision of community facilities and open space in the district, we have thought of a remedial measure. As the cottage area at Mount Davis has been cleared, some open space can now be released. Together with the land released by the sites of Kennedy Town Abattoir and Incineration Plant, there will be sufficient supply of land to develop community facilities and make up for the inadequate provision of open space. The scale of development after re-planning will certainly be larger should the reclamation be carried out.

PRESIDENT (in Cantonese): This Council has already spent more than 16 minutes on this question. Though there are still many Members waiting to ask their questions, I will allow one last supplementary from Members.

MS MIRIAM LAU (in Cantonese): *Madam President, can the Secretary state clearly if Route 7 will be abandoned should the WDD reclamation project be halted?*

PRESIDENT (in Cantonese): Which Secretary will answer this supplementary question? Secretary for the Environment, Transport and Works.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, we are at the moment studying the overall development of the district. The study will cover the series of problems I have mentioned. It will examine the need for the implementation of the reclamation project, the sustainability of the population size of the district for the project, respective advantages of railway and highway, and the medium- and long-term planning. Decisions will be made in the process.

MS MIRIAM LAU (in Cantonese): *Madam President, the Secretary has not answered my supplementary question. That is, will the construction plan of Route 7 be cancelled if the reclamation project is not carried out? Will the Secretary answer my supplementary direct?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, I cannot make a decision now. After the completion of the study, I will decide whether the construction of the highway will be cancelled if the reclamation is not to be proceeded with.

PRESIDENT (in Cantonese): Third question.

Economic Integration with Pearl River Delta

3. **MR AMBROSE LAU** (in Cantonese): *Madam President, in his policy address delivered in January this year, the Chief Executive stated the need to expedite Hong Kong's economic integration with the Pearl River Delta (PRD). In this connection, will the Government inform this Council:*

- (a) *whether it has discussed and reviewed with the Guangdong Provincial Government the adequacy of the existing mechanisms for communication and co-ordination in tackling the mutual problems of Hong Kong and Guangdong concerning economic integration; and*
- (b) *of the measures in place to enhance the understanding and co-operation between the relevant public officers of Hong Kong and Guangdong?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President,

- (a) With closer economic ties, communication between Hong Kong and Guangdong has become increasingly frequent. The scope of work involved has also become wider. The level of communication and co-operation between both sides have gone up as well. The existing communication mechanisms for Hong Kong/Guangdong co-operation can be summed up as "all-dimensional".

To be specific, at the highest level of communication, views are exchanged directly between the Chief Executive and leaders of both the Central Government and Guangdong Provincial Government on issues of mutual concern. Agendas for strategic co-operation are worked out at this level.

The second level of communication, conducted between the principal officials of both sides, provides a forum for Hong Kong officials to discuss and exchange views with their counterparts in the Central Government and Guangdong Provincial Government on various policies and related issues. Take the Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA) as an example, consultations at the highest level under CEPA are led by the Financial Secretary. During the past year, several rounds of high-level meetings and expert meetings have been held. It is envisaged that some concrete results will be produced in mid-2003. As for infrastructure development, the Secretary for the Environment, Transport and Works often holds talks with her mainland counterparts on certain long-term and regional transport infrastructure projects.

The third level of communication, which involves middle-rank and front-line staff, encompasses a broad spectrum of issues. They include the communication mechanisms at bureau and department level, such as the one between the Commerce, Industry and Technology Bureau and the Trade and Industry Department on the one hand and their counterparts in Guangdong Province on the other hand to discuss common concerns of Hong Kong businessmen who set up manufacturing bases in Guangdong, for example, the

mainland labour legislation and regulations, and so on. A similar mechanism is in place for discussions and co-operation on the work between the front-line staff of both sides to take place on daily passenger and cargo clearance at boundary control points (BCPs), the preparations for the golden-week holiday, the operation at BCPs and the monitoring of travel agencies. This multi-level communication network, which deals with co-operation on both policy and day-to-day cross-boundary issues, has been operating effectively in enhancing the mutual understanding and trust between Hong Kong and Guangdong.

Economic co-operation is an interactive process. In this connection, the Administration has established effective mechanisms for communication and co-ordination with both the Central Government and Guangdong Province in different policy areas. Below, I will cite some examples from the areas of finance, economic and trading ties and shipping to elaborate on these mechanisms.

On financial co-operation, communication between the Mainland and Hong Kong mainly takes place at the Central Government level, involving institutions like the Ministry of Finance, the People's Bank of China and the China Securities Regulatory Commission. When it comes to actual implementation, however, Guangdong is usually the first place where new initiatives are introduced. In this case, the Guangdong/Hong Kong Two-way Joint Clearing Facility for Hong Kong Dollar Cheques, Shenzhen-Hong Kong Debit Cards and Shenzhen-Hong Kong Real Time Gross Settlement System now in place are some examples. These initiatives have been well received by the business sector, and have effectively facilitated the economic co-operation and development between the two places.

In terms of economic and trading ties, the Hong Kong Economic and Trade Office in Guangdong (GDETO) of HKSAR Government has been in full operation since last July and successfully established a close link with the Guangdong Government, relevant commerce and trade departments and 21 district-level municipalities within the province. In addition to everyday contact, the GDETO has also reached agreement with provincial and municipal departments to

hold biannual meetings with a view to reinforcing their working relations and communication channels, as well as fostering mutual economic co-operation.

To promote co-operation and joint development in shipping, the Economic Development and Labour Bureau holds annual meetings with the Department of Water Transport, Ministry of Communications to exchange information on issues such as shipping policies and port development, and to find solutions to issues of mutual concern. The Marine Department and the Guangdong Maritime Safety Administration also meet regularly to explore ways to enhance safety management of ships from Hong Kong and Guangdong operating in the other side's waters.

In fact, economic co-operation cannot be achieved without a free flow of production factors such as human resources, goods, capital and information. In view of the wide range of areas covered in Hong Kong/Guangdong co-operation, it is important that co-ordination be carried out in a comprehensive and all-dimensional manner. The Hong Kong Guangdong Co-operation Joint Conference (Joint Conference) and the Mainland/HKSAR Conference on the Co-ordination of Major Infrastructure Projects (Co-ordination Conference), both led by me, serve as a platform for an exchange of views for this purpose. I co-chair the former with the Standing Vice-Governor of the People's Government of Guangdong Province and oversee the latter jointly with the Vice-Chairman of the State Development and Reform Commission. Representatives from Guangdong Province and its major cities sit on both conferences. A dozen of task forces formed under these two sides are making strenuous efforts in promoting co-operation in various policy areas between Hong Kong and Guangdong such as co-operation at BCPs and their development, planning and development of ports and logistics, environmental protection and infrastructure development.

The Joint Conference has striven to strengthen the co-operation at BCPs on both sides. Over the past year or so, significant improvement has been achieved to promote the efficiency of passenger and cargo clearance. Our target is to ensure that

clearance procedures on both sides of the boundary for cross-boundary passengers and lorries can be completed within 30 minutes and an hour respectively. We are also taking steps to forge closer co-operation in tourism. This has resulted in a surge in the number of mainland visitors to Hong Kong, which amounted to more than 6.8 million passenger trips (or an annual increase of 53%) last year. This figure clearly testifies the effectiveness of the co-operation mechanism. The next milestone in our co-operation efforts to promote tourism will be the relaxation in the policy on individual tourists from Guangdong.

The Co-ordinating Conference plays a similar role. As far as logistics and infrastructural projects are concerned, we are working with the Ministry of the State Development and Reform Commission and its research institutions to explore opportunities for mutual co-operation on these two fronts. Under the supervision of the Co-ordinating Conference, the planning of the Guangzhou-Shenzhen-Hong Kong Express Rail Link, the collaboration on logistics development between Hong Kong and the Mainland, and the study on the Hong Kong-Pearl River West Link have entered into a "working stage". The phase I of the rail link planning has been completed while the initial study on the logistics development and the infrastructural projects in respect of the west link are expected to complete around mid-2003. In just more than one year's time, the Co-ordinating Conference has facilitated a deeper understanding between the two places on regional infrastructural development, making it easier for both sides to draw up complementary measures to cater for the economic needs of the region. We have confidence that the Co-ordination Conference will continue to play an effective role in sustaining mutual communication, co-ordination and supervision in the years to come.

Communication and co-ordination are also carried out at various professional levels through a number of other ongoing projects in areas such as environmental protection, water quality protection, Shenzhen River regulation, town planning, conservation of marine resources and afforestation, and information exchange. Solid progress has been achieved in this respect. Members, if interested, may wish to follow up these issues at respective panel meetings.

We understand that the communication mechanisms should be flexible enough to keep pace with economic development and help elevate Hong Kong/Guangdong co-operation to a new height. In view of the trend regarding current economic development in the two places, the future mechanisms must be able to facilitate frequent communication through various channels at all levels. Future talks on co-operation should also be conducted in a pragmatic manner on the basis of mutual respect.

Looking ahead, I think we should intensify and broaden our scope of communication. We should maintain the ongoing inter-governmental dialogue and, more important, take the initiative to establish a trilateral communication with the business sector and the academia as well. We should also acquire a deeper understanding of the economic development of individual cities in the Mainland in order to formulate an overall strategy of complementary co-operation between Hong Kong and Guangdong for the purpose of forging a closer economic partnership. Besides, we should also explore with the relevant Guangdong authorities the possibility of setting up mechanisms for communication on general matters in the region such as regional planning, flow of information on regional public health and finance with a view to widening the scope of communication. In a nutshell, all matters in the sphere within 3-hour access from Hong Kong and Guangdong should be the focus of our mutual concern. We have reached a consensus with the Guangdong leadership that Hong Kong and Guangdong must join hands and boost the economic strength of the Greater PRD Region. We will build on our existing strength and continue to improve and perfect our communication mechanism in this direction.

- (b) In the wake of the reunification, there have been more frequent interactions over day-to-day business between public officials from Hong Kong and the Mainland (including Guangdong Province). It is necessary to enhance their mutual understanding for better co-operation. Several channels are now in place for this purpose. First, they can acquire a better understanding of each other's work and strengthen co-operation through existing working groups as well as everyday exchanges, visits, meetings and forums at professional

level. Second, our Civil Service Training and Development Institute (CSTDI) has organized training programmes to equip local civil servants with more knowledge about the Mainland and Guangdong Province, so that they can be more confident when dealing with mainland issues in the future. Last, the establishment of the GDETO last April has placed us in a better position to secure first-hand information on Guangdong Province and various cities in the Mainland. GDETO also helps forge ties and reinforce trade and economic co-operation between Hong Kong and Guangdong Governments.

PRESIDENT (in Cantonese): Members, 11 Members are waiting for their turns to ask supplementary questions. As the Chief Secretary for Administration (Chief Secretary) has given a very detailed main reply, I will therefore give Members a few more minutes to raise supplementaries on this oral question, so as to allow more Members to raise their supplementaries.

MR AMBROSE LAU (in Cantonese): *Madam President, first of all, I would like to thank the Chief Secretary for providing us with a detailed reply. It has been a while since this Council was last given a detailed reply like that. However, I hope the Chief Secretary would clarify some points. The main reply indicated that both the Joint Conference and the Co-ordination Conference are high-level and important conferences. Will the Government inform us whether they are convened on a regular basis? If not, will the Government consider making them regular conferences, with a view to speeding up the economic integration?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, five meetings have been conducted since the establishment of the Joint Conference, and three meetings were also convened by the Co-ordination Conference. Besides meetings conducted by the Joint Conference and the Co-ordination Conference, meetings for discussions on a wide spectrum of areas were also convened by a dozen of groups under the two conferences on a regular basis. We have been in fact holding one, two or three meetings each year, so I believe we may call them regular meetings. As to whether they should be held

once every three or four months, it really depends whether or not the specific item on the agenda is urgent. If it is urgent, we hope that we can meet every three or four months, otherwise we would meet every six months. However, both the Joint Conference and the Co-ordination Conference will conduct a conclusive examination every time we meet, and the most important thing is that groups under the two conferences are making practical efforts which cover a wide range of areas. However, I am happy to consider Mr LAU's suggestion, that is, whether we can convene meetings on a regular basis. I believe we have already formed a regular pattern, and so doing will only formalize this pattern.

MR LEUNG FU-WAH (in Cantonese): *Madam President, the Chief Secretary mentioned in his main reply that the Joint Conference had striven to strengthen the co-operation at BCPs on both sides and significant improvement had been achieved over the past year or so. However, I received a complaint recently that since the Sha Tau Kok BCP closed at eight o'clock and the manpower was quite scarce, the public had to go to the BCP and line up there several hours earlier because vehicles could only line up in one queue. May I ask the Secretary whether he has any plan to discuss with relevant mainland authorities in the near future with a view to extending the opening hours of the BCP and enhancing the manpower deployment?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, of course our BCP group can follow the matter up, but it is evident that passenger and cargo flows at BCPs are growing rapidly on both sides. Furthermore, besides dealing with the flow issue, we should also pay attention to the fact that whether the road capacity could cope with the growth and whether there would be any impact on the life of the local residents. At present, improvement works are mainly carried out at the Lok Ma Chau and Lo Wu BCPs, which are dealing with huge passenger flows. I believe Honourable Members are aware of the fact that we handled over 100 million passenger trips on land last year, so we are the number one control point in the world. As to Mr LEUNG's suggestion that we should improve the condition at Sha Tau Kok, we can examine that further. In the meantime, we hope to concentrate our resources at the most important places, that is, Huanggang/Lok Ma Chau and Lo Wu/Shenzhen BCPs, so that we can focus on the passenger and cargo clearance at these BCPs.

MR HOWARD YOUNG (in Cantonese): *Madam President, does the current mechanism have adequate flexibility? I do not mean the top level, instead, I mean that whether there are inter-departmental communications within the day-to-day scope of work which would help to solve problems. I know that results were accomplished at the high level. For example, with regard to tourism, I know that the Commissioner for Tourism maintains excellent communication with mainland tourism authorities, but if a Hong Kong resident is involved in a traffic accident in the Mainland, it would be the responsibility of the mainland public security authorities. Should the matter be forwarded to our counterparts at a higher level where communication is possible, or should the matter be solved through inter-departmental communication?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, what Mr YOUNG means is what Hong Kong can do if a Hong Kong resident is involved in a traffic accident. I believe we would try our best to help. But due to the resource constraint, we cannot offer much help sometimes, bearing in mind that the contact between the two places is so frequent. However, we would study whether the Office of the Government of the Hong Kong Special Administrative Region in Beijing (Beijing Office) and GDETO could provide Hong Kong residents with more help in this respect, but resources are not unlimited. The most important point is that telephone communication is very convenient now. If a Hong Kong resident is involved in an incident in the Mainland, he may seek help by making a phone call to Hong Kong. On his way back to Hong Kong after the accident, for example, an ambulance would wait for him at the boundary and take him to the hospital. I believe that can be arranged without any problem.

With regard to contact, perhaps Mr YOUNG wishes to know the number of contacts between the SAR Government and mainland officials. Last year, we made contact with each other over 3 000 times, in which over 30 000 people were involved. That is, we made contact with each other for almost 10 times on a single working day, and they were made at different levels. It can be said that the contact was quite frequent. Certainly, we should not be complacent about that, as I believe there is still room for improvement. However, there is a limit on what we can do. For example, if a Hong Kong resident is involved in an accident in Lhasa, Tibet, it is impossible for us to try to transfer him back to Hong Kong just within two hours. I wish Honourable Members would understand that communication between both sides is very important. We

acknowledge the importance that communication between Hong Kong and mainland residents would help the economic development of Hong Kong. For that reason, we will definitely continue to make all efforts in that respect.

MR HUI CHEUNG-CHING (in Cantonese): *Madam President, the Chief Secretary mentioned in the main reply that communication mechanisms for Hong Kong/Guangdong co-operation could be summed up as "all-dimensional". Besides improving economic and trading ties with the Guangdong Provincial Government, the SAR Government has to improve the co-operation relationship with nine cities in the PRD. Can the Chief Secretary explain the current progress of the co-operation with nine cities in the PRD?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): *Madam President, our target is not just the nine cities, for we have included the district level as well. At present, there are over 20 municipalities in the sphere of three-hour access, thus our target has been expanded to include them. Certainly, communication between Hong Kong and mainland provinces and cities is made according to the Basic Law. Under "one country, two systems", specific provisions have set out the mode of communication, that is, it should be conducted according to the current mechanism via the Hong Kong and Macao Affairs Office. However, it does not mean that we cannot make any direct contact. We have already maintained communication with mayors and party secretaries of major cities within Guangdong Province as far as the working level is concerned. Day-to-day co-operation can be conducted through telephone and fax communications. I understand that we can do more in terms of communicating with certain individual provinces and municipalities. The scope of communication is not limited only to ties between governments, it also includes the commercial sector and the academia. That approach allows us to understand the strengths of various provinces and municipalities, the room of co-operation with Hong Kong and proposals of mutual benefit, and significant areas that warrant discussions. We would continue to exert more efforts in these areas.*

MR JAMES TIEN (in Cantonese): *Madam President, I understand that there are three different levels as mentioned by the Chief Secretary in his reply. The highest level is the Chief Executive. May I ask if the second level, which*

includes high-level conference led by the Financial Secretary, will invite the participation of the business sector? Just now the Chief Secretary has also mentioned that point. I mean international infrastructure construction consortiums such as AIG. I feel that if the business sector is allowed to express views at that level as early as possible, governments of the two places would be able to save some wasted efforts.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, in the discussions in connection with CEPA, that is, the Mainland/Hong Kong Closer Economic Partnership Arrangement, our target is to come up with some results by the middle of this year. The discussions are between the regional government, that is, the SAR Government, and the Central Government, as sensitive business issues should be discussed directly by the two Governments. I believe the Financial Secretary and his colleagues would consult the local business sector and trade associations, in particular local offices of global consortiums. I believe their views would be reflected at the negotiation table.

MR JAMES TIEN (in Cantonese): *Madam President, the Chief Secretary has misunderstood my supplementary. I was not asking about CEPA at all. I did not mention CEPA. I only said that in the course of discussing cross-boundary infrastructure development between governments of the two places, they might approach infrastructure consortiums such as AIG, New World Infrastructure Limited and Cheung Kong Infrastructure Holdings Limited at an earlier stage, then certain wasted efforts could be saved as far as highway or bridge construction works are concerned. I did not mean CEPA at all.*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, our discussions are in fact ongoing, but it is pointless for us to inform the whole world after each meeting that we have discussed with Mr WU today or we would discuss with Mr KWOK tomorrow. This is not the approach. I think we should be aware of the ideas of all parties concerned. The most important thing is that the discussions should be conducted in phases. For example, with regard to bridges, we may proceed step by step only after completing the feasibility study. The same should apply to the regional railway system, that is, we should first complete the feasibility study, then we could take

gradual lead by bringing the local business sector in. We fully understand that it concerns the economic interests of Hong Kong, the SAR Government should not assume full command of it as the participation of the business sector is essential. We have a clear understanding of their intents, but we can only study the sphere and manner of participation in detail after the feasibility study of individual project is completed.

PRESIDENT (in Cantonese): We have spent more than 21 minutes on this question. This is the last supplementary.

MRS SELINA CHOW (in Cantonese): *Madam President, the Chief Secretary mentioned tourism twice in his reply. He mentioned discussion would be carried out on the monitoring of travel agencies. May I ask what the specifics of that are? Moreover, when will the policy on individual tourists from Guangdong be implemented?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, Mrs Selina CHOW really baffles me. I think she should know better than I do. With regards to the specific details, I suggest Members should follow up in the relevant panels, for I think it would be a more effective channel.

MRS SELINA CHOW (in Cantonese): *Madam President, the Chief Secretary has only answered half of my supplementary. I think he should be able to answer the date of implementing the policy on individual tourists from Guangdong.*

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

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, we are anxiously discussing this issue. I hope that there will be an answer in the near future.

PRESIDENT (in Cantonese): Fourth question.

Treatment of Chemical Wastes

4. **DR LAW CHI-KWONG** (in Cantonese): *Madam President, regarding the treatment of chemical wastes, will the Government inform this Council:*

- (a) *of the quantities of chemical wastes treated by the Chemical Waste Treatment Centre (CWTC) on Tsing Yi in each of the past three years, and the percentages of these quantities in its designed treatment capacity; the quantities of waste oil treated by the CWTC in each of the past three years, the unit cost for the treatment, and the amount and percentage of the unit cost subsidized by the Government;*
- (b) *whether it has considered reallocating the annual amount of government subsidy for the CWTC so as to encourage the stakeholders to adopt more effective methods for treating chemical wastes; if not, whether it will consider this in the near future; and*
- (c) *whether it has a policy of promoting the recovery of recyclable materials from chemical wastes, with a view to promoting the development of environmental protection industries; if not, whether it will consider formulating such a policy?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President,

- (a) In 2000 and 2001, the CWTC treated 63 000 tonnes of chemical waste each year. In 2002, it treated 52 500 tonnes of chemical waste. The design treatment capacity of the CWTC is 100 000 tonnes per annum. Accordingly, the actual treatment quantities were 63% of the design treatment capacity in 2000 and 2001, and 52% in 2002. Between 2000 and 2002, the CWTC treated 30 500 tonnes, 44 000 tonnes and 34 700 tonnes of oily waste respectively. About 80% of the oily waste was generated from ocean going vessels, and the rest from local public transport companies, and machinery and vehicle maintenance workshops, and so on.

The variable operating cost of treating oily waste is dependent on the treatment process required. Treatment by oil-water separation costs about \$2,300 to \$2,500 per tonne. The cost of incineration is about \$9,200 per tonne. Last year, about 80% of the oily waste treated at the CWTC was treated by oil-water separation, and the rest was incinerated.

The CWTC is a government facility. The Government pays the contractor the operating cost in accordance with the contract. At present, the average charge paid by chemical waste producers is only about 30% to 40% of the variable operating cost. Hence, the Government is providing a subsidy to chemical waste producers, which is about 60% to 70% of the variable operating cost.

- (b) The operation of the CWTC does not involve any direct subsidy. However, we consider that, in accordance with the "polluter pays" principle, the subsidy to chemical waste producers should be gradually reduced, with a view to recovering the variable operating cost in full.
- (c) We have always encouraged the environmental industry to recover and recycle different kinds of materials. Hence, the CWTC and some private chemical waste disposal facilities have been recycling chemical waste. Examples include the recovery of copper oxide from spent etchant; fuel from oily water waste; production of lubricating oil, hydraulic oil and moulding oil from different types of recycled waste oil; silver from photofinishing waste; and precious metals such as gold and silver from spent plating solution.

DR LAW CHI-KWONG (in Cantonese): *Madam President, the Secretary has mentioned in the latter part of part (a) of her main reply that the average charge paid by chemical waste producers is only about 30% to 40% of the variable operating cost. However, many past reports have pointed out that a contractor would offer discounts so that chemical waste producers do not have to bear the 30% to 40% of the cost. The contractor mainly wants the Government to subsidize 60% to 70% of the cost. Would this bring about unnecessary wastage? Would the Government examine the modus operandi to avoid abuse or similar cases?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, I also think that Dr LAW Chi-kwong has pointed out a problem. The Government signed a contract with the CWTC in 1990 and it was clearly specified at that time the amount it could collect from the Administration for each tonne of waste treated before it was willing to engage in the DBO mode of operation. According to the original plan, the Government would bear part of the costs at the early stage and gradually recover the costs from the waste producers later, for example, the percentage would slowly increase from 20% to 30%, and so on. Nevertheless, the Government has all along failed to increase the charges to fulfil the "polluter pays" principle and it has to pay the amounts to the CWTC because of the contract.

As regards whether the mechanism is reasonable, we have to know why there was such a condition at that time. The Government focused on satisfactory waste treatment at that time. If it did not offer incentives, many factory owners would not be willing to pay the operating costs for the treatment of chemical waste. Therefore, to encourage factory owners to conduct formal treatment of chemical waste and prevent chemical waste producers from dumping such waste into the sea at night and polluting the environment, the Government drew up such a condition. The principle was that the Government would directly subsidize chemical waste producers and require them to send the waste to the CWTC for treatment. However, the terms of the contract are very loose and a contractor may indirectly give waste producers rebates. For instance, the cost under the contract is \$10, so a waste producer has to pay \$4 and the Government has to pay \$6, and the contractor will receive \$6, which is a pretty good deal. The Government must perform the provisions of the contract and we are actively considering how we can relieve the burden of the Government and rationalize the CWTC as a business organization.

MR MARTIN LEE (in Cantonese): *Madam President, insofar as policies are concerned, would the Government consider incineration as the last resort in the treatment of chemical waste, that is, burning chemical waste that cannot be recycled?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, the Administration shares the view of Mr Martin LEE. Incineration is the last resort in the treatment of such waste because the relevant costs are fairly high and it is not a sustainable method.

Therefore, we would first examine if the waste can be recycled and we are encouraging the CWTC to step up waste recovery. The relevant figures have increased year after year. For wastes that pose difficulties to treatment, such as PCB, that is, polychlorinated biphenyls, which is recognized worldwide as oil that can stand very high temperatures for use in a transformer, their treatment requires high technology and advanced incinerators. We would try our best on the recovery of other oils such as oil wastes produced by liners or engine oils. At present, only 20% of waste oils cannot be treated by the CWTC or require burning.

MR ALBERT CHAN (in Cantonese): *Madam President, the utilization rate of the CWTC only accounts for 50% to 60% of the design treatment capacity, and such a relatively low utilization rate is worrying indeed. Madam President, though the utilization rate of the CWTC is low, 30 000 to 40 000 tonnes of waste oils are treated, and 20% of which, that is, around 7 000 tonnes are treated by incineration. If chemical waste oils are treated by incineration, they will cause a certain degree of harm to the residents and the atmosphere. Would the Secretary explain and can she guarantee that the treatment of waste oils by incineration would not do harm to the atmosphere and Hong Kong people?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, the incinerators of the CWTC comply fully with the international standards, which is the prime condition. In the course of using incinerators, the temperature in incineration and the quality of air finally emitted is monitored every day and the Environmental Protection Department (EPD) supervises the conduct of such work by the CWTC on a long-term basis. Mr Albert CHAN appeared very worried just now, actually, everybody will have such a reaction at the mention of incinerators, and we are no exception. Therefore, we will try our very best to ensure that the use of the incinerators meet the relevant standards and we will examine in detail the data obtained by the CWTC through monitoring.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, the Government often talks about "big market, small government" in recent years but it seems that we have "fat market, thin government" this time because the Government has subsidized too much. The Secretary indicated in her earlier reply to the supplementary question that the Government signed a contract with the*

contractor in the early '90s. Would the Secretary inform this Council of the term of the contract and whether the Administration would amend certain provisions upon the expiry of the contract to improve the relevant situation in order to genuinely solve the problem? Even if the Government increases the charges, perhaps as the Secretary has just said, the pollutants may be emptied into the sea eventually, which is also not viable. Would the Administration thoroughly solve the relevant problem upon the expiry and renewal of the contract?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, I also took part in the project at the end of 1989. Since the economic and political circumstances at that time were extraordinary, the provisions at that time were biased towards large enterprises and the situation was lopsided. The contract would expire in April 2008 and the Administration will certainly review the relevant provisions and consider how the interests of various parties could be balanced in working out a new contract. The Government has paid in full to the CWTC the treatment cost of \$1.3 billion, therefore, the operating expenses of the CWTC are calculated on the basis of operating capital. In working out the new contract, we will review the cost and many rules and even consider whether the arrangement will impact on our economy as a whole. The Government is also providing indirect subsidies to ocean liners because these vessels are waste producers. Although the waste is not produced in Hong Kong, we also accept their waste in the interest of our shipping industry. Moreover, we have all along advocated that the contractor should step up recovery for generation of income. We may not be able to reduce the expenses under the existing provisions, but we will certainly consider doing so in the future.

I hope that more can be done before the expiry of the contract because, as the Member has just said, the utilization rate of the CWTC is only 52% at present and the CWTC has high technology facilities. When the Government conducts negotiations about the co-operation between Guangdong Province and Hong Kong, the mainland authority has made a lot of suggestions, for instance, it has asked Hong Kong to assist in the handling of chemicals that pose difficulties in treatment in the Mainland. It will certainly cause a series of problems and many places are unwilling to do so. But if we consider that the Pearl River Delta and Hong Kong is basically an integral whole, then providing the Mainland with assistance will indirectly bring Hong Kong benefits. We are going to consider this in detail.

MR MICHAEL MAK (in Cantonese): *Madam President, the Secretary has mentioned in part (c) of her main reply that the Administration has always encouraged the environmental protection industry to recover the relevant waste but I think such encouragement does not have compulsory effect. I definitely believe, and the Secretary has just said that some unscrupulous waste producers will wantonly or inconsiderately dump waste, especially chemical waste*

PRESIDENT (in Cantonese): Mr MAK, please come to your supplementary question direct.

MR MICHAEL MAK (in Cantonese): *Fine. Has the Administration obtained figures on the disposal of chemical wastes by unscrupulous merchants at the landfills as if they are ordinary rubbish or considered what effects that will have on public health, the environment and the ecology?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, the Administration only encourages the recycling of various materials, but the treatment of chemical materials is subject to regulation by law. All chemical waste producers must register with the EPD and they have to produce proof of treatment of their chemical wastes by authorized contractors. They also have to produce evidence of how and where the chemical wastes are treated ultimately. They cannot casually send chemical wastes to the landfills together with domestic wastes or general commercial wastes.

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

DR RAYMOND HO (in Cantonese): *Madam President, the CWTC treats 30 000 to 40 000 tonnes of waste oils per annum, and treatment by oil-water separation costs about \$2,300 to \$2,500 per tonne while treatment by incineration costs \$9,200 per tonne. Of course, the contractor wants to collect more money from the Government because of the high costs. What incentives would the Government offer to induce the contractor to adopt treatment by oil-*

water separation as far as possible? Would the Government consider replacing incineration by other methods so that waste oils that cannot be treated by oil-water separation can be treated by other methods, thus obviating the need to send such waste oils to the CWTC for treatment?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, the Administration has been considering the suggestion made by Dr Raymond HO. The oils separated by oil-water separation can be recycled. The CWTC made a few million dollars in profit from the proceeds from selling recycled oils last year, that is, in 2002. Given that the CWTC will continue to do so, the Administration thinks that it is an incentive which is beneficial to the environment. Besides the CWTC, other organizations can also treat waste oils by oil-water separation and they can especially recycle the wastes from waste oils of vessels, so, there is competition. We will consider various treatment methods to see if there are methods that are worth adopting. The treatment of wastes by incineration incurs the highest cost and it is our last resort. Therefore, the Administration has always kept watch on the relevant problems, and we have been mindful of making improvements.

PRESIDENT (in Cantonese): Fifth question.

Solar-powered Irrigation Systems

5. **DR RAYMOND HO** (in Cantonese): *Madam President, with the use of solar-powered irrigation systems, vegetation on slopes in remote areas can grow with the necessary water supply and thus help to stabilize the slopes. In this connection, will the Government inform this Council of:*

- (a) *the number of slopes in the territory on which the vegetation is suitable for watering by solar-powered irrigation systems, and the estimated expenditure on the installation of such systems for the slopes;*
- (b) *the time required for installing a solar-powered irrigation system;*
and

- (c) *the life of battery banks for storing electricity produced by such systems?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President,

- (a) The Civil Engineering Department is conducting a feasibility study on the use of solar-powered irrigation systems. If such systems prove to be technically feasible and cost-effective, we will consider installing them on suitable government slopes. According to our preliminary estimate, about 20 such slopes which are higher and without water supply are suitable for the use of solar-powered irrigation systems.

The Government's preliminary estimate for the expenditure on installing such a system on a slope is in the order of \$300,000, about 80% of which is used for procuring the equipment. Part of the equipment, however, can be re-used. The lifespan of the entire system is three to five years during which the vegetation can grow steadily. After taking into account the maintenance cost for three to five years, each system is estimated to cost around \$330,000. At this stage, the Government does not have any concrete plan to install solar-powered irrigation systems on slopes. Government departments will carefully consider the actual need for installing such systems on individual slopes so as to ensure that any such plans, if implemented, can deliver value for money.

- (b) The Civil Engineering Department is conducting a site trial in Kau Shat Wan on Lantau Island to develop an irrigation system powered by solar panels. The time required for the design and installation of the system is about nine months. Upon completion of the trial scheme and when the installation techniques have been mastered, it is likely that the time required for installing a solar-powered irrigation system can be reduced to around four to six months.
- (c) The solar batteries used in the above study can store electricity for three-days' consumption by the irrigation system. Therefore the system can still operate on overcast days. The life of a solar battery is generally two to three years.

DR RAYMOND HO (in Cantonese): *Madam President, the Secretary says that the expenditure on installing a solar-powered irrigation system on a slope is in the order of \$300,000 and the lifespan of the entire system is three to five years and some of such systems are already in use. In other words, the lifespan of some of these systems may soon expire and consideration on whether or not to continue using these systems will have to be made. However, the Government has not drawn up any concrete plans. May I know if the Government will decide whether or not solar-powered irrigation systems will continue to be used at this time when the lifespan of the first lot of such systems is about to expire so that the programme can be more cost-effective?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, we are presently conducting a trial scheme at Kau Shat Wan but such systems are not yet installed on the slopes on an extensive basis. As the cost for installing one system is \$300,000, so we would decide on their extensive use only after the trial scheme is completed and when it is proven viable. This will ensure that the programme can continue and that the systems can be re-used as I have mentioned.

DR LAW CHI-KWONG (in Cantonese): *Madam President, I would like to follow up part (a) of the main reply. The Secretary mentions that the expenditure on installing a solar-powered irrigation system is about \$300,000 and in the same part of the main reply, the Secretary says that if it can deliver value for money, that is, being cost-effective, then the plan can be launched. Since the relevant figures are available, then the remaining question is whether the figures can show that the plan is cost-effective. Suppose it is cost-effective, then may I ask whether or not the cost of \$300,000 can be considered cost-effective? Does the Government have any concrete figures to show that spending \$300,000 on each of these systems is workable? May the Secretary please answer "yes" or "no"?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, the question of cost-effectiveness is now being studied as we are conducting trials. Apart from costs of installation and equipment, we have worked out that each system would cost around \$300,000. As to the size of the slope concerned, the cost of laying the turf and whether or

not each of the slopes would be suitable, and so on, these are the factors we have to consider. The system cannot be installed on some slopes because of their location and short duration of exposure to sunshine, and so it is not very effective to install such systems there. These factors will all have to be taken into account. Now the Government is conducting a site trial in Kau Shat Wan in order that some basic data can be obtained in these respects. In considering each and every project, we will use these basic data to test if the project is viable before proceeding with it.

MISS CHOY SO-YUK (in Cantonese): *Madam President, may I ask the Secretary whether or not the Government is looking into the possibility of applying solar batteries in other projects apart from irrigation systems installed on slopes?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, we also use solar energy in some public toilets and that is, using solar energy to heat up the water directly. We have conducted trials in many places and they are very successful. We also use photovoltaic panels and these are installed in the government offices in Wan Chai. There the photovoltaic panels are fitted onto the curtain walls of the building to store power. The effect is very much to our satisfaction. We will ask the various works departments to consider what projects can make use of solar energy and that trials should be conducted. I think Honourable Members are aware that the theories of solar energy are quite clear, but the question is cost. Crystal solar panels are more expensive and polymorphic panels are cheaper but their efficiency is lower. Therefore, the whole world is now working on how to make solar energy more cost-effective. The Government hopes to study in what areas solar energy can be put to the best use because it is an option that will use the least resources but is the most effective.

DR RAYMOND HO (in Cantonese): *Madam President, if fresh water supply is needed on the slopes, there is a possibility of water leakage in the pipes and this makes the slopes unstable. As growing plants on the slopes can make them stable, may I ask the Secretary if the Government will consider using solar energy instead of fresh water to irrigate the plants so that the risk of unstable slopes can be reduced? May I ask if this is an important consideration?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, we grow plants on the slopes is precisely to prevent instability in the slopes so we would think that solar-powered irrigation is a good method and it meets the requirements of sustainable development.

MISS CHOY SO-YUK (in Cantonese): *Madam President, in supplying water and power to remote villages, the Government will have to spend a lot of money. May I know if solar batteries can be used more extensively in remote places to solve the problem of water and power supply? Will the Government undertake any research in these areas?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, as I have said earlier, our works departments are actively working on this. Recently, we have made a review of the fresh water supply in remote villages. I believe Honourable Members must have learnt from news reports that inhabitants in these villages are growing smaller in number and so we need to consider whether or not these proposed measures are cost-effective. We know in six to nine villages, the cost-effectiveness of these systems is very low, for if fresh water supply is provided to these villages, we have to move almost the same amount of equipment for an entire building there. So I have asked my colleagues to consider other options such as using solar energy to supply electricity to them. Once there is power supply, pumps can be used to make water supply possible and ensure the water quality there. We are currently working on the work procedures involved.

DR RAYMOND HO (in Cantonese): *Madam President, as a matter of fact, many slopes are situated in the urban areas, so if solar cell panels or photovoltaic panels are used to produce electricity, can the power thus generated be used in the lighting of street lamps as it is being done in some foreign countries, so that we can be more cost-effective in our use of energy?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, there are many benefits of using solar energy and it can reduce the money we spend on electricity. However, different

applications of solar energy would require a sufficient amount of solar energy within a certain period of time, otherwise, the desired effect cannot be achieved. Take street lamps as an example, we are presently making a study on the application of solar energy in street lighting, it is because the equipment required is very costly. A crucial problem to cost-effectiveness is whether or not the residual power can be transmitted to the power supply network. If only solar cells are used, the cost-effectiveness is very low because the costs are very high. If the residual power generated by photovoltaic panels can be gathered in the power supply network, then the cost-effectiveness will be higher. However, there are also many problems about transmitting the residual power into the power supply network, for example, the problems of safety and the power transmissions system in Hong Kong. We will consider all possibilities of using renewable energy resources, but we also need to consider the important questions of cost-effectiveness and compatibility with other systems.

PRESIDENT (in Cantonese): This Council has spent more than 12 minutes on this question and although some Honourable Members are still waiting for their turn to ask questions, they have already raised more than two supplementary questions. So we will now proceed to the sixth question.

Proposal to Replace Light Duty Diesel Vehicles with Petrol Vehicles

6. **MS EMILY LAU** (in Cantonese): *Madam President, in September 1995, the Administration consulted the public on a proposal to phase out light duty diesel vehicles by replacing them with petrol vehicles using unleaded petrol and catalytic converters. The proposal was not implemented as the transport trades strongly opposed it. In this connection, will the executive authorities inform this Council:*

- (a) *of a detailed comparison of light duty vehicles using various types of fuels, particularly, in terms of operating costs, fuel efficiency, safety, supply and distribution;*
- (b) *whether, in view of the difficulties encountered in the implementation of the plan to replace diesel public light buses (PLBs) with vehicles using liquefied petroleum gas (LPG) or electricity, they*

will reconsider the proposal of replacing diesel PLBs with petrol vehicles; if so, of the timeframe for assessing the feasibility of the proposal and working out the relevant implementation details; and

- (c) *whether the Government will consider giving some form of support for implementing the above proposal?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, the following types of light vehicles are being supplied in the Hong Kong market:

- petrol private cars
- LPG taxis
- petrol and diesel 12-seat light buses
- diesel, LPG and electric 16-seat light buses
- diesel and petrol light vans
- diesel light goods vehicles

The current retail prices of a litre of motor petrol, diesel and LPG are as follows:

- | | |
|----------|--------------|
| — petrol | about \$11.2 |
| — diesel | about \$6.3 |
| — LPG | about \$2.1 |

Electricity tariffs vary depending on the district and the units of electricity consumed. On Hong Kong Island and Lamma Island, the basic tariff for commercial/industrial consumers is about \$1.07 for each of the first 1 500 units of electricity consumed, and about \$1.15 per unit thereafter. In Kowloon, the New Territories and outlying islands (except Lamma Island), the basic tariff for commercial/industrial consumers is about \$0.97 for each of the first 5 000 units of electricity consumed, and about \$0.96 per unit thereafter.

Regarding fuel efficiency, in terms of kilometres travelled per litre of fuel consumed, diesel vehicles are the most efficient, followed by petrol vehicles. LPG vehicles are the least efficient. It is not appropriate to compare electric vehicles with the three other types of vehicles because of their different mode of mechanical operation.

In term of costs, if we take into account only the retail prices of fuels and fuel efficiency, petrol vehicles generally have the highest operating cost per kilometre travelled. Electric vehicles rank second, followed by diesel vehicles. LPG vehicles have the lowest operating cost.

Regarding emission of air pollutants, the level of emissions varies according to the type of vehicles and models. For example, diesel vehicles can be classified into pre-Euro, Euro I, II or III models, however, overall speaking, diesel vehicles have the highest level of emissions and LPG vehicles have the lowest level of emissions. The level of emissions of petrol vehicles is low but they have their own peculiar problem, which I do not intend to go into details here. Electric vehicles have zero emissions from the perspective of roadside emissions, but this may not be the case in terms of their entire life cycle.

Regarding safety, all vehicles must comply with the local statutory safety standards in order to be registered for use on Hong Kong's roads.

There are 6 000-odd diesel light buses in Hong Kong. After the introduction of LPG light buses, about 400 have already been replaced by LPG ones. After the introduction of the LPG and electric light bus programme, over 80% of the newly registered light buses are LPG ones, while those that are run on diesel are Euro III models and constitute just over 10%. Therefore, we do not agree that difficulties are being encountered in the implementation of the programme. We also do not consider it necessary to think of other options to achieve our aim to reduce emissions from light buses at this stage. Under the incentive programme, to be eligible for the one-off grant or exemption from first registration tax (FRT), owners of diesel light buses over 10 years of age have until end-2004 to replace their vehicles, and owners of diesel light buses below 10 years old have until end-2005 to replace their vehicles. Since the deadlines of application for the grants or FRT exemption are still way ahead, some diesel light bus owners may choose to replace their vehicles in slower time. We expect that more owners will replace their diesel light buses with LPG or electric ones in the run-up to the deadlines.

MS EMILY LAU (in Cantonese): *Madam President, the Secretary said that there is no difficulty in implementing the scheme to replace diesel light buses with LPG or electric ones. What she said may be correct because the matching facilities for supplying LPG can already cater for 18 000 taxis and the 6 000 light*

buses mentioned by the Secretary, but I wonder how long it will take to complete the replacement? Madam President, when a consultation was conducted in 1995, the Secretary had not yet assumed office, but the Environmental Protection Department pointed out very clearly that to combat air pollution, petrol definitely had an edge over LPG and diesel. Can the Secretary confirm whether this was said at that time? Moreover, in 2001 there were over 68 000 light diesel vehicles in Hong Kong, meaning that there will still be over 60 000 such vehicles even after over 6 000 light buses are discounted. If, as the Secretary said in the panel, we have to wait for the use of catalyst converters or the switch to Euro models, will the progress be too slow? If it is possible to combat air pollution by using petrol, should we not try a little harder? Given that the most important consideration is ameliorating air pollution, is the Government going to offer subsidies? Can the Secretary reconsider the relevant arrangements?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, in 1995, I looked at the whole plan in my capacity as an environmental protection expert and considered it infeasible because of the great difference in prices. From the angle of cost-effectiveness, it will be difficult to switch all the so-called business vehicles to petrol ones. Besides, I do not agree with what Ms Emily LAU has said — I do not know if this was really said at that time — that in order to reduce air pollution, it would be best to use petrol and that it was even better than using LPG. One of the major reasons in ruling out LPG at that time was the difficulty in setting up enough filling stations in such a densely populated city. This problem has not been entirely solved even now and the process of identifying locations for filling stations is still ongoing. However, of the three types of fuels, LPG is definitely the cleanest. In the context of the technical developments in 1995, petrol was far better than diesel. However, as I have pointed out in the main reply, there are also certain problems associated with petrol, that is, petrol contains volatile organic compounds. We can smell petrol because it is highly volatile and these organic compounds are precisely one of the leading causes of a type of pollution known as photochemical smog, so petrol has its problems whereas LPG does not have such problems. Therefore, the best policy is to switch from diesel to LPG in one stride.

As regards diesel, there has been steady progress in the Euro model of diesel vehicles or engines, which we have adopted as the standard in the past few years, and the emissions produced by them have relatively been reduced

significantly. The future Euro IV diesel vehicles will also have a relatively low level of emission and are far better than previous models. As regards how Hong Kong can tie in with these technical developments, the Government has a series of plans aimed at adopting the most reasonable approach to reduce air pollution, having regard for their economic viability. Under the plan introduced in 1999 to bring about an overall reduction in air pollution, we hope to reduce suspended particulates by 80% and nitrogen oxides by 30%. So far, we have made a number of initiatives, such as introducing ultra low sulphur diesel, switching taxis to LPG ones, implementing the existing LPG light bus scheme, as well as requiring all new imported vehicles must be Euro III models. This is the standard we have always followed when requiring new imported vehicles to comply with the latest standard. Together with catalytic converters and particulate arrest devices, we have now managed to reduce suspended particulates by 58% and nitrogen oxide by 27%. We plan to continue to switch all light buses to LPG ones in the future and to proceed according to the emission standards of the European Union, as well as making improvements on control measures.

At present, in respect of the inspections on the use of illicit vehicle fuel, we are doing a better job than before, since we have amended the legislation so that it is necessary just to take fuel samples from vehicles to conduct tests and prosecution can be instituted if the diesel is found to have a high sulphur content. This is in contrast with the past, when the vehicle owner must be caught refilling with illicit fuel in order to prove the offence. With this change, the deterioration in the air pollution problem caused by the use of illicit fuel has witnessed a drastic improvement. At present, the number of offences has decreased by 81%. Therefore, we believe that after implementing a series of measures, we will be able to achieve our target of 80% and 30% reductions in pollutants in the next few years. Of course, Ms Emily LAU can rest assured that we will not stop even after our targets have been achieved. We will definitely keep abreast of all technological developments conducive to reducing air pollution and we can also exercise control on imported vehicles. In the meantime, we will make use of catalytic converters or particulate arrest devices to reduce the emissions of older models of vehicles until their owners replace them with new ones. In that case, the owners have to comply with the new standards.

I wish to mention in passing that the only advantage of diesel vehicles is their high efficiency. Why is their high efficiency an advantage? Diesel

vehicles can travel long distances with each gallon of diesel and their carbon dioxide emission is the lowest. Of the various types of vehicles, the only advantage of diesel vehicles is the lowest level of carbon dioxide emission. Of course, the effect on reducing the air pollution in Hong Kong is not instant, but diesel vehicles have a role to play in relation to the global greenhouse effect.

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, I also wish to cite the Secretary's reply as has Ms Emily LAU. The Secretary said in the last paragraph that, "Therefore, we do not agree that difficulties are being encountered in the implementation of the programme. We also do not consider it necessary to think of other options to achieve our aim to reduce emissions from light buses". If any part of these remarks is indeed true, it is so only in relation to light buses. However, Ms Emily LAU's question actually covers diesel or petrol light vans. Ms Emily LAU has also remarked that there are still tens of thousands of such vehicles on the road every day, so how is the problem caused by these vehicles going to be solved? If it is said that there is no technical difficulty, can the Secretary tell me why these light vans cannot switch to LPG? We all know that at present, the pollution caused by the fumes and particulates from vehicles using diesel and petrol is very serious. In addition, Madam President, the Secretary has said that catalytic converters and particulate arrest devices can reduce the present extent of pollution, however, according to the sector, the effect is not very outstanding, so I wish to ask the Secretary.....*

PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung, although the Secretary has given a rather detailed reply, it is not a time for a debate. Please ask your supplementary direct.

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, I wish to say a little bit more. The Secretary said that particulate arrest devices can solve the problem, but this is not true. They cannot solve.....*

PRESIDENT (in Cantonese): Mr LEUNG, please come to your supplementary direct.

MR LEUNG YIU-CHUNG (in Cantonese): *Since the Secretary said there is no difficulty, why is diesel, which is currently used, not replaced with LPG?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, I wish to make a clarification. What I have been talking about is the current scheme to switch diesel light buses to LPG ones. We believe that the scheme, which involves over 6 000 diesel light buses, is being implemented smoothly and step by step. Diesel light bus owners may want to maximize the use of their existing vehicles and obtain government subsidies to get a new replacement only in 2005 because vehicle owners have to enter into a hire-purchase agreement and pay in instalments in getting a new replacement. Even though subsidies are now available, vehicle owners may not necessarily replace their vehicles with new ones immediately. Therefore, we believe the scheme should continue and we do not think there is any technical problem.

As regards the other light vans mentioned by Mr LEUNG Yiu-chung, which are commonly called business vehicles, most of them are diesel vehicles. They pose another kind of problem. Why? There is indeed a big problem in replacing diesel light vans with LPG ones because of insufficient filling stations. We cannot set up too many LPG filling stations in densely populated urban areas because this will cause safety problems. To ensure safety, the establishment of each LPG filling station is subject to a risk assessment and there is a certain degree of difficulty in passing this assessment. It is all the more necessary for business vehicles to be served by a sufficient number of LPG stations everywhere since it takes longer to refill with LPG. At present, the particulate arrest devices and catalytic converters used by us are effective and not otherwise. They can reduce emissions to a certain extent. However, in the long run, first, we have to examine what progress the Euro standard will make in the future. The emissions from Euro III and Euro IV vehicles are already far less than business vehicles complying with Euro I or pre-Euro standards and it is possible for us to gauge their emissions.

Second, we have to keep in view technological advances. Of course, these technological advances have also to be cost-effective. In the long run, it is hoped that the Government does not have to spend a lot of money to adopt short-term measures to tackle the existing problems all the time. Therefore, we hope that constant improvements can be made to light vans by adopting the

steady technological advances in the Euro standard. I believe that after over a decade, we will find that the most desirable approach is to use hydrogen as fuel. I have also looked at several of this type of vehicles recently and found that technological advances has indeed been very fast, in particular because the United States supports such a development. I am convinced that within a decade, the ideal of zero emission can be realized.

DR LUI MING-WAH (in Cantonese): *Madam President, we know that at present, the fuels used by vehicles include LPG, petrol, electricity or diesel, and the Secretary has graded them according to several aspects, such as their cost, fuel efficiency, safety and environmental friendliness. May I know if quantified figures are available for the purpose of comparison? If so, can the Secretary provide the relevant information to us?*

PRESIDENT (in Cantonese): Dr LUI, please be seated after raising your supplementary, so that I can invite the Secretary to reply.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, if Dr LUI Ming-wah requests a very detailed analysis, I do not think I have the time to reply here. I will give a reply in writing. (Appendix I)

MS MIRIAM LAU (in Cantonese): *Madam President, when the LPG taxi scheme was lunched in 2000, diesel taxis were replaced by LPG ones very swiftly. At that time, about 1 000 diesel taxis were replaced by LPG ones each month. However, under the present LPG light bus scheme, it takes seven to eight months to replace 400 light buses and such a speed is indeed very slow. As far as I know, at present about 400 diesel light buses have already been replaced by LPG ones. Most of them are red minibuses while maxicabs account for only a very small number. The reason for this is very simple. Maxicabs run on fixed routes and without any LPG filling station en route, it is not possible for them to switch to LPG light buses at all. Under such circumstances, may I know for what reasons the Secretary thinks that more vehicle owners, in particular those of maxicabs, will switch their light buses to LPG ones later on?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, whenever this type of scheme is launched, vehicle owners can of course choose to replace their vehicles immediately, or wait until the run-up to the deadline to replace their vehicles. As far as I know, the speed with which diesel taxis were replaced by LPG ones at that time was faster than that under the present scheme for light buses. I have had the opportunities to meet with representatives of minibus associations on several occasions. They said that because of the present poor economic situation, they had encountered many constraints when making arrangements to enter into hire-purchase agreements, therefore they wanted to look before they leap. Of course, other reasons include the one mentioned by Ms Miriam LAU, that is, they still find the locations of the LPG filling stations to be rather inconvenient. If it is necessary to go out of one's way each day to tank up, they consider this to be rather inconvenient. Of course, it is up to them to decide whether they are willing to sacrifice some time and switch to a type of fuel which is cheaper and conducive to improving air pollution. To them, the cheaper price of LPG is of course a major consideration and I believe they will definitely make a wise choice. Meanwhile, the Government will continue to identify suitable sites to set up additional LPG filling stations.

PRESIDENT (in Cantonese): This Council has spent more than 21 minutes on this question. I will allow one last supplementary from Members.

MS CYD HO (in Cantonese): *Madam President, the Secretary listed six types of vehicles in her main reply. Among them, vehicle replacement subsidy schemes have been put in place for taxis and light buses but not for other types. If the Government does not put in place special measures to speed up the elimination of other types of vehicles, in its estimation, how many years will be required to take all diesel vehicles out of service and to comply with the Euro III emission standard? Moreover, what social costs, such as health care expenses and economic losses as a result of sick leave taken, will be incurred by air pollution in the interim?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, it is always necessary to strike a balance when making investments in environmental protection. In this regard, the

Government has already formulated a policy, which first deals with problems associated with business vehicles such as taxis and public light buses, since they have clocked up the highest mileage. As regards other passenger and light goods vans, the Transport Department has information on the approximate number of years that these vehicles have been in use and according to such information, we know that the vehicle owners will replace their vehicles successively. I can provide the relevant supplementary information in writing to Ms Cyd HO later. (Appendix II)

In view of this, is it entirely impossible for us to ameliorate the air pollution problem in the meantime? According to our plan, every measure will contribute towards reducing emissions. I believe that after all the schemes have been implemented, the target which I have mentioned will be achieved in 2005. In order to further reduce the extent of air pollution to our conceived guideline, that is, the level set down by our standards, so as to reduce air pollution in the entire region, we are now working with Guangdong Province because air pollution can be classified into many types. One type is caused by motor vehicles and another type is cross-regional pollution caused by industrial activities. Therefore, in allocating resources, we have to consider how to allocate between these two areas rather than dealing with just one area.

PRESIDENT (in Cantonese): Ms HO, has your supplementary not been answered?

MS CYD HO (in Cantonese): *No, Madam President. My question was: Before these vehicles are taken out of service, what social costs will be incurred? I understand that the Secretary is working on other areas. However, since these vehicles are still running on roads and will cause air pollution, what losses in terms of medical expenses and economic activities will be incurred? If the Secretary wants to reply in writing later, she is welcome to do so.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, the Government compiled a report of this nature in the '90s on the costs of air pollution, which included figures on the morbidity rate, hospitalization rate, loss of working days and number of patients requiring care. We do have such figures, however, they could not be attributed

entirely to vehicles, since the figures were composed in a large proportion of the regional background values. If Ms Cyd HO is interested, I can provide information in this regard. (Appendix III)

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

WRITTEN ANSWERS TO QUESTIONS

Foreign Passport Holders Refused to be Issued Entry Visas or Entry on Arrival

7. **MS AUDREY EU** (in Chinese): *Madam President, regarding cases in which the Immigration Department (ImmD) refuses to issue entry visas to holders of foreign passports or refuses them entry at immigration control points, will the Government inform this Council:*

- (a) *of the respective numbers of such cases in each of the past three years, together with a breakdown by the nationality of the visitors concerned;*
- (b) *of the ImmD's rationale for making the relevant decisions; and*
- (c) *whether the religious background of the visitors concerned was one of the reasons for not issuing entry visas to them or refusing them entry into the territory; if so, of the number of the relevant cases in each of the past three years?*

SECRETARY FOR SECURITY (in Chinese): Madam President,

- (a) Currently, visitors from 39 countries/territories need to apply for a visa to visit Hong Kong. Most of these countries/territories are located in African, Asian and the Pacific regions. In the past three years (2000 to 2002), an average of 139 visa applications from foreign passport holders were not approved per year. The places of origin of these applicants are listed in Annex 1. Over 90% of

these applications were from visitors from African, Asian and the Pacific regions.

During the same period of time, the average number of foreign passport holders who were refused entry was 10 800 per year. Relevant statistics and the places of origin of these visitors are listed in Annex 2. Over 90% of these visitors were from Asian and the Pacific regions.

- (b) The ImmD takes into account various factors when vetting applications for visit visas, including the purpose of visit of the applicants, whether they hold valid travel documents and whether they meet the general entry requirements (for example, whether they have sufficient funds for travelling to Hong Kong), and so on. The ImmD examines the details of individual applications in accordance with existing laws and takes into account whether the applicants will visit Hong Kong purely for travel or business purposes. Each case will be considered on its own merits. In general, the main reasons for rejecting applications for visas include doubtful purpose of visit of the applicants, invalid travel documents, insufficient funds, and so on.

Visitors who seek entry into Hong Kong must meet all entry requirements. Entry will be permitted only if they hold a valid travel document, have adequate funds and returnability to their countries of origin. Visitors who fail to meet the above requirements or whose purpose of visit is in doubt will be refused entry. While the reason for refusal may differ in each case of refused entry, reasons can be broadly categorized as "genuineness of visit in doubt", "improperly documented" and "use of forged travel document".

- (c) The religious background of a visitor is not a criterion for issuance of visa or permission to enter Hong Kong. The ImmD will not refuse to issue visit visas or refuse a visitor landing because of the religious background of the visitor. In fact, visitors who seek to enter Hong Kong are not required to declare their religious belief to the ImmD.

Annex 1

The number of visa applications from holders of foreign passports not approved and places of origin of these applicants (2000 to 2002)

<i>Year</i>	<i>Place of Origin</i>						<i>Total</i>
	<i>Africa</i>	<i>Asia and Pacific*</i>	<i>Europe</i>	<i>North America</i>	<i>South America</i>	<i>Stateless Persons</i>	
2000	74	80	4	0	2	9	169
2001	65	60	0	0	1	8	136
2002	43	66	1	1	0	1	112
Total	182	206	5	1	3	18	417

Note: * "Asia and Pacific" refers to Asian countries, Australia, New Zealand and countries in the Pacific.

Annex 2

The number of visitors holding foreign passports who were refused entry and places of origin of these visitors (2000 to 2002)

<i>Year</i>	<i>Place of Origin</i>						<i>Total</i>
	<i>Africa</i>	<i>Asia and Pacific*</i>	<i>Europe</i>	<i>North America</i>	<i>South America</i>	<i>Others**</i>	
2000	272	7 946	478	189	95	2	8 982
2001	320	10 362	422	197	108	0	11 409
2002	338	9 019	263	134	96	0	9 850
Total	930	27 327	1 163	520	299	2	30 241

Notes: * "Asia and Pacific" refers to Asian countries, Australia, New Zealand and countries in the Pacific.

** "Others" refers to visitors whose nationalities were not identified.

Private Properties with Conservation Value

8. **MR WONG SING-CHI** (in Chinese): *Madam President, it has been reported that, as revealed by the Antiquities and Monuments Office's survey, there are 9 000 to 10 000 pre-war buildings in Hong Kong, of which about 200 to 300 are private properties with conservation value. Although some of these buildings have been rated as Grade I, Grade II or Grade III buildings respectively under the existing grading system for protection of important monuments and buildings of historical significance, their owners have the right to demolish them as they are not declared monuments. In this connection, will the Government inform this Council:*

- (a) *of the criteria for classifying an individual building or a site as a Grade I, Grade II or Grade III building or site, or designating it as a declared monument;*
- (b) *of the descriptions of the existing private properties with conservation value in Hong Kong, their locations, their owners, the reasons for regarding the properties as having conservation value, and the means of preservation; whether the titles to these properties have been sold; if so, of the details; and*
- (c) *whether it has discussed with the owners of these private properties the possibility of donating them to the Government with a view to preserving the buildings concerned; if it has, of the details and progress of the discussions; if not, the reasons for that?*

SECRETARY FOR HOME AFFAIRS (in Chinese): Madam President, generally speaking, under the Antiquities and Monuments Ordinance (Cap. 53, Laws of Hong Kong), the Authority may declare any building or place, which he considers to be of public interest by reason of its historical significance, to be a monument by notice in the Gazette after consulting the Antiquities Advisory Board and with the approval of the Chief Executive. Buildings or places that are declared as monuments under the Antiquities and Monuments Ordinance are protected by that ordinance upon declaration and there is no grading among monuments.

The Antiquities Advisory Board has also graded some historical buildings which have not been declared as Grade I to Grade III buildings based on criteria such as the age and architectural features and their association with local historical events and figures. This grading system is adopted purely for internal reference and does not have any legal effect.

At present, there are altogether 30 private properties that are declared as monuments in Hong Kong and protected by the law (see Annex for details). Moreover, according to a survey completed by the Antiquities and Monuments Office earlier on, there are about 9 500 pre-1950 buildings in Hong Kong. Having made an initial assessment and considered the resources required, we are of the view that systematic preservation of around 200 to 300 of these historical buildings should help reflect Hong Kong's history and development in different periods. We have yet to conduct a detailed study and assessment of the historical and architectural significance of each building before a list can be compiled.

Since at the present stage we are still considering which of the private historical buildings have genuine preservation value, we have not made contact with the owners concerned to discuss the possibility of donating their properties as items of historical interest. Nevertheless, if and when in the course of our daily work we have come across a particular private historical building which is considered to be worthy of preservation, we will do our best to persuade its owner to agree to the declaration of his property as a monument for preservation. If necessary, the Antiquities and Monuments Office will provide professional advice to help owners preserve or maintain the historical buildings.

Annex

Declared Monuments under Private Ownership

<i>Name of Monument</i>	<i>Location</i>
Tin Hau Temple	Causeway Bay
Man Lun Fung Ancestral Hall	San Tin, Yuen Long
Man Mo Temple	Tai Po
The Exterior of the Main Building, the University of Hong Kong	Pokfulam Road
Liu Man Shek Tong Ancestral Hall	Sheung Shui
Kung Lung Gate Tower	Lung Yeuk Tau, Fan Ling

<i>Name of Monument</i>	<i>Location</i>
Yeung Hau Temple	Ha Tsuen, Yuen Long
Kang Yung Study Hall	Sha Tau Kok
Main Building of St. Stephen's Girl's College	Lyttelton Road, Mid-Levels
Yi Tai Study Hall	Kam Tin, Yuen Long
Enclosing Walls and Corner Watch Towers of Kun Lung Wai	Lung Yeuk Tau, Fan Ling
The Exterior of the Main Building, the Helena May	Garden Road, Central
Entrance Tower of Ma Wat Wai	Lung Yeuk Tau, Fan Ling
The Exterior of University Hall, the University of Hong Kong	Pokfulam Road
The Exterior of Hung Hing Ying Building, the University of Hong Kong	Pokfulam Road
The Exterior of Tang Chi Ngong Building, the University of Hong Kong	Pokfulam Road
St. John's Cathedral	Garden Road, Central
I Shing Temple	Wang Chau, Yuen Long
Entrance Power and Enclosing Walls of Lo Wai	Lung Yeuk Tau, Fan Ling
Tang Chung Ling Ancestral Hall	Lung Yeuk Tau, Fan Ling
Cheung Shan Monastery	Ping Che, Fan Ling
King Law Ka Shuk	Tai Po Tau Tsuen, Tai Po
Cheung Ancestral Hall	Shan Ha Tsuen, Yuen Long
Fan Sin Temple	Sheung Wun Yiu, Tai Po
North and West Blocks of St. Joseph's College	Kennedy Road, Central
Tang Ancestral Hall	Ping Shan, Yuen Long
Yu Kiu Ancestral Hall	Ping Shan, Yuen Long
Tsui Sing Lau Pagoda	Ping Shan, Yuen Long
Hung Shing Temple	Kau Sai Chau, Sai Kung
Tin Hau Temple	Lung Yeuk Tau, Fan Ling

Compilation of Social Security Assistance Index of Prices

9. **DR TANG SIU-TONG** (in Chinese): *Madam President, the Social Security Assistance Index of Prices (SSAIP) is compiled monthly by the Census and Statistics Department on the basis of the expenditure pattern of households receiving the Comprehensive Social Security Assistance (CSSA) and the prices of the items of goods and services covered under the CSSA standard rates. In this connection, will the Government inform this Council:*

- (a) *of the monthly average retail prices of individual items of goods and services covered by the SSAIP in the past 36 months, as well as their year-on-year rates of changes;*

- (b) *on the basis of the expenditure pattern of CSSA households adopted in compiling the SSAIP, of the respective amounts of money that different categories of CSSA recipients can spend on various items of goods and services per head each month; and*
- (c) *of the views that the social welfare sector has submitted in this financial year to the Administration regarding the compilation of the SSAIP, and the follow-up measures taken by the Administration in this regard?*

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

Madam President, the SSAIP is compiled by the Census and Statistics Department (C&SD) to provide a measure to reflect the changes in the price level of consumer goods and services generally purchased by CSSA households. The SSAIP tells us what changes are taking place in the purchasing power of the CSSA households, and measures the relative change over time in the total cost of a specified basket of consumer goods and services. To ensure that up-to-date expenditure patterns of CSSA households are accurately reflected in the compilation of the SSAIP, it is an established practice to rebase the SSAIP once every five years based on the data collected from the Household Expenditure Survey on CSSA Households (HES). The latest set of SSAIP has been compiled based on the results of the 1999-2000 HES.

Turning to the specific question, my reply is as follows:

- (a) As explained above, the SSAIP reflects the impact of price changes on CSSA recipients insofar as the items of goods and services covered under the CSSA standard rates are concerned. Therefore, it is the price change (not the prices) which serves as a reference for the Social Welfare Department in proposing adjustments to CSSA standard rates. The year-on-year changes of the overall SSAIP and its sub-index by section of goods/services over the past three years is provided at Annex.
- (b) The current set of SSAIP is compiled based on the expenditure patterns of CSSA households as reflected by the 1999-2000 Household Expenditure Survey on CSSA Households (HES). The HES collected information on expenditure on a household basis and

as such we do not have statistics on the expenditure of individual types of recipients.

- (c) We have not received submissions regarding the compilation of the SSAIP. The SSAIP has been accepted and not been questioned as the basis for reflecting price changes for the purpose of rate adjustments.

Annex

1999-2000 based SSAIP

Year-on-year % Changes during the past three years

Year	Section of Commodity/Services								
	Alcoholic			Clothing		Miscellaneous			All items
	Electricity	drinks and		and	Durable	Miscellaneous	Miscellaneous		
	Food	and gas	tobacco	footwear	goods	goods	Transport	services	
	(%)	(%)	(%)	(%)	(%)	(%)	(%)	(%)	(%)
February 2000 to January 2001	-2.7	5.6	*	-10.5	-3.1	1.2	0.3	-2.0	-1.8
February 2001 to January 2002	-1.3	-9.3	4.1	-3.4	-3.5	2.5	0.1	2.4	-1.0
February 2002 to January 2003	-2.6	0.9	1.8	0.8	-3.4	-0.4	-0.6	-2.0	-1.7

Note: * Changes within 0.05%

Non-civil Service Contract Employees

10. **MR CHAN KWOK-KEUNG** (in Chinese): *Madam President, it has been reported that the employment contracts of many employees on non-civil service contract (NCSC) terms will expire within this year. In this connection, will the Government inform this Council:*

- (a) *of the numbers of employees on NCSC terms whose contracts are due to expire in March and each of the nine months thereafter this year, with a breakdown by job nature, post, remuneration, bureau*

or department and contract period; among these employees, those whose contracts will be renewed; the posts which will be retained or deleted, and the reasons for their retention or deletion;

- (b) of the principles adopted for renewing the employment of NCSC employees; and*
- (c) whether it will refer employees whose NCSCs have expired to apply for other civil service vacancies and provide them with assistance, such as giving them interview opportunities or recommendation letters?*

SECRETARY FOR THE CIVIL SERVICE (in Chinese): Madam President, the NCSC Staff Scheme is a standing scheme introduced in 1999 to enable Heads of Department (HoDs) to employ staff on fixed-term contracts outside the Civil Service to meet service needs which are short-term, part-time or under review. HoDs have full discretion to decide whether or not to employ NCSC staff in view of their operational needs. They also have discretion to decide on the appropriate remuneration package for their NCSC staff, subject to the guiding principles that the terms and conditions for NCSC staff should be no less favourable than those provided for under the Employment Ordinance and no more favourable than civil servants in comparable civil service ranks.

Against the above background, my replies to the specific questions are as follows:

- (a) As HoDs have the full authority to employ NCSC staff in accordance with their specific operational needs, we only collect statistics from departments on the total number of NCSC staff employed, their range of salaries and contract duration as at 30 June and 31 December every year. We do not have information on the number of NCSC staff whose contract will expire in the coming months, NCSC contracts which are to be renewed, or NCSC posts which are to be retained.

As at 31 December 2002, the total number of NCSC staff employed by government bureaux/departments was 16 246. Breakdown of NCSC staff employed by departments, salary range of full-time NCSC staff and contract duration are provided at Annex.

- (b) The employment of a NCSC staff ends upon expiry of his/her contract. The offer of any further contract beyond the current contract is solely at the discretion of the HoD concerned. In deciding whether to renew the contract of a NCSC staff, HoD will consider factors including the operational needs for the post concerned, the performance of the NCSC staff, staff deployment plan of the department, and so on.
- (c) NCSC staff are employed on terms distinct from the Civil Service. They will have to apply for civil service vacancies in competition with other applicants and will be treated on the same basis as any other candidates in the recruitment exercise.

Annex

Number of NCSC Staff Employed by the Government Bureaux/Department
(Position as at 31 December 2002)

<i>Bureau/Department/Office</i>	<i>No. of Full-time Staff</i>	<i>No. of Part-time Staff</i>	<i>Total No. of Staff</i>
1 Agriculture, Fisheries and Conservation Department	252	5	311
2 Architectural Services Department	36		36
3 Audit Commission	6		6
4 Auxiliary Medical Service	1		1
5 Buildings Department	486		486
6 Census and Statistics Department	109	2	130
7 Chief Executive's Office	3		3
8 Chief Secretary and Financial Secretary's Office	171		174
9 Civil Aviation Department	20		21
10 Civil Engineering Department	161		161
11 Civil Service Bureau	2		6
12 Civil Service Training and Development Institute	17	8	97
13 Commerce, Industry and Technology Bureau	4		4
14 Companies Registry	98		98
15 Correctional Services Department	28	3	61
16 Customs and Excise Department	72		72
17 Department of Health	1 031	15	1 190
18 Department of Justice	96		96
19 Drainage Services Department	255		255
20 Economic Development and Labour Bureau	13		13
21 Education and Manpower Bureau	82		82

<i>Bureau/Department/Office</i>	<i>No. of Full-time Staff</i>	<i>No. of Part-time Staff</i>	<i>Total No. of Staff</i>
22 Education Department	1 068	2	1 090
23 Electrical and Mechanical Services Department	896		896
24 Environmental Protection Department	222		224
25 Environment, Transport and Works Bureau	13		13
26 Financial Services and the Treasury Bureau	4		4
27 Fire Services Department	112		112
28 Food and Environmental Hygiene Department	541		541
29 Government Flying Service	8		8
30 Government Laboratory	36		36
31 Government Land Transport Agency	6		6
32 Government Property Agency	9		9
33 Government Supplies Department	62		62
34 Health, Welfare and Food Bureau	19		19
35 Highways Department	204		204
36 Home Affairs Bureau	22		22
37 Home Affairs Department	479	50	981
38 Hong Kong Observatory	22		22
39 Hong Kong Police Force	206		206
40 Housing, Planning and Lands Bureau	1		1
41 Immigration Department	219		220
42 Information Technology Services Department	62		62
43 Information Services Department	25		25
44 Inland Revenue Department	104		104
45 Innovation and Technology Commission	20		28
46 Intellectual Property Department	29		29
47 Invest Hong Kong	32		32
48 Judiciary	162		162
49 Labour Department	198		198
50 Land Registry	58		58
51 Lands Department	144		144
52 Legal Aid Department	27		27
53 Leisure and Cultural Services Department	1 808	123	3 045
54 Marine Department	75		75
55 Office of the Commissioner of Insurance	2		2
56 Office of the Telecommunications Authority	94		94
57 Official Languages Agency	10		10
58 Official Receiver's Office	57		57
59 Planning Department	22		22
60 Post Office	1 553		1 553
61 Printing Department	19		19
62 Radio Television Hong Kong	203		203
63 Rating and Valuation Department	71		71

<i>Bureau/Department/Office</i>	<i>No. of Full-time Staff</i>	<i>No. of Part-time Staff</i>	<i>Total No. of Staff</i>
64 Registration and Electoral Office	58		58
65 Security Bureau	14	2	40
66 Social Welfare Department	760	38	1 147
67 Student Financial Assistance Agency	259		259
68 Television and Entertainment Licensing Authority	53		53
69 Territory Development Department	6		6
70 Trade and Industry Department	59		59
71 Transport Department	184		184
72 Treasury	38		38
73 University Grants Committee Secretariat	11		11
74 Water Supplies Department	392		392
Total:	13 701	254	16 246

* Part-time means the employment is not a "continuous contract" as defined under the Employment Ordinance (Cap. 57).

Salary Range of full-time NCSC Staff (Position as at 31 December 2002)

<i>Monthly Salary</i>	<i>No. of NCSC staff</i>
Below \$16,000	10 936
\$16,000 to \$49,999	2 632
\$50,000 or above	133
Total:	13 701

Note: Most of the part-time NCSC staff are remunerated on hourly rates. Their salaries hence vary with the hourly rates and the number of working hours in a particular month.

Duration of Contract of NCSC Staff (Position as at 31 December 2002)

<i>Period</i>	<i>Full-time</i>	<i>Part-time</i>	<i>Total</i>
Less than one year	4 588	794	5 382
One to less than two years	5 962	1 289	7 251
Two to three years	3 151	462	3 613
Total:	13 701	2 545	16 246

Information Security Survey 2002

11. **MR SIN CHUNG-KAI** (in Chinese): *Madam President, in December 2002, the Information Technology Services Department (ITSD), the Hong Kong Computer Emergency Response Team Coordination Centre (HKCERT) and the Technology Crime Division of Commercial Crime Bureau of Hong Kong Police Force (HKPF) jointly presented the Information Security Survey 2002 in which local small and medium enterprises (SMEs) were the target respondents. According to the survey findings, financial losses amounting to \$1.84 million were incurred by the interviewed companies due to computer attacks in 2002, an increase of 20.5% compared to that in 2001. Only 3.1% and 0.3% of the victim companies had reported the computer attacks to the HKCERT and the police respectively. The key reason for not reporting to the HKCERT was "unaware of HKCERT" (71.5%) whilst the main reasons for not reporting to the police included "trivial, no need to report" (55.7%); "unaware that it could be reported" (19.4%) and "don't think police can help" (14.5%). In this connection, will the Government inform this Council whether:*

- (a) it has assessed the impact of computer attacks on the economy of Hong Kong (such as financial losses and reduction in competitiveness); if so, of the assessment results;*
- (b) it has conducted regular assessments on the level of information security in Hong Kong; if so, of the assessment results ; if not, the reasons for that;*
- (c) it has reviewed the work of HKCERT and the police in combating computer crimes and preventing computer attacks in the light of the survey findings; if so, of the outcome of the review; if not, the reasons for that; and*
- (d) it has formulated policies to assist SMEs in enhancing their capability in information security; if so, of the details of such policies; if not, the reasons for that?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Chinese): Madam President,

- (a) The Hong Kong Productivity Council, which operates the HKCERT, has conducted annual surveys since 2000 (the survey last year was conducted by the HKCERT in collaboration with the ITSD and the HKPF) to gather information on information security technologies adopted by local companies and the extent and impact of computer attack experienced by them, so as to assess the latest situation about information security in Hong Kong.

As regards the impact of computer incidents on the economy of Hong Kong, the survey conducted by the HKCERT last year showed that among the interviewed companies which had set up servers or websites, 326 had encountered computer incidents within the 12 months before the survey. The total financial loss amounted to \$1.84 million, that is, about \$5,600 per victimized company (73.7% of the financial loss was due to virus attack). The impact on the economy of Hong Kong was not considered serious.

- (b) Results of the above-mentioned survey conducted in the past three years revealed that the overall information security level in Hong Kong has improved. In 2002, 90% of the interviewed companies had adopted information security technologies to protect their computer systems and information, representing a slight increase over the 88% in 2001. According to the 2002 survey, the most popular security technologies adopted were anti-virus software (80.9%), password (57.7%), physical security (49.9%), firewall (25.7%), and so on. There is also a decreasing trend in the number of information security incidents. The number of computer incidents experienced by the interviewed companies (about 3 000 companies were interviewed in each of the surveys conducted in the past three years) within the 12 months before the survey decreased from 1 510 in 2000 to 1 387 in 2001, and further to 1 095 in 2002.

The survey conducted by the Census and Statistics Department last year on the penetration and usage of information technology in the business sector also covered information security. The findings are similar to those of the HKCERT survey.

Besides, the ITSD and the HKPF maintain close contact with information security experts around the world to collect latest information on information security. They also hold regular meetings with these experts to discuss the development and other issues relating to information security and computer-related crimes both locally and globally, so as to help assess the information security level in Hong Kong.

- (c) As revealed by the HKCERT survey, while the overall information security level in Hong Kong has improved, most of the small companies have only adopted basic information security technologies. The impact of computer incidents (in terms of the proportion of computers in a company affected) on small companies is also greater than that on large- and medium-sized companies. Also, as can be seen from the actions taken by the interviewed companies after occurrence of computer incidents, there is a need to enhance local companies' awareness of information security and computer incidents.

In view of this, the ITSD, the HKPF and the HKCERT have stepped up public education and related support services to help various sectors, especially SMEs, enhance their knowledge about information security and measures to prevent computer incidents, as well as their capability to deal with such incidents.

On combating computer crimes, the police have upgraded its facilities required for investigation into such offences. For example, the Computer Forensics Laboratory, set up at a cost of \$4 million with world-class facilities to handle evidence in IT-related offences, has come into operation since September 2002. In addition, the police will continue to conduct exchanges with the industry on computer forensics, arrange training for its investigation officers to enhance their capability, and maintain close contacts with local and overseas enforcement agencies to facilitate exchange of intelligence and expertise.

The police will also continue to enhance the knowledge of the public about computer crime prevention through various channels, such as organizing activities with business associations to educate the youth

on prevention of computer crimes, setting up websites to disseminate information on prevention of computer crimes, and organizing various types of seminars in collaboration with the industry to enhance the industry's awareness of, and strengthen its efforts to prevent, computer crimes.

(d) We will work with industry organizations to enhance SMEs' information security capability. Major initiatives include:

- The ITSD has produced publicity materials on information security and distributed them to various sectors, including SMEs, for reference. In collaboration with industry support organizations, the ITSD has organized exhibitions and seminars to enhance public awareness of information security.
- In September 2002, the ITSD launched an INFOSEC website <www.infosec.gov.hk>, a one-stop portal which provides resources and latest news on information security, introduces the services of HKCERT and related organizations, and encourages enterprises and the public to report computer-related crimes. The SME Corner in the website is tailor-designed for SME computer users, providing them with easy access to information related to their business.
- The HKCERT issues alerts on security risks and computer virus through its website <www.hkcert.org>. It has also set up a support hotline for different sectors of the community, including SMEs, to report and make enquiries on information security and computer incidents.
- The HKCERT introduced in January this year a new free-of-charge short message alert service. With this service, enterprises and the public can receive alerts on security risks and computer virus through mobile phones.
- The HKCERT, the ITSD and the HKPF are compiling jointly a Handbook on Information Security specifically to enhance SMEs' awareness of information security. The Handbook will be distributed in mid-2003.

- The HKCERT is working with local trade organizations in different sectors to co-organize briefing sessions for their members on information security and computer incidents, so as to enhance the knowledge of SMEs in this regard.
- The ITSD is producing two series of short public education programmes on information security, for broadcast on television and radio respectively later this year, to strengthen public awareness of information security.

Low-priced Outbound Group Tours

12. **MR LAU KONG-WAH** (in Chinese): *Madam President, it has been reported that some travel agents operate outbound group tours at extremely low prices. As these group tours depart from places outside Hong Kong and do not include the provision of accommodation, they are not covered by the Travel Industry Compensation Fund and their operation is not subject to the regulation of the Travel Industry Council of Hong Kong (TIC). In this connection, will the Government inform this Council whether:*

- (a) *the consumer interests of people joining such group tours are duly protected; and*
- (b) *it will consider amending the existing legislation to bring the operation of such group tours under the regulation of the TIC; if so, of the details; if not, the reasons for that?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Chinese): Madam President, my reply to the two parts of the question raised by the Honourable LAU Kong-wah is as follows:

- (a) In respect of tours organized by Hong Kong travel agents which commence outside Hong Kong and do not involve accommodation, the TIC has promulgated a binding directive requiring travel agents offering such tours to state clearly in all their publicity materials that these tours are not under the protection of the Travel Industry Compensation Fund. This is to ensure that travellers concerned

clearly understand their rights and can make an informed choice as to whether or not to join the tour, and consider taking out travel insurance.

- (b) Under the existing Travel Agents Ordinance, all travel agents are required to be members of the TIC before they can apply to the Hong Kong Government for a travel agents licence. The TIC acts as the regulatory body for the travel trade. It has promulgated a Code of Conduct and also issues directives with which Members must comply. Any breach of the Code of Conduct or directive may result in disciplinary action being taken against the travel agent concerned. Travel agents operating group tours which commence outside Hong Kong and do not involve accommodation are regulated by the TIC. In accordance with its regulatory function, the TIC will deal with complaints involving such group tours.

Accreditation Charges for Overseas Academic Qualifications

13. **MR ERIC LI** (in Chinese): *Madam President, will the Government inform this Council whether it knows:*

- (a) *the criteria adopted by the Hong Kong Council for Academic Accreditation (HKCAA) for determining the accreditation charges for overseas academic qualifications;*
- (b) *the cost components of such accreditation; and*
- (c) *how the accreditation charges in Hong Kong compare to those in neighbouring regions?*

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

- (a) As a non-profit-making statutory body operating on a self-financing basis, the HKCAA adopts a full-cost recovery principle for its services, including accreditation of overseas academic qualifications.

- (b) The cost components of accreditation include staff cost, expenses on transport, postage and office overheads. Where overseas experts are engaged, costs such as honoraria, air passages and hotel accommodation may also be included.
- (c) The fee for accrediting an overseas degree course charged by the HKCAA is \$394,200. According to information gathered by the HKCAA, the accrediting bodies in Australia, New Zealand and Singapore do not accredit overseas academic qualifications. In Thailand, the accreditation of overseas qualifications is free of charge, whereas the fee for accrediting an overseas degree in Malaysia is about \$19,000. However, it must be pointed out that the accrediting bodies in these two countries are either fully or heavily funded by their respective governments. Hence, it will not be appropriate to compare their fees with that of the HKCAA.

Provision of Branch Public Libraries

14. **MS EMILY LAU** (in Chinese): *Madam President, as it is provided in the Hong Kong Planning Standards and Guidelines (HKPSG) that there should be a branch public library for every 200 000 persons, will the executive authorities inform this Council:*

- (a) *of the districts currently not conforming to the planning standard; and*
- (b) *whether they have any plan to provide additional branch public libraries in these districts in order to conform to the planning standard?*

SECRETARY FOR HOME AFFAIRS (in Chinese): Madam President, my replies to the Honourable Emily LAU's questions are as follows:

- (a) When planning for provision of new library facilities, the Leisure and Cultural Services Department (LCSD) will not only draw reference to the HKPSG (which suggests that there should be one

branch library for every 200 000 persons), but will also take into account the geographical environment and pattern of population distribution of the district and provide supplement services as appropriate, for example, to set up small libraries in densely populated areas, or provide mobile library stops for those remote areas where there are no static libraries in the vicinity.

At present, among the 18 administrative districts in the territory, only the case in Sha Tin is not in line with the guidelines on provision of public libraries suggested in the HKPSG. Sha Tin has a population of 632 700, which calls for three district libraries under the HKPSG. Currently, the district is served by one major library (equivalent to two district libraries), one small library and 10 mobile library stops.

- (b) The LCSD has plans in hand to provide an additional district library in Sha Tin. A new district library is being constructed at Ma On Shan and is scheduled for opening in mid-2004.

Continuing Education Fund

15. **DR RAYMOND HO** (in Chinese): *Madam President, it has been reported that the Continuing Education Fund (CEF) has received a lukewarm response from the public since applications were invited. In this connection, will the Government inform this Council:*

- (a) *of the number of applicants seeking subsidies from the CEF, and the education levels of these applicants;*
- (b) *whether it has received requests for the relaxation of the eligibility criteria, to allow university degree holders to apply for subsidies from the CEF; if it has, of the number of such requests, and whether it will accept such requests; and*
- (c) *whether it plans to increase the courses the fees of which are reimbursable under the CEF; if it has, of the details of the plans; if not, the reasons for that?*

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

- (a) As at 7 March 2003, a total of 25 347 applications have been received. Other than declaring that they do not possess any university degree at the time of application, applicants are not required to provide any information about their educational attainment. We thus do not have any record of the applicants' educational attainment.
- (b) A total of 83 requests for allowing degree holders to apply for the CEF have been received so far.

The primary objective of the CEF is to help Hong Kong's workforce prepare for the knowledge-based economy. When considering how to make the best use of the Fund, we believe that those who have not benefited from university education would be less adaptable to the new knowledge-based economy needed and thus have the greatest need for assistance. The existing eligibility criteria were laid down with this consideration in mind. We have no plan to relax them at this stage. We shall review the overall implementation arrangements, including the eligibility criteria and coverage of courses under the Scheme, in the latter half of this year.

- (c) We have been accepting applications submitted by training providers to include their suitable courses into the list of reimbursable courses under the CEF and the number of courses on the list has been increasing. As stated in part (b) above, we shall review the Scheme and examine if there is a need to extend the present coverage of courses under the CEF.

Construction of Community Hall in Tin Shui Wai North

16. **DR TANG SIU-TONG** (in Chinese): *Madam President, in reply to my question on 24 April 2002, the Administration advised that, on the basis of the criteria set out in the Hong Kong Planning Standards and Guidelines (HKPSG), there was a need to establish a community hall in Tin Shui Wai North. Besides, in keeping with the provisions of the HKPSG, community halls should be planned*

and provided as part of an integrated development (such as joint-user building). In this connection, will the Government inform this Council:

- (a) of the progress made in identifying the suitable sites and joint users, and the sites now being considered, and*
- (b) as it is anticipated that the population in Tin Shui Wai North will reach about 100 000 by June this year, whether interim measures will be taken to ease the demand of the residents concerned for such facilities as community halls or community centres; if not, of the reasons for that?*

SECRETARY FOR HOME AFFAIRS (in Chinese): Madam President, my reply to the questions is as follows:

- (a) We have been identifying a suitable site for community hall in Tin Shui Wai North to serve the population in the area. We have so far looked into the possibility of building community halls on sites in Tin Shui Wai Area 32, Area 32 North West, Area 101, Area 107 and Area 109. However, due to various reasons, including the pending removal of existing facilities and development of the site, the relevant areas are not considered suitable for the purpose of constructing a community hall. We have therefore yet to identify a suitable site for the purpose.

The population in Tin Shui Wai is growing rapidly and we agree that there is a need for an additional community hall in the area. We will continue to find a suitable site for community hall and consult concerned residents on the matter.

- (b) To alleviate the shortfall of community facilities in Tin Shui Wai North, we have consulted the subsidized schools in the area on the possibility of using their school halls for community hall purpose on loan outside school hours. The schools are generally receptive to lending their facilities for use by local organizations to organize community activities as and when necessary. The local organizations which need to use the school halls for organizing community activities could make the necessary arrangement through

the Yuen Long District Office or contact the relevant schools direct. The relevant schools would actively consider the applications by local organizations, if the manpower situation and necessary arrangements permits.

Organ Donation

17. **MR CHAN KWOK-KEUNG** (in Chinese): *Madam President, the organ donation scheme has been in place for a number of years but the number of organs donated is far below that of patients waiting for organ transplant. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of various organs donated, signed organ donation cards and patients waiting for organ transplant in Hong Kong each year over the last three years, as well as the corresponding figures in the neighbouring regions;*
- (b) *how Hong Kong's laws and policies relating to organ donation compare with those of the neighbouring regions, and whether these regions have regulations or measures that can enhance people's willingness to donate organs;*
- (c) *of the number of organ donation cards distributed in Hong Kong, the distribution channels and the amount of government subsidy involved; and*
- (d) *of the current respective numbers of available organs stored in public and private hospitals in Hong Kong?*

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

- (a) and (c)

The numbers of various types of organ donations received by the Hospital Authority (HA) in the years 2000, 2001 and 2002 are at Annex.

Regarding the number of patients waiting for transplant in Hong Kong, since the number varies from time to time depending on the clinical conditions of the potential recipients, it is not possible to have a precise number of patients waiting for transplant over a period of one year. However, the approximate numbers of patients currently waiting for different types of transplants are at Annex.

The corresponding figures in the neighbouring regions are not available to us, since overseas countries do not usually release regularly figures on the number of organs donated and the number of patients waiting for organ transplant in their own countries.

In respect of organ donation cards, in the years 2000 to 2002, the Department of Health (DH) distributed over 850 000 organ donation cards through the DH clinics and venues, other government departments and public amenities as well as non-governmental organizations. The annual New Life Campaign is another major drive to encourage the signing of the cards by the public. We do not have the number of signed organ donation cards since the public need not register with the DH on their signing of the cards. The expenditure incurred was mainly for the printing of organ donation cards. The Government funds the printing of the organ donation cards. About \$55,800 was spent on the printing of the organ donation cards distributed over the period of 2000 to 2002. There is no other significant government expenditure incurred.

We do not have information on the use of organ donations cards in neighbouring regions.

- (b) Organ donation in Hong Kong is governed by the Medical (Therapy, Education and Research) Ordinance (Cap. 278) and the Human Organ Transplant Ordinance (Cap. 465).

The Medical (Therapy, Education and Research) Ordinance provides that the body of a deceased person could be used for therapeutic purposes or for purposes of medical education or research, if the person has expressed a request of such donation before his death. The Human Organ Transplant Ordinance prohibits commercial dealings in human organs intended for transplanting, regardless of whether the organs are removed from

dead or living persons. For organ transplants involving living donors, the Human Organ Transplant Ordinance also requires that the donor must have reached the age of 18 years; or have reached the age of 16 years and is married. The donor must be explained by a registered medical practitioner about the procedure, the risk involved, and his entitlement to withdraw consent to the organ removal at any time. His consent to the organ removal must be given under the condition without coercion or offer of inducement. The Ordinance also requires registered medical practitioners to submit proper documentation, with information about the donor (live or death), the recipient and the organ removed or transplanted, to the Human Organ Transplant Board within specified time limits. These principles of no commercial dealing and voluntarism are in line with the laws governing organ donation in other developed countries.

In respect of the donation of cadaveric organ, different countries adopt different approaches. In Hong Kong, a person who wishes to donate his organ(s) after his death could sign an organ donation card, or consent in writing or orally under the presence of two or more witnesses that his organ(s) be used for transplant after his death. Countries adopting similar approach as Hong Kong include Germany, the Netherlands, and Australia. In Singapore and some European countries such as Spain and Denmark, every person is presumed to consent to his organs being used for transplant after his death unless he has objected before his death to donate his organs. While the adoption of such an "opt-out" approach would increase the number of organs available for transplants, we consider that organ donation should be a voluntary act and that enhancing people's willingness to donate organ would best be achieved by the nurture of a positive understanding and attitude towards organ donation through long-term publicity and education.

- (d) Apart from skin, sclera and bone, all organs and tissues donated will be used for transplants soon after they are removed from the donors and will not be stored in organ or tissue bank.

Skin and sclera tissues from 32 and three donors respectively are currently stored in HA hospitals. Bones collected are usually stored as multiple bone fragments and a total of 336 bone fragments

are kept in the bone banks of HA. Skin/sclera/bone tissues removed from a single donor can be used in more than one recipient, and a patient can at one time receive skin tissue from more than one donor source.

According to the information provided by private hospitals, no organs for transplant purpose are stored in their hospitals.

Annex

Total Number of Organ/Tissue Donation in
Hospitals under the HA

<i>Organ/tissue</i>	<i>2000</i>	<i>Year 2001</i>	<i>2002</i>	<i>Approximate number of patients waiting for transplant¹</i>
Kidney				
Cadaveric	41	49	73	1 000
Living	19	14	9	
Liver				
Cadaveric	18	23	30	75
Living	36	37	45	
Heart	6	10	11	20
Lung	0	1	3	6
Heart-lung	0	0	1	1
Cornea (pieces)	166	239	295	300 to 400
Sclera	12	20	22	
Skin	45	37	22	Uncertain ²
Bone	6	6	5	

¹ Only the approximate number of patients waiting for transplant could be provided since the number varies from time to time depending on the clinical conditions of the potential recipients.

² Sclera, skin and bone transplants are indicated for certain acute conditions. The numbers of patients waiting for these types of transplants are therefore uncertain.

Air Quality and Temperatures in Train Compartments

18. **MR LAU KONG-WAH** (in Chinese): *Madam President, regarding the air quality and temperatures in train compartments, will the Government inform this Council whether it knows:*

- (a) relevant data of the two railway corporations' regular measurements of the air quality and temperatures in train compartments;*
- (b) the respective numbers of complaints or reports received by the two railway corporations in the past three years from passengers who claimed that the stuffy air inside train compartments made them sick; and*
- (c) whether the air quality and temperatures in train compartments have been affected by refurbishing works carried out by the MTR Corporation Limited (MTRCL) in some of its stations; if so, of the details?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): Madam President, the Kowloon-Canton Railway Corporation (KCRC) and the MTRCL have in place air-conditioning and ventilation systems inside train compartments and within stations to maintain optimal air flow and temperature. Air quality inside train compartments is regularly monitored by the corporations according to clear guidelines. The average temperature inside East Rail and Light Rail trains is about 22 degrees Celsius while temperature inside the MTR train compartments is maintained generally at or below 26 degrees Celsius. The two railway corporations are now working closely with the Environmental Protection Department on a practice note for managing air quality in air-conditioned public transport facilities.

During the last three years, the KCRC did not receive any complaint or report on passengers feeling sick due to air quality inside train compartments. The MTRCL received one case whereby a passenger who was sick alleged that he was not feeling well because of poor ventilation inside a train. MTR staff provided assistance to the passenger immediately on the spot. The ventilation system of the train concerned was then checked and confirmed to be functioning normally.

Station improvement and renovation works are being implemented in some MTR stations with a view to providing passengers with an improved travelling environment. Suspension of or alternation to part of the equipment may be required. For example, during the retrofitting of platform screen doors, the Environmental Control System of the station will have to be modified and the air quality inside the station may be slightly affected, that is, temperature and humidity will be slightly higher. However, the MTRCL endeavours to keep the system operating to established standards in order to provide comfortable service for passengers.

Prosecutions of Unlicensed Food Establishments

19. **MR TOMMY CHEUNG** (in Chinese): *Madam President, in recent years, more and more people are operating unlicensed food establishments in residential buildings (commonly known as "private kitchens"), and some of the operators even blatantly run advertisements for publicity. Regarding prosecutions of unlicensed food establishments, will the Government inform this Council:*

- (a) *of the number of prosecutions the Food and Environmental Hygiene Department (FEHD) instituted against operators of unlicensed food establishments over the past two years, together with a breakdown by the type (such as restaurants, club houses and catering outlets) of such establishments; and*
- (b) *among the prosecution cases, of the number of those involving private kitchens; if the number of such cases is on the low side as compared to other prosecution figures, of the reasons for that, and whether the Administration has been enforcing the law selectively?*

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

- (a) In the past two years ending February 2003, the FEHD took out 2 430 prosecutions against offenders for conducting restaurant business without a valid food business licence. 2 021 and 409 of these prosecutions were instituted against unlicensed general

restaurants and unlicensed light refreshment restaurants respectively.

- (b) Although there has been common usage of the term "private kitchen" recently, there is no generally agreed definition for private kitchens. In fact, the FEHD has, in the course of operation, observed that many of the premises that are referred to as "private kitchens" are in fact licensed food premises. During the aforesaid period, the FEHD prosecuted two unlicensed restaurants which had been complained as being unlicensed and had been referred to as "private kitchens".

Population Policy

20. **MR MA FUNG-KWOK** (in Chinese): *Madam President, regarding the Report of the Task Force on Population Policy (the Report) published recently, will the Government inform this Council:*

- (a) *of the respective fertility rates of women who are Hong Kong permanent residents, those who are new arrivals and those who are currently not but will in due course become members of Hong Kong's resident population in each of the past three years;*
- (b) *the Report recommends that only those residents who have resided in Hong Kong for seven years are eligible for social welfare benefits which include the Comprehensive Social Security Assistance (CSSA), but such benefits are available to children under the age of 18, whether the Administration has assessed if such a recommendation will encourage new arrivals to bear children as a way to increasing the CSSA entitlements of their families; if it has, of the assessment results; if not, the reasons for that; and*
- (c) *whether family planning publicity will be strengthened to remind married couples of the need to carefully consider and plan well for the future financial needs of the family, education and care for the children, and so on, before deciding whether or not to have children?*

CHIEF SECRETARY FOR ADMINISTRATION (in Chinese): Madam President,

- (a) In the Report, fertility of women is measured by the "total fertility rate", which refers to the average number of children that would be born alive to 1 000 women during their lifetime based on the age-specific fertility rates prevailing in a given year. This rate is a summary indicator of the fertility situation of a place in macro terms. Since a female One-way Permit holder who has entered Hong Kong would become a Hong Kong permanent resident after ordinarily residing in Hong Kong for seven years, this woman would be in the "new arrival" subgroup and the "Hong Kong permanent resident" subgroup at different stages of her life. It is hence not appropriate to compile the "total fertility rate" for different subgroups of women residing in Hong Kong. Our data do not make such distinction.

One indicator to measure the fertility of different subgroups of women is the "general fertility rate", which refers to the number of births in a particular year per 1 000 women of childbearing ages. Our collected data can only allow us to compile general fertility rates of the following two subgroups for 2001:

"General fertility rate"

(per 1 000 females aged 15 to 49), 2001

(1) Hong Kong permanent residents	18.6
(2) New arrivals (having stayed in Hong Kong for less than seven years) from the Mainland of China	46.7

- (b) CSSA is a non-contributory scheme funded entirely from General Revenue. Eligibility based on a seven-year residence requirement reflects the contribution a resident has made towards our economy over a sustained period of time. The exemption for children under the age of 18 from the residence requirement, as in the case of application for public housing, is based on the premise that

generally they cannot support themselves for education and daily livelihood. This is in line with the United Nations Convention on the Rights of the Child.

CSSA benefits are provided subject to a means test and hence not all children under the age of 18 are automatically eligible for such benefits. In February 2003, 18.2% of new arrivals in Hong Kong were on CSSA and a majority were not. In exceptional and compassionate cases, the Director of Social Welfare has discretionary power in granting CSSA. It is therefore not necessary for families in need to bear children in order to increase CSSA benefits. These aside, considering our extremely low fertility rate and an increasing elderly dependency, higher fertility should be generally welcomed.

- (c) The Department of Health (DH) and the Family Planning Association of Hong Kong (FPAHK) provide family planning services to help clients make responsible and informed choices according to their health and social circumstances. For the purpose of enhancing the health of the prospective mothers, their infants and families, as well as improving the social and economic roles of women, the Maternal and Child Health Centres (MCHCs) of DH provide advice on the number, spacing and timing of having children and how to prevent unwanted pregnancy. The FPAHK offers Pre-marital Package Service and Pre-pregnancy Preparation Service which incorporate an element to advise couples of the need for family planning.

Both the DH and the FPAHK will continue to encourage members of the public to make use of their family planning services to attain well-planned parenthood.

BILLS

First Reading of Bills

PRESIDENT (in Cantonese): Bills: First Reading.

**LAW AMENDMENT AND REFORM (MISCELLANEOUS PROVISIONS)
BILL 2003****CONSTRUCTION WORKERS REGISTRATION BILL**

CLERK (in Cantonese): Law Amendment and Reform (Miscellaneous Provisions) Bill 2003
Construction Workers Registration Bill.

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.

**LAW AMENDMENT AND REFORM (MISCELLANEOUS PROVISIONS)
BILL 2003**

SECRETARY FOR JUSTICE: Madam President, I move that the Law Amendment and Reform (Miscellaneous Provisions) Bill 2003 be read a Second time.

The Bill is part of the ongoing process of statute law reform directed at introducing non-controversial reforms, removing anomalies, and making minor improvements which do not justify the introduction of separate bills.

Conveyancing transactions

The most significant amendments are in the field of conveyancing. Many conveyancing documents executed in the past on behalf of corporations and attested by a single director have been found not to comply with the requirements of section 23 of the Conveyancing and Property Ordinance. At the time when these documents were executed, members of the legal profession may have considered that section 23 was satisfied, but a recent court decision held that was not the case. As a result, many vendors have been unable to prove good title to their property and transfers of such properties have been clogged.

Clause 9 of the Bill is designed to overcome these problems. The proposed amendments provide for a presumption of due execution, unless the contrary is proved, for documents executed by corporations within 15 years prior to the coming into effect of the new section 23A. For those documents executed more than 15 years prior to the commencement of the section, the presumption is conclusive. The objective of the proposed amendments is to enable the clogged properties to be transferred.

The proposed presumptions would apply to documents executed in the past that are relevant to transactions entered into after the amendments come into effect. They would not affect the proof of title under transactions entered into before that time and which are pending completion.

The amendments in this area have the support of the Law Society of Hong Kong and the Hong Kong Bar Association.

Legal Practitioners Ordinance

Another important provision in the Bill concerns legal education. The Steering Committee on Legal Education and Training in Hong Kong, set up in 1999, has made a number of important recommendations which are being implemented. One of these is that a new statutory body should be established to keep up the momentum of reform of the legal education and training system. The proposed amendments will provide for the establishment of a Standing Committee on Legal Education and Training (the Standing Committee) to replace the existing Advisory Committee on Legal Education. The relevant provisions are in clauses 7 and 8 of the Bill, which amend the Legal Practitioners Ordinance.

The Standing Committee will be broadly based, and will be able to advise on the content of courses designed for our future legal professionals. This will help ensure that their training and skills are of sufficient quality to make them world-class practitioners.

Other amendments proposed to the Legal Practitioners Ordinance will facilitate better management training for solicitors who commence unconditional practice, so that they can provide better service to clients. The opportunity is also taken to introduce amendments to improve the regulation of notaries public. These are in clauses 2 to 6 of the Bill.

Other improvements

I now turn to improvements in other areas.

At the moment, a magistrate is not empowered to award costs to a defendant if the prosecution applies for a review of the magistrate's decision under section 104 of the Magistrates Ordinance and the magistrate confirms the original decision. The Panel on Administration of Justice and Legal Services has suggested that it is unfair for defendants to bear legal costs in such circumstances, when the incurring of those costs was beyond their control. The Administration agrees with that view. Amendments are therefore proposed in clause 10 of the Bill to empower the magistrate to award costs to the defendant in such circumstances.

It is also necessary to replace references to "Crown servant" in the Prevention of Bribery Ordinance and the Independent Commission Against Corruption Ordinance. In order to preserve the scope that "Crown servant" had prior to reunification, it is proposed to replace that term with "prescribed officer", which is defined. The opportunity is taken to put it beyond doubt that principal officials, the Monetary Authority, Chairman of the Public Service Commission, staff of the Independent Commission Against Corruption and judicial officers are covered by the two Ordinances. The relevant provisions are in clauses 13 to 23.

Proceedings can be instituted in the Small Claims Tribunal and the Labour Tribunal by or against the Secretary for Justice as representative of the Administration in these tribunals. At the moment, when this occurs, the Secretary for Justice must personally authorize a person to attend as her representative before the relevant tribunal. In order to avoid the need for such authorizations, it is proposed that a public officer, not being a barrister or solicitor, should have a right of audience in such cases. It is envisaged that law clerks, where my Department is involved, or officers of other government departments would be authorized to attend to these matters. They would not be legally qualified persons and their attendance would be consistent with the spirit of the two tribunals where no legal representation is allowed. The relevant provisions are in clauses 11 and 12.

Part VII of the Bill provides for minor amendments to a number of Ordinances to ensure consistency of terminology and to ensure consistency between the Chinese and English texts.

As I indicated earlier, this Bill is part of a continuing process of tidying up Hong Kong's statute law and effecting minor reforms.

Madam President, I commend the Bill to the Legislative Council. Thank you.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Law Amendment and Reform (Miscellaneous Provisions) 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.

CONSTRUCTION WORKERS REGISTRATION BILL

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, I move the Second Reading of the Construction Workers Registration Bill (the Bill).

In July 1999, the Government set up a Working Group on Registration of Construction Workers (the Working Group), which comprised stakeholders of the construction industry, to consider the feasibility of the implementation of a registration system for construction workers. The Working Group thinks that the implementation of a registration system for construction workers is favourable to the development of the industry. The major advantages of the registration system include:

- (a) ensuring the quality of construction works through assessment and certification of the skill levels of all construction workers; and
- (b) ensuring the availability of more reliable data on labour supply to facilitate manpower planning and training.

The Government accepted the recommendations of the Working Group to implement the registration system for construction workers through legislation.

Under the proposed registration system, all construction workers who personally carry out construction work on construction sites must be registered. When we finalized the details of the registration system, we understood that we had to try our best to avoid dealing a blow to the construction industry as a result the implementation of the registration system, especially the effects on the employment of workers.

The proposed registration system specifies that workers who have the specified working experience but lack the relevant qualifications for registration may apply for registration as registered skilled workers (provisional) or registered semi-skilled workers (provisional) to enable them to continue working at a site. They can take part in skill tests and receive retraining within the three-year transitional period. The Bill also makes a one-off arrangement for veteran workers who have relevant working experience of 10 years or more to participate in assessment interviews, and they may apply for registration as skilled workers after they have passed the interviews. Other workers who fail to pass the skill tests can apply for registration as general workers. Therefore, the proposed registration system will not cause any workers in the construction industry to lose their jobs.

In order to alleviate the burden of construction workers, the Government proposes to impose a levy payable by contractors on the construction works undertaken in Hong Kong to fund the proposed registration system and the estimated levy rate is 0.03%. For instance, if the value of construction works is \$1 million, a levy of \$300 is payable. Since the amount of levy to be collected will be pretty small, it will not affect the value of construction works. With the support of the levy, the registration and renewal fees of workers can be kept at a lower level. It is anticipated that the registration and renewal fees for three years will be \$100. If workers already have the relevant certificates or licences, the fees will be reduced to \$50.

I will now introduce the major provisions of the Bill to Members.

Under the proposed registration system, construction workers have to obtain registration according to their personal skill levels and work types. The provision under clause 2 of the Bill prohibits unregistered construction workers carrying out construction work on construction sites.

Part 3 of the Bill specifies the establishment, organization and terms of reference of the Construction Workers Registration Authority. The provisions also cover the establishment, organization and functions of three Standing Committees. Among these Committees, the Construction Workers Qualifications Committee reviews and assesses the qualification requirements for registration or renewal of registration, the Construction Workers Complaints Committee handles complaints about the failure or the capability of construction workers to comply with the standards, and the Construction Workers Review Committee handles requests for review made by workers who are dissatisfied with the decisions made by the Registration Authority or the Registrar.

Part 5 comprises provisions on the appointment, functions and powers of the Registrar. It has also set out in detail the requirements for registration and renewal as well as cancellation of registration.

Part 6 specifies the circumstances under which complaints can be lodged against registered construction workers as well as the procedures of handling such complaints by the Registration Authority and the Construction Workers Complaints Committee. Workers who are dissatisfied with the decisions made by the Registration Authority or Registrar may request for reviews under the review or appeal mechanism set out in Part 7 of the Bill.

In a word, the principal object of the implementation of a registration system is to nurture quality construction culture and thereby improve the quality of construction works and ultimately help the healthy development of the local construction industry. The Bill ensures that construction workers can obtain registration according to the different skill levels and alleviates their burden in connection with registration and renewal. More importantly, the Bill will not cause any in-service workers to lose their jobs as a result of the implementation of the registration system.

I hope Members will support the Bill so that the registration system for construction workers can be implemented at an early date.

Thank you, Madam President.

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

Resumption of Second Reading Debate on Bill

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

HOUSING (AMENDMENT) BILL 2002

Resumption of debate on Second Reading which was moved on 4 December 2002

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

MR HOWARD YOUNG (in Cantonese): Madam President, in my capacity as Chairman of the Bills Committee on Housing (Amendment) Bill 2002, I shall report on the deliberations of the Bills Committee.

The main purpose of the Housing (Amendment) Bill 2002 is to implement one of the recommendations made in The Report of the Committee on the Review of the Institutional Framework for Public Housing (the Report) issued in June 2002, so that the Chief Executive may appoint a public officer (namely, the Secretary for Housing, Planning and Lands) to become the Chairman of the Housing Authority (HA). However, should the Secretary for Housing, Planning and Lands be appointed the Chairman of the HA, his power to appoint an appeal panel to review tenancy decisions of the HA may give rise to a challenge that such an appeal process is not independent. The Bill therefore also seeks to transfer to the Chief Executive the power of the Secretary for Housing, Planning and Lands to appoint a panel for hearing appeals.

The Bills Committee in principle supports the proposals of the Bill, so that the Chief Executive may have the flexibility of appointing either an official or a non-official HA member to become the Chairman of the HA. However,

concern has been raised on the appointment of the Secretary for Housing, Planning and Lands as the Chairman of the HA lest this will undermine the independence of the HA. The Administration's explanation is that under the accountability system for principal officials introduced on 1 July 2002, the statutory and advisory bodies relating to housing should answer to the Secretary for Housing, Planning and Lands. The arrangement whereby the Secretary for Housing, Planning and Lands may become the Chairman of the HA will serve to integrate the operation of the HA into the Government's overall policy-making process. It will enable the Secretary for Housing, Planning and Lands to assume full control over and responsibility for all aspects of the formulation and implementation of policy. It will also enhance accountability.

In view of the heavy workload of the Chairman of the HA (the incumbent is a member of almost all standing committees of the HA), doubts have been cast on whether the Secretary for Housing, Planning and Lands can, in addition to his current workload, take up the duties of HA Chairman. According to the Administration, it is reviewing the structure, including the committee structure, and functions of the HA in line with its evolving role within the new housing organization. It is expected that the executive functions of the HA's committees will be reduced after progressive delegation of such functions to civil servants under the new housing organization. This will enhance the advisory function of the HA's committees and maintain clear working relationships within the new housing organization.

On the timetable for evolution of the HA, the Administration states that according to the Report, the speed and manner in which the evolutionary process takes place will be decided by the Secretary for Housing, Planning and Lands. As the financial position of the HA is likely to be affected by the reduction in its subsidized home ownership construction programme, the Administration is reviewing the financial arrangements between the Government and the HA to ensure that the new housing organization and the HA can continue to discharge their respective functions during the interim. Members will be consulted on further legislative amendments to the Ordinance if it is decided that funding of the new housing organization is to be provided by the Government.

Members of the Bills Committee note that the appointment of the Secretary for Housing, Planning and Lands as HA Chairman may lead to an expenditure saving of \$2 million per annum. On the vice-chairmanship of the HA, the Administration undertakes to consider appointing a non-official member as the Vice-Chairman of the HA as suggested by members.

Madam President, I propose the resumption of Second Reading debate on the Bill. I hope that Members will support the passage of the Bill.

Madam President, I will now speak briefly on the Bill as the Liberal Party's spokesman for housing affairs.

The Liberal Party supports the Bill introduced by the Government. We agree to the appointment of the Secretary for Housing, Planning and Lands as the Chairman of the HA because this will place housing policies under the authority of one single person, facilitating co-ordination, monitoring and control. It is believed that the relevant change will make the formulation and implementation of housing policies much more satisfactory and centralized in the future, and there will also be enhanced accountability. What is more, the arrangement will also enable the Government to save \$2 million per annum; this will at least bring about some help at this very time when the Government is faced with an acute fiscal deficit.

The housing framework of Hong Kong has always been seen as bloated and even overlapped in structure. According to the Report issued in June last year, the Housing Bureau, the Housing Department (HD), the HA and the Housing Society are all responsible for housing affairs. Their responsibilities are similar and marked by many grey areas; such ambiguous demarcation of responsibilities, coupled with the absence of any communication, has led to the formulation of contradictory housing policies, much to the confusion of the people. The recently published First Report of the Select Committee on Building Problems of Public Housing Units also mentions this point.

The Liberal Party has always been advocating that the Government should streamline the bloated housing framework. But it also thinks that there is a genuine necessity for the existence of the HA. That is why we agree that we should now reform the role of the HA by clearly defining its terms of reference. And, in terms of the direction of reform, the HA should gradually evolve into an advisor to the Government on housing matters. The existing policy-making authority of the HA should then be transferred to the HD. This will better enable the HA to concentrate on its advisory role and tender to the Government more accurate advice on its housing policies. That way, the HA will no longer be faced with the past problem of having too many responsibilities, a problem which has produced more losses than gains and which has prevented the HA from achieving the desired results.

We also propose that in the course of selecting HA members following its transformation into an advisory body, people with different professional backgrounds, and even end-users, should be appointed, so as to bring forth a full reflection of people's views and thus ensure that the housing policies implemented by the Government can truly meet the needs of the market.

During the meetings of the Bills Committee, some members raised the point that the relevant amendments could both increase the flexibility and consistency of policy formulation and resolve the problem of bloated structure and resource overlap. They also asked whether the idea of appointing the Secretary for Housing, Planning and Lands as the Chairman of the HA could be applied to other advisory bodies. Although this proposal does not fall within the scope of the Amendment Bill, I still hope that the authorities can give it some thoughts. I am convinced that such an arrangement will enhance the Government's internal communication, contribute positively to its overall governance and avoid confusing policies.

I so submit.

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

MR ALBERT HO (in Cantonese): Madam President, I shall speak for the Democratic Party on the Housing (Amendment) Bill 2002. The main purpose of the Bill is to implement some of the recommendations made in the Report of the Committee on the Review of the Institutional Framework for Public Housing issued by the Chief Secretary for Administration in June last year. Under the relevant proposals, the Government shall start by appointing the Secretary for Housing, Planning and Lands as the Chairman of the HA and then recover the powers of the HA in stages, with the eventual goal of turning the HA into an advisory body. For this reason, although the Bill contains just a very small number of amendments of a very restrictive scope, we still cannot detach our consideration of it from the reform background mentioned just now.

After considering the entire picture, the Democratic Party has decided to abstain from voting on the Second Reading of the Bill.

To begin with, I wish to say a few words on the underlying philosophy and concepts of the entire reform proposal. First, the Government now plans to turn the HA, a statutory body which has been functioning for some 30 years, into an advisory body by centralizing and stripping it of all its powers over time. This is indeed a very significant change.

Actually, this is not the first time that the Government tries to recover the powers of statutory bodies. It did this to the two Municipal Councils some time ago, and we just do not know whether it is going to do anything with other statutory bodies in future.

Despite the Government's claim that the change aims to further materialize the underlying spirit of the accountability system for principal officials, it still remains open to question as to whether there will be any true accountability to the Government and society, and whether this is going to be a beneficial development at all. My answer is in the negative, because we do not have an integrated and democratic system of accountability. Our Chief Executive and principal officials are not returned by popular elections.

Although the existing members of this statutory body, the HA, are all appointed, it is still, after all, an autonomous statutory body enjoying powers of its own. Although the existing appointed members are not so widely and adequately representative, there can be no denying that the people are still represented on this statutory body to a certain extent. Those members associated with the common masses will still be able to reflect the people's views to a certain extent. And, the people's voices carry a very high symbolic significance in a statutory body. The Democratic Party is of the view that the proper direction of reform should be to make all these statutory bodies more open and democratic, instead of recovering all their powers and handing them over to some so-called accountability officials belonging to an executive not elected by the people. Such an arrangement is nothing but a regression; the Democratic Party will never accept such a development direction.

Second, purely from the perspective of reform approach and strategy, or purely from the perspective of the Government, a gradual reform is not satisfactory either. On the one hand, the framework enjoys independent powers and each of its members is supposed to discharge his statutory responsibilities and act in accordance with his own principles. But on the other, the Government now superimposes an official Chairman on this organization in an

attempt to realize the spirit of the accountability system for principal officials. And, specifically, it is hoped that the principal official concerned can gain control of the operation of the statutory body. I find this most unsatisfactory, and people will certainly mock at the hybrid nature of the HA.

In case the official Chairman appointed to the HA fails to gain control as desired, as when Secretary Michael SUEN is appointed the Chairman of the HA and fails to get acceptance of his proposal by HA members, or when the members even put forward or pass some proposals or decisions which run counter to government policies, I really do not know whether Secretary Michael SUEN, as the Chairman of the HA, will think that he has failed to discharge his duties. What should the Secretary say then? Should he be forced to resign from office of Chairman of the HA or even as an accountability official? I do not think that even the Secretary can give any answer. In the meetings of the Bills Committee on Housing (Amendment) Bill 2002, I asked this questions several times, but the Secretary could not give us any satisfactory answer. That is why I must say that any administrative reforms, once decided upon, must then be implemented in a thorough-going manner. A neither-this-nor-that hybrid cannot be accepted. Nor should the Secretary be appointed as the ex-officio Chairman of the HA, because he will just be a nominal leader without actual powers and authority.

Finally, I very much appreciate the Government's concern as to whether the many functions vested with the HA can tie in with its overall housing and land policies. But we must not forget that the HA is now performing many important management functions and executing many policies, including the policy on public housing management. Some examples are what we discussed yesterday — the setting of the income and asset limits for public housing applicants and the criteria for defining an over-crowded household. All these must need concrete efforts and dedication in the course of implementation if the well-being of the 2 million or so public housing tenants is to be protected.

Since the Secretary is already so busy and burdened by so many heavy responsibilities now, I am a bit worried about what will happen once he is appointed the Chairman of the HA. And, as far as I understand it, the deputy to the Chairman of the HA is traditionally a Permanent Secretary. Are they able to devote all their efforts to the work of the HA and discharge their responsibilities as leaders? Their responsibilities should cover many important

administrative and management functions. Although the number of public housing units and HOS flats to be constructed may become increasingly small, they will still carry some responsibilities in this respect, because a certain volume of public housing will still have to be constructed. But just how much time can they spare?

Therefore, overall, I would say that some of the reform measures proposed in the Bill are not well-thought-out. If the Government really wishes to launch a comprehensive and thorough-going reform, it should put forward an integrated and thorough-going scheme. As for whether such a scheme can be accepted, it is of course up to the Legislative Council to decide through the process of legislative enactment. That aside, can any partial reform involving a mere change of leadership achieve the aim of thoroughly reforming the HA? Will this create any undesirable and ridiculous results that will plunge the Secretary into a dilemma?

I am sure that it is very difficult for the Government to offer any satisfactory answers to these questions. For all these considerations, the Democratic Party will abstain from voting on the Bill today. Why do we wish to abstain from voting? First, because just by looking at the proposal, that is, the proposal on giving the Chief Executive the flexibility of appointing a government official as the Chairman of the HA, we do find it very difficult to oppose the Bill; the Bill does not state specifically that the Secretary for Housing, Planning and Lands should be appointed. It simply says that a public officer may be appointed as the Chairman of the HA. So, it is very difficult for us to oppose the Bill itself.

Second, because the second part of the reform proposal is good. As proposed, it is the Chief Executive, rather than the Secretary for Housing, Planning and Lands, who may appoint a board to hear appeals. This is also a progressive step.

For these two reasons, we do not wish to negate the whole Bill altogether. So we consider an abstention is appropriate. However, we have already imparted a very clear message, that we are deeply concerned about the gradual or total reform due to follow.

I so submit. Thank you, Madam President.

MR FREDERICK FUNG (in Cantonese): Madam President, I rise to speak in support of the Housing (Amendment) Bill 2002 (the Bill).

The major reason for my support of the Bill is that given the political changes in Hong Kong since 1997, it has become very difficult to retain the pre-1997 system of the Housing Authority (HA). Let me say a few words on the related history. In the early days, the Secretary for Housing was also the Chairman of the HA, and the Vice-Chairman was the Director of Housing. There were also some appointed members, and together, they formulated housing policies for the Governor-in-Council. By the 1990s, a non-civil servant was appointed as the Chairman of the HA, but the Vice-Chairman was still the Director of Housing. To sum up, the composition of the HA has been closely connected with civil servants. To put it more directly, although there were also some government-appointed, non-civil servant members on the HA before 1997, in general, all public housing policies were basically formulated under the direction of the Secretary for Housing and Director of Housing.

Before 1997, Governors were appointed by Britain, and they did not need to bring along any political platform when they came here, nor did they need to formulate any short-term or long-term housing policy. There were some exceptions, though, such as McLEHOSE, who formulated a 10-year Long-Term Housing Strategy after his arrival. However, what Governor McLEHOSE did was just to conceive the strategy, and it was taken up by the HA as a work plan only after the efforts of the Secretary for Housing to get it through there. This example is a rare one because practically all basic housing policies were the products of gradual evolution, and very few of them were put forward by the political figures in power at the time. It can thus be said that past Governors did not come to Hong Kong with any political platforms. But then, who formulated the housing policies? Local housing policies were basically the responsibility of civil servants. Their job in this respect covered policy formulation, lobbying for passage and eventual implementation. Before 1997, this generally worked, because newly-arrived Governors, who basically knew very little about the situation and policies of Hong Kong, seldom really raised any objection to established policies. Also, civil servants were not elected either, but were instead deployed to different posts under an internal system of promotion and regular transfers. From this, we can see that the housing policies before 1997 were basically drawn up by senior civil servants assuming the role of ruling officials, but these "ruling officials" were themselves not elected by the people.

Madam President, the situation has changed since 1997. Our Chief Executive is returned by election. Whether we approve of the election method, whether we support it or oppose it, the fact remains that he is returned by election. Whether the Election Committee of 800 members is considered just a small circle of people, whether it is considered representative enough, the fact remains that the Chief Executive is returned by election. We may elect TUNG Chee-hwa today, but elect CHEN Chee-hwa tomorrow and HUANG Chee-hwa the day after tomorrow. Every Chief Executive candidate will prepare a political platform at the time of election, and I believe that the political platform of each of them will be different.

In the First Chief Executive Election, in which TUNG Chee-hwa won, for example, the other two candidates, Peter WOO and YANG Ti-liang both put forward different housing policy platforms. In other words, if there are other candidates in the Third Chief Executive Election, I am sure that the housing policies put forward by the candidates will also be different from those implemented by the incumbent Chief Executive. Even if their housing policies happen to be the same as those of Mr TUNG, those put forward by candidates in the following election may be different, because every Chief Executive is elected and no one knows who will be elected next. But the point is that we do not have a ruling party to follow up the administration of the Chief Executive. I mean, there is no ruling party to check whether the Chief Executive will fulfil his political platform after his election. This is a major reason explaining why the housing strategy of the past can no longer work now.

As I mentioned a moment ago, if we agree that civil servants used to take charge of policies, there will be policy continuity, there will be no change in 50 years or even 150 years, because the civil service is constituted by civil servants under a system of recruitment, promotion and transfer. However, the term of office of Chief Executive is just five years, so there may be a new Chief Executive every five years, and there may thus be different policies. Now, if a Chief Executive with a new housing policy platform is elected and his housing policy platform is not in line with the policies of the HA and even those being enforced by senior government officials, then who should enforce the policies of the Chief Executive? Should the housing policy platform of the Chief Executive be treated as the basis determining the ultimate policy direction? I think the answer should be "yes". It is because once a person is elected the Chief Executive, even if his housing policies differ from those of the HA or the

Secretary for Housing, Planning and Lands, there is no reason for us to brush his policies aside and adopt those of the HA, the Secretary for Housing or the Secretary for Housing, Planning and Lands. Very obviously, we should implement the policies of the Chief Executive.

However, who then should enforce the Chief Executive's housing policy platform? In the process of turning a housing policy platform first into policies and then into concrete measures, there must be a policy-maker to turn the platform into policies. The policies will then be enforced by the departments concerned. Obviously, when it comes to policy-makers, we will see that the Chief Executive is on the top, followed first by the Secretary for Housing, Planning and Lands and then by the Director of Housing. This means that the Secretary is the policy-maker responsible for turning the housing policy platform into housing policies, and the Housing Department is responsible for policy enforcement. Therefore, I think that the coming and going of Chief Executives will make it difficult for the HA to maintain the 150 year-old system under which civil servants are supposed to enforce policies. Since the term of office of Chief Executive is just five years, I agree that flexibility should be introduced to the ordinance. I say flexibility, but we actually know that the Chairman to be appointed in the future will be the Secretary, or at least, under the accountability system, only the Secretary, not any other public officer or ordinary person, will be appointed. It will always be the Secretary unless the Chief Executive amends the policy and drops the accountability system. For this reason, I think this system can tie in with the election of the Chief Executive after 1997. Since different persons may become the Chief Executive, such an amendment can cope with the fundamental changes.

Will one who makes appointment in the future and another one who makes appointment now come up with different kinds of appointees? Will there be the possibility that one likes to listen to more views and another does not? Actually, all will have to depend on who makes appointment and who are appointed. The willingness or otherwise of the one who makes appointment to listen to more views will have a bearing on the choice of appointees. If one insists on appointing a person who likes to listen to the views of Frederick FUNG, then one will appoint the "good friends" of Frederick FUNG. If one is prepared to listen extensively to people's views, if one's aim is just to listen and let the Secretary make the decisions at the end, then one will appoint people holding different views. The HA is in fact operating like this now.

HA members are now appointed by the Chief Executive. He may choose to listen to the views of one side only. Therefore, there will not be any big difference between the future practice and the current practice. Of course, the biggest difference will be that while the HA now has the power to make decisions, the future advisory body will not have any. Members may look at the minutes of meeting of the HA. I have served as a member of the HA for 13 years, and my views (usually views of dissent) were seldom endorsed by the HA. If one wants a percentage of acceptance, I would say it was about 0.001%. Some of these views were made known after a passage of 10 years. I mean, if I put forward a proposal today, it will be accepted only 10 years later. But then, by that time, the views will no longer be seen as the views of Frederick FUNG. Actually, we can see that there are many ways to make sure that the views of the HA are not accepted, very much like the case of an advisory body putting forward its views. Therefore, as far as this is concerned, I do not think that there is any big difference between the existing framework and the future framework.

Some also say that the method proposed is not democratic because neither the Chief Executive nor the Secretary is elected. But should this be used as a reason for doing nothing? I do not think that we should thus do nothing, because if we do nothing, the problem mentioned by me will emerge. I mean, in case the Chief Executive's housing policy platform differs from the policies being implemented by the HA, how are we going to reconcile the difference? If this problem cannot be resolved under the existing system, then this system cannot possibly be maintained any longer, administratively and politically. If the system is maintained, the only results will be frequent clashes, clashes between the Secretary and the HA. I remember that before 1997, when Mr Dominic WONG was the Secretary for Housing, this problem occurred very often. Well, to a certain extent, the then Secretary for Housing did put forward views that did not fall within his scope of responsibilities. When he conducted the long-term housing strategy review in relation to well-off tenants, he went so far as to suggest exactly how much was to be collected. This virtually "went beyond the line", trespassing into the territory of the HA. This is precisely an example of clashes between two power frameworks.

I wish to add one point. If people say election is a "must", then I must say under the existing system, civil servants are not elected either. Civil servants in power, like the Secretary for Housing, Planning and Lands and the former Secretary for Housing, all got where they were under a system of

promotion. Why did this system work? If we follow the above reasoning, I should think the system simply does not work. Since civil servants get their policy-making power under a system of promotion, they should only implement policies instead of making any. The policy-making power should be returned to those elected by the people. Those in power now are returned by coterie elections. I do not approve of such elections, and I maintain that the Chief Executive and the Legislative Council should both be returned by universal and popular elections. But before we attain this goal, should we simply ignore the conflicts in the existing system? I do not think we should.

Between 1996 and 1998, problems did occur with the HA and the system of Chief Executive election. At that time, there were policy conflicts between the HA and the Secretary for Housing, or later, the Secretary for Housing, Planning and Lands, ending up in "the big bullying the small". However, following the centralization of decision-making, this problem will not occur again. There is still another advantage. The new arrangement can tie in with the accountability system for principal officials. Since the Secretary for Housing, Planning and Lands is an accountability official, he will have to enforce the Chief Executive's housing policies through the Housing Department. Should any problem occur, the question of who should be accountable can be answered very clearly. The various organizations involved can no longer pass the buck around as they did in the past, with the HA saying that the Secretary said "no" to a certain policy, or that the Chief Executive in Council forced it to implement certain policies.

I do not know whether Members can still remember, but that was exactly what happened when the decision was made to sell public housing units. At that time, the Chief Executive in Council decided to sell public housing units at the very low price of some \$100,000 each. Then the task was given to the HA. On that day, I was asked to go to the HA at 8.30 am to read the relevant papers, and I had only half an hour to do so, because voting would take place at 9 am. Well, the policy was already endorsed by the Executive Council. There was such a problem in the past, but it will not occur in the future. Since the Secretary will be appointed as the Chairman of the HA, he will be accountable for all policies on housing. If there are any major problems with these policies, even the Chief Executive has to be held accountable. The line of accountability will be very clear. The HA will not be able to shift the responsibility onto the Secretary and the Chief Executive, nor can the Secretary shift the responsibility back to the HA. I think the line of accountability will be very clear.

In the absence of any popular elections now, I can only hope (against hope, probably) that when the Secretary and the Government appoint HA members in future, they can adopt an open attitude of listening to different views. Politics are quite special and interesting. If one does something good today, one will get good results tomorrow. If one does something bad today, one will get bad results tomorrow. I mean, if they are "biased" and appoint their "cronies" only, the result will be naturally be very bad. But if they are willing to listen to different views and make judgement and decisions really objectively, the results will be very good. This will also be good to the Secretary. I think causes and results are always linked to one another, so I am not worried that the Secretary will appoint his "cronies" only, because if he does, he will run into trouble sooner or later.

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

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

(No Member responded)

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, under the existing Housing Ordinance, only an unofficial member of the Housing Authority (HA) may be appointed by the Chief Executive as the Chairman of the HA. The main purpose of the Housing (Amendment) Bill 2002 (the Bill) is to implement one of the recommendations made in the Report of the Committee on the Review of the Institutional Framework for Public Housing, namely, the recommendation on enabling the Secretary for Housing, Planning and Lands to be appointed as the Chairman of the HA in future.

Members have expressed many insightful views on how the relevant arrangements will be made during the debate. I am a bit disappointed, though, because during the meetings of the Bills Committee on Housing (Amendment) Bill 2002, Mr Albert HO did not raise the points which he discussed just now. Had he done so, we would have been able to conduct in-depth discussions during the Bills Committee's scrutiny. Today is not the right occasion of discussing his points. The aim of the Bill today is quite restricted. But, Madam President, I hope that you can allow me to respond briefly to one or two points like Mr Frederick FUNG has done.

To begin with, I accept and agree to most of the points raised by Mr Frederick FUNG. The historical background concerned enables us to understand why we have proposed to make the arrangement. Mr Albert HO has made two main points. He wonders why we do not launch a full-scale reform. Actually, this is only a question of pace. If we seek to get it all done in one single stride and transform the existing statutory body into an advisory body, the "surgical operation" will be large in scale. Since the HA is an autonomous statutory organization enjoying financial independence, such a reform will certainly involve a large-scale "surgical operation". If we are to get it all done in one single stride, I believe we will have to spend one or two years, and this is only a conservative estimation. Therefore, we wish to do the work in this respect first. Practically, there is a need to do it in different steps.

The second point is about whether the Secretary for Housing, Planning and Lands, given his heavy duties, can still discharge the responsibilities as the Chairman of the HA. I can tell Members clearly that there is no need to worry about this because this in fact forms the bulk of the Secretary for Housing, Planning and Lands' responsibilities. However, in the course of policy formulation, he will need to obtain the support of the HA. Matters falling within the responsibilities of the HA itself must be properly handled, so as to ensure full support from the HA for the relevant policies. That way, government policies can become clearer. This will also facilitate policy implementation.

Under the accountability system, the statutory and advisory bodies relating to housing should answer to the Secretary for Housing, Planning and Lands. The arrangement whereby the Secretary for Housing, Planning and Lands may become the Chairman of the HA will serve to integrate the operation of HA into the Government's overall policy-making process. It will enable the Secretary for Housing, Planning and Lands to have full authority over and therefore be able to take responsibility for all aspects of the formulation and implementation of policy. It will also allow for greater accountability to the Legislative Council and the community in respect of the housing policies and programmes of the Government.

The HA provides housing subsidy to half of the population of Hong Kong and it also performs the important task of ensuring that precious housing resources are channelled to the most needy in society. Since its inception in 1973, totally three unofficial members of the HA have served as its Chairman.

They have contributed significantly to achievements and development of the Hong Kong public housing sector today. The incumbent Chairman, Dr CHENG Hon-kwan, took over the leadership of the HA two years ago. With his outstanding professional knowledge and management experience, he has actively and successfully guided the HA in meeting many different new challenges — improving the construction quality of public housing units, participating in the review of the institutional framework for public housing, backing up the Government's new housing policies and continuously perfecting the services provided by the HA to members of the public. I wish to take this opportunity to thank Dr CHENG for his contribution to society.

In addition, I also wish to thank Mr Howard YOUNG, Chairman of the Bills Committee and other members. They have worked for the smooth scrutiny of the Bill and they also support is resumption of Second Reading. I hope that Members can support the Bill.

Thank you, Madam President.

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

(Members raised their hands)

Mr Albert HO rose to claim a division.

PRESIDENT (in Cantonese): Mr Albert HO 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, Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Miss Margaret NG, Mrs Selina CHOW, Mr CHAN Kwok-keung, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Mr Andrew WONG, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Miriam LAU, Mr Ambrose LAU, Miss CHOY So-yuk, Mr Timothy FOK, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr Abraham SHEK, Ms LI Fung-ying, Mr Henry WU, Mr Tommy CHEUNG, Dr LO Wing-lok, Mr Frederick FUNG, Mr IP Kwok-him, Mr LAU Ping-cheung, Ms Audrey EU and Mr MA Fung Kwok voted for the motion.

Mr LEUNG Yiu-chung voted against the motion.

Ms Cyd HO, Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Dr YEUNG Sum, Ms Emily LAU, Mr SZETO Wah, Dr LAW Chi-kwong, Mr Albert CHAN and Mr WONG Sing-chi abstained.

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

THE PRESIDENT announced that there were 47 Members present, 32 were in favour of the motion, one against it and 13 abstained. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

CLERK (in Cantonese): Housing (Amendment) Bill 2002.

Council went into Committee.

Committee Stage

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

HOUSING (AMENDMENT) BILL 2002

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

CLERK (in Cantonese): Clauses 1 to 4.

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.

HOUSING (AMENDMENT) BILL 2002

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese):
Madam President, the

Housing (Amendment) Bill 2002

has passed through Committee without amendment. 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 Housing (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): Housing (Amendment) Bill 2002.

Resumption of Second Reading Debate on Bill

PRESIDENT (in Cantonese): We will resume the Second Reading debate on the Registration of Persons (Amendment) Bill 2001.

REGISTRATION OF PERSONS (AMENDMENT) BILL 2001**Resumption of debate on Second Reading which was moved on 9 January 2002**

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

MR IP KWOK-HIM (in Cantonese): Madam President, in my capacity as Chairman of the Bills Committee on Registration of Persons (Amendment) Bill 2001 (the Bills Committee), I would like to report on the main deliberations of the Bills Committee.

The Registration of Persons (Amendment) Bill 2001 (the Bill) seeks to provide the legislative framework for the introduction of a new smart identity (ID) card with multi-application capacity. The Bill also provides for the launching of a territory-wide ID card replacement exercise.

The Bills Committee has held 15 meetings with the Administration, and has considered views from the Privacy Commissioner for Personal Data (Privacy Commissioner), academics and professionals in the field of information technology as well as other deputations. The Bills Committee has also visited the Immigration Department to watch a demonstration on the prototype of the Smart Identity Card System (the System) to better understand the new work processes under the System.

Members of the Bills Committee have expressed grave concern about the inclusion of non-registration of persons (non-ROP) applications in the new ID card. Under the proposed regulation 4A, the Chief Executive in Council is empowered to make regulations for non-ROP information or particulars to be included in ID cards and data to be stored in the chip of the ID card for non-ROP applications. According to the Administration, among the proposed non-ROP applications to be introduced, namely digital certificate (e-Cert), library card and driving licence, only the e-Cert application requires the storage of non-ROP data in the chip. The e-Cert application will therefore be specified in the new Schedule 5 to the Registration of Persons Regulations. In addition, all of the proposed non-ROP applications are voluntary. Card holders will have the

choice of whether non-ROP information and data should be included in their new ID card.

Members of the Bills Committee considered that the proposed regulation 4A should reflect clearly that the inclusion of non-ROP information and data referred to in the proposed regulation is voluntary, and that the inclusion of such information and data in an ID card and the storage of such data in a chip requires the consent of the card holder. Moreover, members also consider that the principle that any inclusion of non-ROP information and data into an ID card requires the consent of the card holder should be provided in the primary legislation.

Insofar as drafting is concerned, members of the Bills Committee have suggested that the purposes of including non-ROP information and data in an ID card as well as the information and data to be included should be clearly spelt out.

Having acceded to members' views, the Administration has redrafted the proposed regulation 4A to expressly provide that the inclusion of non-ROP information and data in an ID card and the storage of such data in a chip will require the consent of the card holder, and that the purpose of inclusion and the information and data to be included in an ID card will be set out in columns 1 and 2 of Schedule 5 respectively. A provision will also be added to provide for the removal of such data included in the chip embodied in an ID card if so requested by the ID card holder concerned.

The Administration has also agreed to add a new section 7(2A) to the Registration of Persons Ordinance to set out the principle that information or data other than those prescribed for ROP purposes could only be included in ID cards or stored in chips with the consent of the applicants for or holders of ID card, and to set out the information or data which are related to ROP purposes.

Mr James TO has expressed concern about the new section 7(2A)(b)(i) proposed by the Administration, which in effect empowers the Chief Executive in Council to make regulations to provide for inclusion of the information on a person's nationality, marital status and occupation in his ID card without the consent of the person. Mr TO and some members of the Bills Committee were worried that the amendment, if passed, would empower the Administration to make another regulation to require ID card applicants to report all their nationalities. Mr TO considers that the enabling provision should be restricted to a person's claimed nationality.

The Administration has assured members that the Administration has no intention to require an ID card applicant to furnish information on all his nationalities. In order to remove members' worries, the Administration has agreed to amend the reference from "nationality" to "nationality which he claims" in the new provision.

Regarding information on a person's marital status and occupation, Mr James TO and some members of the Bills Committee did not consider that there is a need for the inclusion in the ID card of such information, as they are not related to ROP purposes. Some other members, however, did not share this view. After voting, the Bills Committee decided that the amendments to delete the reference to "marital status" and "occupation" in new section 7(2A)(b)(i) would not be moved by the Bills Committee. Mr James TO will move his amendments instead.

Madam President, under the proposed section 10 of the Registration of Persons Ordinance, that is, the existing regulation 24 of the Registration of Persons Regulations, a registration officer should not disclose photographs, fingerprints and particulars furnished under regulation 4(1) of the Registration of Persons Regulations, unless with the written permission of the Chief Secretary for Administration. In response to some members' concern about the possible abuse of ROP data by government departments, the Administration has explained in detail the mechanism for processing requests for ROP data under regulation 24 and the procedures and practice of the police in making requests for ROP data and destroying such data after use. Having considered members' views, the Administration has agreed to introduce amendments to require the Chief Secretary for Administration to state the reason for giving the permission.

Regarding permission by the Chief Secretary for Administration to disclose ROP data under regulation 24, members have noted that the Chief Secretary for Administration's power has been delegated to a Principal Assistant Secretary for Security. Members have questioned whether such a delegation of power is appropriate.

The Administration has explained the delegation of the power conferred on the Chief Secretary for Administration under regulation 24 to the Secretary for Security, Deputy Secretary for Security and Principal Assistant Secretary for Security since the '70s under section 43 of Chapter 1 of the Laws of Hong Kong. Having regard to the nature and frequency of the requests for ROP records, the

Administration considers that the existing delegation of power is appropriate. The Administration has stressed that before a permission under regulation 24 is granted, Principal Assistant Secretary for Security will duly examine the requests having regard to various factors. When in doubt, Principal Assistant Secretary for Security will consult Deputy Secretary for Security, Secretary for Security or Chief Secretary for Administration and, if necessary, consider the advice of the Department of Justice and the Privacy Commissioner.

Madam President, another concern of members is the conduct of privacy compliance audit. Members of the Bills Committee considered it imperative that privacy compliance audits on the System be conducted to ensure compliance with data protection requirements and prevention of abuse of data collected. Members of the Bills Committee have suggested that privacy compliance audits should be conducted on a regular basis in the initial two to three years after the System is implemented, and reports of the audits should be submitted to the Legislative Council. To enhance public confidence in the smart ID card scheme, some members have also suggested that the Bill should provide for the conduct of privacy compliance audits.

The Privacy Commissioner and the Administration consider that it is more appropriate to provide in a code of practice the conduct of privacy compliance audit rather than in the Bill. The Administration has undertaken to draw up the code of practice in consultation with the Privacy Commissioner after the completion of the fourth Privacy Impact Assessment study. The code of practice will set out the ground rules on the collection, use of and access to smart ID card data and the conduct of privacy compliance audit. The code of practice will be covered by section 12 of the Personal Data (Privacy) Ordinance, that is, it has to be approved by the Privacy Commissioner.

The Administration has advised that it will make the necessary arrangements with the Privacy Commissioner for a privacy compliance audit to be conducted in 12 months after the implementation of the System, and thereafter on a need basis. The Administration has also undertaken to provide a copy of the audit report to this Council after the audit is completed. The Administration has agreed to reiterate the undertakings in the Secretary for Security's speech to be made during the Second Reading debate on the Bill.

At the request of members, the Administration has agreed to convey to the Privacy Commissioner the concerns of members about the delegation of the

Chief Secretary for Administration's power and the destruction of ROP data disclosed pursuant to regulation 24 and members' request that the Privacy Commissioner should also look at whether the protection of data privacy is fully complied with in the context of privacy compliance audit.

Regarding the commencement of the Bill, the Administration proposes to introduce an amendment to bring the Bill, if passed, into force on 12 May 2003. The Commissioner of Registration will then specify 26 May 2003 as the date for the System to commence operation for the introduction of smart ID card. The Administration plans to launch the replacement exercise, which will take place by phases, in late July 2003.

Mr James TO has expressed concern about the proposed amendment to appoint 12 May 2003 as the commencement date of the Bill. He opines that this Council should not be asked to agree to the commencement date of the Bill as proposed by the Administration without ascertaining the readiness of the System to commence operation. To address this issue, the Administration has undertaken to brief the Panel on Security on the progress of the implementation of the System before the Commissioner of Registration specifies the date on which the System comes into operation.

Madam President, the Administration has taken on board many of the suggestions and views of members on the new work procedures and drafting of provisions and will move amendments to the Bill. Madam President, with your permission, I will speak on the Bill in my personal capacity.

Madam President, the Democratic Alliance for Betterment of Hong Kong (DAB) supports the Second and Third Readings of the Bill. In the opinion of the DAB, with the territory's population fast exceeding 7 million, there is a need for the Government to map out a state of the art and efficient ROP programme in order to enhance the efficiency of its security work and properly manage its demographic information. Taking the opportunity of updating its ID card computer system, the Immigration Department will launch a smart ID card replacement exercise. The DAB considers this an appropriate policy decision.

To properly handle the new ID card replacement exercise is like crossing a single-plank bridge. It is necessary to do considerable balancing, while precision and accuracy are required. Full consideration must be given to the needs of the community and the protection of public interest. The Bills

Committee has held 15 meetings. As Chairman of the Bills Committee, I noticed throughout the scrutiny of the Bill that members were holding a pair of scales like this all the time in making assessment.

From the angle of the public, the DAB understands that many people hope that the Government can make use of ever-changing technology nowadays, and give primary consideration to whether the projects can bring convenience to the public in their daily lives in the implementation of every project being undertaken. Examples are the well-familiar PPS, ESDlife, and so on. Members of the public can, regardless of the time and place, meet their daily needs in a very convenient manner. It is precisely for these reasons that the DAB supports the proposed inclusion of non-ROP applications in the new ID card. Such new applications as digital certificate, library card and driving licence are absent in the old ID cards. We have even proposed that the health condition of card holders or certain health-related information be included in their ID card in future. All this should be beneficial to the public.

As I commented earlier in the meeting, the Bills Committee kept on weighing various proposals, as if it was holding a pair of scales in its hand in the course of scrutiny, in examining whether the proposals could enable us to enjoy more convenience in our daily lives. In giving approval for the new ID card to carry information not available in the past for such reasons as providing the public with more convenience in their daily lives, however, attention should also be paid to the fact that this project or plan must not be allowed to indiscriminately or indefinitely expand the information that can be stored in the ID card. At the same time, we should consider the need of setting up a fire wall. As pointed out by many experts, such safety protection is warranted. For this reason, the DAB supports the amendment proposed by the Government to provide that the consent of card holders must be sought in order to store information for non-ROP applications into the ID card or its chip. In so doing, members of the public are not only given the right to decide how their personal rights should be protected, they are also offered a chance to consider the extra applications of their own ID cards.

The scales used for scrutinizing the Bill were used not only for balancing the scope of applications of the ID card and the decision power of the public, they are also applicable to balancing the maintenance of law and order in the community and the protection of the privacy of members of the public. For a long time, one of the primary functions of ID cards is to maintain law and order

in the community and facilitate law enforcement by public officers. According to past experience, Hong Kong was often impacted by such problems as illegal immigrants and overstaying. As a result, law enforcement officers have to rely on the information provided by ID cards to judge the qualification of a card holder to stay in Hong Kong. Furthermore, the information carried in the ID cards is often used by law enforcement officers to perform other public duties such as detecting crime, combating illegal labour, and so on. It is evident that a comprehensive ROP management system can help maintain law and order in the community and enable public officers to discharge their public duties effectively.

Unlike the old card, the new ID card is not an ordinary card. Instead, it is a smart card with multiple applications and a wide range of information. Inadequate supervision of the ROP management system or excessive power of public officers is set to impact seriously on the public's right to privacy. As a result, all Members, including Members of the DAB, spontaneously asked the Government in the course of scrutiny to pay special attention to the scrutiny of the ROP management system and put in place a special procedure for compliance by law enforcement officers in the course of inspecting the smart ID card. It is evident from the content of the amendments eventually proposed by the Government that the concern of the DAB has been addressed. Under the amendment to clause 13, for instance, police officers and members of the Immigration Service can only use a portable ID card reader to scan and verify the fingerprint information stored in the chip embodied in the ID card when there is reason to believe, upon inspecting the information shown on the card surface, that the ID card is not issued under the laws of Hong Kong to the person being inspected. In the opinion of the DAB, the two checkpoints imposed on public officers in the course of inspection can effectively prevent public officers from abusing the use of portable ID card readers that might lead to infringement of the privacy of members of the public.

The DAB has also expressed its concern about the supervision and scrutiny of the new ROP management system. Members of the DAB have once proposed to incorporate the six principles outlined in the Personal Data (Privacy) Ordinance in relation to data protection or other administrative rules governing data protection into the Bill with a view to providing a clear set of law to regulate the ROP management system. Having listened to the views of the Privacy Commissioner and received the undertaking that the Government will discuss with the Privacy Commissioner ways to incorporate vetting rules into the code of practice 12 months after the launching of the ROP system following the

completion of the fourth Privacy Impact Assessment study, the DAB has finally come to the view that the code of practice is more or less similar to law in terms of regulatory effectiveness. For this reason, the DAB supports the formulation of the code of practice. We hope the Secretary can spell out the abovesaid undertaking clearly in her Second Reading speech.

Madam President, the DAB has high hopes on the forthcoming new ID card replacement project. We hope the new ID card, alongside with new technology, can lead the people of Hong Kong into the digital era to enjoy life in the 21st century. Thank you, Madam President.

MISS MARGARET NG: Madam President, I oppose the Second Reading of the Bill. This Bill is the first legislative step towards the implementation of a "Smart" Identity (ID) Card system, and I oppose that system completely. I have heard no proposal as foolish as this in terms of its scope and fundamental nature, of putting vital security data of the entire Hong Kong population into one basket, and the control of this basket into the hands of a government already notorious for its lack of transparency, accountability and competence. This basket will also be a glittering prize to hackers. Experts have acknowledged that there is no crack-proof system — cracking a system, however secure, is only a matter of time.

Madam President, in a debate on the smart ID card on 6 December 2000, I have already stated my position. I regard the law requiring everyone in Hong Kong to apply for and carry an ID card an infringement of personal liberty. The effrontery to personal dignity and liberty is the same as being subjected to surveillance at will without notice. It can only be justified on grounds of necessity, and endured for as long as the necessity remains. We were told, in 1981, that the law was necessary to enable the Government to carry out effective control against illegal immigrants from China. We are told that the necessity for the ID card is still there. But there is no necessity for the ID card to be a smart card. The smart card may be the preference of the Hong Kong Government and even of a lot of people, but preference is never a ground for coercion. There is no "opt out" route for anyone who prefers to have an ordinary, non-smart ID card.

It is also a matter of preference, not necessity, for the Government to combine the driving licence with the smart ID card. It is a matter of

convenience, not necessity, to require Hong Kong residents who want to go in or out of the territory to submit their smart ID cards to be read and recorded by machines installed by the Government. I oppose this broadening of the Government's power and control over the individual by means of the smart ID card.

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

In a famous 1951 English case *Willcock v Muckles* [1951] 2 K.B. 844, a specially constituted Divisional Court of seven Judges expressed its strong censure of what was, in the Court's view, an abuse of power. The National Registration Act 1939 empowers a police officer to require a subject to produce his ID card for inspection. A police officer required the driver of a motor car to produce his ID card for checking, and the driver refused. The driver was found guilty because the Act was still in force, but was given absolute discharge. The Chief Justice, Lord GODDARD, gave the Court's "emphatic approval" for the absolute discharge. He said, "Because the police may have powers, it does not follow that they ought to exercise them on all occasions as a matter of routine This Act was passed for security purposes, it was never passed for the purposes for which it is now apparently being used. To use Acts of Parliament passed for particular purposes in wartime when the war is a thing of the past tends to turn law-abiding subjects into lawbreakers"

The same warning must be heeded in Hong Kong. We should not extend a power under a necessity for purposes of convenience. But can we trust this Government to honour such a principle, when it has not hesitated to use a provision in the Employees Retraining Ordinance to impose an indirect tax on foreign domestic helpers?

In the smart ID card issue, we are not looking at just stretching the law for convenience. We are looking at potentials for serious abuse, with warning bells sounded by experts that the risk to privacy will be tremendous. The change from the present normal ID card to an electronic smart ID card is a quantum jump. When much larger data can be used at great ease, the danger is that they will be put to much more extensive use for a great variety of purposes. The data can be manipulated to generate new data. As one expert, Prof GREENLEAF of the Law Faculty of the University of Hong Kong pointed out,

"the smart ID card may dramatically increase the collection and retention of ID numbers and their use to link internal organizational data." Once unleashed, the increase will be hard to control, even for the Government, let alone for this Council.

I am not just worried about the intruder from outside. The data may be well guarded against outsiders. I am worried particularly about abuse by the Government itself, and frankly, there is no effective safeguard against abuse by the Government. The Bill before us purports to lay down safeguards by the law, and the Bills Committee and experts who made submissions before it have tried hard to tighten them up. But no one can effectively ensure that the safeguards will be observed, because no one will even know if and when an abuse has occurred.

It is not fanciful for us not to trust the Government about fudging the record or bypassing safeguards laid down by law or good practice. At this very moment, this Council is troubled by doubts about whether an attempt had been made to alter the minutes of the Executive Council so that crucial records will disappear. We are also looking at a bill under Article 23 of the Basic Law which will strengthen the Government's power to protect official information and punish unauthorized disclosure, and the power of the police to have access into all sorts of personal information of identity, association and movements for the purpose of investigating or preventing national security offences.

How one can put such a weapon into the hands of this Government is honestly beyond my comprehension.

Madam Deputy, another worrying factor concerns the right of abode of Hong Kong residents. I am concerned that the change of ID card may be used by the Government as an opportunity to take away the permanent ID cards of some classes of Hong Kong residents. The Government now assures us that it is not the purpose, but on the very first occasion when the territory-wide change of ID card plan was announced, the Government had declared that, five years after reunification, the time had come to sort out who were and who were not Hong Kong permanent residents.

The Government's track record on this matter does not give one any confidence. Apart from the right of abode cases, I have had occasion before in this Council to speak against an amendment to the Immigration Ordinance to

restrict the right of abode by changing the definition of "ordinarily resident". In connection with the Bill before us now, the Government has provided Members with samples of application forms for ID card/permanent ID card. At the very top of the form is this warning:

"A Permanent Identity Card is issued to a permanent resident who has the right of abode in Hong Kong under the Immigration Ordinance, Cap. 115 of the Laws of Hong Kong. Under some circumstances, a permanent resident of the HKSAR who is not of Chinese nationality may lose the status of a permanent resident. Please obtain a copy of form ROP 152 for further information. If there is any change in your permanent resident status, please inform the registration officer at the time of application. It is an offence in law to make a statement or furnish information upon application which is false in any material particular."

It is plainly possible for an existing holder of a permanent ID card to be denied a re-issue of a permanent ID card in the planned exercise. The circumstances under which a non-Chinese national Hong Kong permanent resident can lose his right of abode is provided by paragraph 7 of Schedule 1 of the Immigration Ordinance — basically, by being absent from Hong Kong for three years. The legality of the relevant provisions is untested and indeed, their meaning is still unclear. We do not know how many people will lose their right of abode.

Madam Deputy, because there is little chance of stopping the smart ID card, I considered earnestly what is the price for opting out of the system. Unfortunately, the price is very high. Because the law requires everyone to register and apply for an ID card, a person commits an offence if he fails to do so — unless he leaves Hong Kong for good. Without an ID card, he will also find it difficult to prove his right of abode, whatever Article 24 of the Basic Law says. This is because under the Immigration Ordinance, he can prove his right of abode only by (a) a valid travel document bearing a valid certificate of entitlement, (b) a valid Hong Kong Special Administrative Region (SAR) passport, and (c) a valid passport with an endorsement that he holds a permanent ID card. The first only applies to children of Hong Kong parents born outside Hong Kong. For the second, you need a Hong Kong ID card to apply for a SAR passport. In other words, although in law the ID card is only evidence of the right of abode, in effect, without the permanent ID card, you are deprived of your right of abode.

Madam Deputy, the Committee stage amendments no doubt improve upon the Bill, but no improvements can change the fundamentals. I oppose the Second Reading of the Bill without hesitation.

MR HOWARD YOUNG (in Cantonese): Madam Deputy, the Liberal Party supports the Registration of Persons (Amendment) Bill 2001 (the Bill) introduced by the Government.

To start with, I would like to make two points in my capacity as representative of the tourism sector.

The relevant amendments can serve as a good preparation for future self-help immigration clearance at the boundary. I am convinced that, upon the formal operation of the self-help immigration clearance system, the entire clearance process will be speeded up, thereby greatly ameliorating congestion at the boundary. This will not only facilitate the exit and entry of local people, but also facilitate tourists in coming to Hong Kong for sightseeing. Congestion at the boundary will ease because the public can shorten their waiting time through using the self-help immigration clearance system. Likewise, the waiting period of boundary-crossing travellers will be shortened too. I hope the long queues and the state of confusion frequency arisen during long holidays in the past will forever disappear.

The implementation of the self-help immigration clearance system can also enable the Immigration Department to trim its manpower and save resources. Therefore, the implementation of the smart ID programme is a win-win solution.

As the IT spokesman of the Liberal Party, I share the view that the applications of the smart ID card should keep pace with the times. While sufficient room should be set aside for the future development of electronic transaction applications, greater flexibility should also be introduced to enable the public to store more personal information. For instance, a smart ID card holder may, subject to their consent, choose to store information on their blood type, the drugs they are allergic to, and so on, to save their lives when at risk. Having regard to privacy risks and according to the Bill under scrutiny, members of the public may voluntarily decide whether such information will be stored on their smart ID card because the information is unrelated to immigration matters.

Yet I do not agree that allowing the public to make the decision voluntarily means that they should be discouraged from doing so. Insofar as e-commerce is concerned, I truly believe the smart ID card can be further developed to be used as an e-purse, and the public should be encouraged to make greater use of it. With their consent, we may even consider examining with the Mainland the feasibility of using the ID card for dual purposes, in addition to co-location of immigration clearance. It should be possible to do so in the medium term, though not in the short run. I think these proposals can be further developed following the introduction of the smart ID card. The functions of the smart ID card can be maximized should both the public and mainland officials agree to the usage of the smart ID card as an entry/exit permit.

In the course of scrutiny, there was unanimous concern among Members about the privacy issues in connection with the smart ID card. Insofar as this point is concerned, the views of various parties and factions are consistent. The new smart ID card will make it easier for information to be stolen because it can store more information than the old ID card, and the information contained therein is accessible by computer. Without a clear inspection guideline, there is bound to be worry among the public about the security of the registered information carried by the new ID card. For the sake of public interest, the Government is obliged to ensure no abuse of information carried by the smart ID card as well as compliance with the relevant legislation on personal privacy.

I will comment on the amendments proposed by Members later on at the Committee stage. Nevertheless, both the Liberal Party and I support the Second Reading of the Bill.

MR SIN CHUNG-KAI (in Cantonese): Madam Deputy, when I stood for election in the information technology (IT) constituency in 1998, I proposed in my platform that consideration should be given to developing a card serving multiple functions and purposes to replace a wide range of cards such as driving licence, library card, and so on. The idea conceived by me at that time is similar to the present idea of smart ID card.

The Government's proposal of issuing smart ID cards was mooted several years ago. After several years of discussions and the scrutiny of this Bill, I believe the smart ID card will be formally issued by the middle of this year.

As a representative of the IT sector, I support the issuance of the smart ID card. This is because it can further encourage the public's IT application, upgrade Hong Kong's IT facilities, and enhance the Government's efficiency and performance. Offering a lot of business opportunities for the business and IT sectors, the smart ID card is conducive to the business environment, particularly that of the e-trade sector. The fact that a one-year digital certificate service will come with the smart ID card free is set to provide more incentive for the business sector to invest in the development of such services as e-trade, electronic transactions, and so on. Electronic trading, if well developed, can help Hong Kong fully realize its potential as the IT hub of the Asian-Pacific Region. Coupled with Hong Kong's IT infrastructure and favourable geographical location, the smart ID card can assist commerce to commerce, or commerce to retail trades such as logistics and tourism, in developing e-trade.

Information security must meet the best or highest standard before various sectors of the community can have faith in IT. Having the same legal effect as textual signature, digital certificate is at present the only legally recognized digital signature in Hong Kong. As Public Key Infrastructure (PKI), digital certificate can give the public more assurance in terms of information security, and it is technically more secure. Smart ID card provides an ideal channel for the promotion of digital certificate. It can give every one of us an opportunity to use digital certificates, thereby promoting the development of e-trade in Hong Kong.

However, the Inland Revenue (Amendment) (No. 2) Bill 2001 was passed last week to allow the public to use Personal Identification Number (PIN) to submit their tax returns, thereby making PIN an electronic signature with legal effect. This is going to set a precedent that will seriously impede the development of PKI in Hong Kong. In brief, the Government is contradictory in its implementation of policies. On the one hand, it is trying to promote digital certificate, yet on the other, it encourages the public to use PIN.

In order to rectify the confused messages caused by contradictory policies, I hope the Government can vigorously promote the use of digital certificate in its smart ID card promotion exercise, in order not to lose a golden opportunity of promoting the enhanced use of IT in the community and developing PKI.

In addition to promoting digital certificate, the Government should also carry out public education to make members of the public understand that they are holders of their personal data, that they have the right to protect their personal data stored in their smart ID card. I have always stressed that, with proper regulation by law, the freedoms and rights of the public can be protected. Furthermore, the development of technology does not necessarily lead to sacrifice of the civil rights of the public.

As such, the Government should enact a new piece of legislation to clearly provide for the regulation of matters related to the smart ID card, such as non-immigration information that can be chosen to be stored, power of access to information stored on the ID card, the relevant legal framework, and so on. I think it is proper to handle the matter in this way. It is indeed not ideal for the Government to put all provisions regulating information related to the smart ID card, that is, provisions related to immigration or registration of persons (ROP) information, as well as certain non-ROP information, under the Immigration Ordinance. The best approach is to enact a separate piece of legislation for the smart ID card so that these two types of information can be regulated by the same piece of law.

In a motion debate conducted in December 2000 on the smart ID card, I proposed that the public should have the right to choose what legally recognized information not falling into the ambit of immigration to be included in the chip of their ID card. In brief, the public should have the right to choose whether the chip of their ID card should store e-Cert or other non-ROP information. In this respect, we can see in today's discussion on the Registration of Persons (Amendment) Bill 2001 that the Government has acceded to the views expressed by Honourable Members. In my opinion, this is a perfectly correct direction. In fact, it will boost public confidence too. Those who accept or are pleased to accept new technology may choose to retain this function, while others may opt otherwise if they consider the information sensitive. Mr IP Kwok-him of the Democratic Alliance for Betterment of Hong Kong (DAB), raised a point earlier in connection with health-related information. It is an excellent example, showing that some people can protect their health by storing information related to their allergy to medicine in the chip. This is because, when they approach hospitals for medical treatment, the hospitals can readily see what drugs they are allergic to. However, some other people might suffer greatly if certain sensitive information about them is stolen or made known to others. For instance, their reputation might be damaged. Therefore, I think it will be more appropriate for the public to make their own choice in this respect.

I am a bit disappointed because the Schedule has only set out one function, namely digital certificate. In brief, the smart ID card is not particularly smart. It merely possesses the potentials of being so, but such potentials have yet been realized. I believe more choices will be available in future. I hope various government departments can strive to explore other functions of the smart ID card to, apart from giving the public more choices, enhance the effectiveness of e-government. I wonder if it is because of the lengthy discussions conducted in this Council that other government departments dare not make use of the functions of the smart ID card for fear of being criticized. We have allocated more than \$3 billion for the smart ID card replacement exercise, and indeed provided a platform. Of course, only several hundred million dollars out of the more than \$3 billion might be spent on intelligence-related work. I hope other government departments can make their recommendations boldly. This is because, after the establishment of the legal framework mentioned by me earlier, consideration should be given to any services that can enhance government efficiency. This is particularly so in view of the fiscal deficit problem. Any new functions that can save money must be considered.

After more than six months of scrutiny, I am pleased to see that the Government is sincere in enhancing the smart ID card system, particularly in protecting the personal privacy of the public. At a meeting of the Bills Committee, I once raised the question of whether it would be possible to, in connection with the smart ID card, require the Government to conduct privacy audit under the Registration of Persons Ordinance. After lengthy discussions, the Government has now indicated that the problem will be dealt with in the code of practice, which is acceptable to me. The most important point, I must say, is that I hope the privacy audit mechanism can be submitted to the relevant panel of this Council for discussion or reported to Members of this Council in the future. I believe the checking mechanism can be improved if this can be done.

Security of the smart ID card is of vital importance. Maintaining good security can ensure the smart ID card keeps pace with technological advancement. In brief, I hope the Government can treat this matter seriously. This is because, even without any reasons, hackers will invade any systems purely for fun or as a challenge. For them, it is an honour. I am not trying to encourage others to do this because it is wrong to do so. Nevertheless, the Government must maintain its vigilance because there are bound to be different types of hackers however satisfactorily the Government has done its part. Starting from the first

day the system is set up, the Government should make the best preparations. Privacy audit is necessary to monitor whether the Government has exploited the opportunity to expand its powers. We consider the undertaking made by the Government at the meetings of the Bills Committee vitally important.

The issuance of the smart ID card represents a milestone for Hong Kong in its march towards becoming a pioneering digital city. I sincerely hope the entire process can proceed smoothly. The Government must not relax in its efforts in other areas just because the Bill under discussion today is passed. After the issuance of the new ID cards, other problems might still occur in future. For instance, hackers might clone or invade SIM cards in an attempt to alter the information contained therein. Upon the public issuance of the new ID cards, many people in the IT sector will make great efforts in this area. Insofar as law enforcement is concerned, the Government will face enormous challenges. What the Government will do to prevent people from cloning or invading the chip is therefore extremely important.

The passage of the Bill today will merely lay a foundation. In our opinion, the smart ID card must possess a wide range of functions in order to really bring its applications into full play. I would like to reiterate that only one function, namely e-Cert, is set out in the Schedule. Other functions are not yet included for the time being. I recall a lot of publicity efforts were made during the initial period when the smart ID card proposal was made. For instance, an intensive publicity campaign for e-purse was conducted for quite some time. Now the smart ID card does not carry any functions other than e-Cert. I find it very strange that no result has been borne, even though other government departments have spent so much time, more than two years, in handling the related work. I have no idea why it has turned out like this. I hope the relevant government departments can look into the matter to see whether it is true that other government departments dare not raise proposals for fear of criticisms from this Council. I also hope the Government can address this matter urgently and consider the two proposals raised by me. The Administration must accept criticisms from other people and overcome its psychological barrier. It should fear no criticisms so long as its proposals are sufficiently justified. It should present its proposals to this Council and rise to challenges. I think that the Administration should further examine ways to truly bring the smart ID card into full play, because the card, carrying only one function, is not highly intelligent at present. Thank you, Madam Deputy.

MS AUDREY EU (in Cantonese): Madam Deputy, being a member of the Bills Committee, I wish to thank the many scholars and experts for their valuable input. I particularly wish to thank Prof Matthew LEE of the City University of Hong Kong. Some of his proposals have been accepted by Members and the Administration, and the Government has also proposed amendments accordingly. This will be helpful to the protection of people's privacy.

In the course of deliberations on the Registration of Persons (Amendment) Bill 2001 which spanned nine months, Members had put forward many views on the Bill. Many of them had expressed reservations and made criticisms. Indeed, there is a big difference between a smart ID card and the current ID card in terms of nature and functions. As the chip of a smart ID card can store abundant personal data and can be read any time, we, being responsible Members, are duty-bound to minimize the privacy risks.

Among the many provisions of the Bill, I wish to particularly comment on section 10 which provides that the Immigration Department (ImmD) may disclose the data of the public stored in the Department, including fingerprints, photographs and other registration of persons (ROP) particulars, with the written permission of the Chief Secretary for Administration.

In fact, this mechanism of data disclosure has all along existed. According to government statistics, the data of 74 270 people were disclosed by the ImmD in the first 11 months last year, which means that the data of 224 people were disclosed on average every day; and their data were disclosed to government departments and even the private sector.

The Administration admitted that it is impossible for the Chief Secretary for Administration to examine in detail every request for access to particulars, and that the actual vetting duties are delegated to a Principal Assistant Secretary for Security, an official at the rank of D2. However, the entire mechanism for this delegation of power is very lax. That the Chief Secretary for Administration can, in theory, delegate the power to approve such requests to officials at a lower rank is very worrying.

The Government emphasized that requests for inspection of the personal data of the public by public officers must be made and signed by a senior officer of an appropriate rank. In the case of the police, for instance, such a request should be made by a Superintendent or a police officer above this rank. The

relevant officer must be satisfied that the data requested is related to a function of his department. Requests for such data by the private sector must also be sufficiently justified, say, when the data subject is involved in dishonest and illegal acts. Moreover, the ImmD will also remind the person being given the data to destroy such data after use.

Although the Government has emphasized that it will release such data carefully, the problem is that there is no follow-up mechanism to ensure that the data of the public will not be abused. While the disclosure of data is governed by the Personal Data (Privacy) Ordinance, the Office of the Privacy Commissioner for Personal Data, due to resource constraints, will conduct follow-up investigations only after a complaint is received. But how can a data subject lodge a complaint if he does not even know that his personal data are disclosed?

Madam Deputy, recently, there are reports in the press about the police disposing of their computers without deleting the confidential data on cases stored in the computers, resulting in the leaking of the data of the persons involved. This precisely reflects the low awareness of privacy protection on the part of some law enforcement officers. As the data that can be stored in a smart ID card are even greater in quantity and more extensive in scope, it is therefore necessary to provide greater protection for the public.

In the course of the scrutiny of the Bill, a number of academics and Members proposed that a provision be included in the Bill to stipulate that the Privacy Commissioner for Personal Data (Privacy Commissioner) may conduct audits on the disclosure and use of ROP data by the Government on a regular basis. However, the Government refused this proposal and was unwilling to provide additional resources to the Privacy Commissioner. Given the restrictions of the Rules of Procedure, Members cannot propose an amendment in this regard to enhance protection for people's privacy. I feel utterly helpless about this.

The Bill provides that the Chief Executive in Council may make regulations to provide for inclusion of non-ROP data in ID cards. Although the Government has emphasized that the public can decide on their own whether to include additional data in their ID cards and that different kinds of data will be stored separately, as experts who attended the meetings had told us, leakage of data is still possible disregarding which mechanism is adopted.

As regards Mr James TO's amendment, I agree that the ROP data to be stored in the ID cards should be restricted to such extent that only the essential data will be registered or stored. Therefore, I do not understand why such particulars as marital status and occupation should be included in the ID card. Furthermore, such information could change anytime. Besides, the Bill provides that ID card holders are required to report to the authorities any changes in their particulars, or else they may be criminally liable. This is also something that many people do not know.

With these remarks, Madam Deputy, I have expressed my views on this Bill. Thank you.

MR JAMES TO (in Cantonese): Madam Deputy, when I think about smart ID card and the related issues, I recall that before the reunification in 1997, someone who claimed himself to be a member of the Communist Party (and I believed he was) had reminded me about something. He said, "James, there will be a re-registration of the ID card when the Hong Kong Special Administrative Region is set up. The information to be obtained can be taken as important as one's life". After 1997, a retired senior official again reminded me about this. He said, "James, do pay attention to the issue of the smart ID card or the re-registration of ID card. Never treat this matter lightly." Only until then did I start to think about why that would be the case.

Obviously, when we discuss this matter, we must first note the most fundamental question: Do we need an ID card? This is actually a strange and yet interesting question. Many communities in the world are strongly against the issue of ID cards, but as discussion continues, some communities will subsequently introduce an ID card system. In modern society, we must indeed make a choice among human rights, protection of privacy, and operation of society before a decision can be made as to whether an ID card should be issued.

This brings out a number of questions. Should we make the issue of ID cards mandatory? Should we make the application for an ID card mandatory? It is because in modern society, the application for an ID card can also be voluntary, and it is not a must for people to have one. Certainly, the ID card system in Hong Kong is unlikely to be restarted all over again, and there are historical reasons behind the holding of an ID card by every Hong Kong resident.

One of such reasons is the need to identify illegal immigrants. So, Hong Kong people have already been accustomed to carrying an ID card with them, and this habit of theirs has now developed to a state that they do not know how to live without an ID card. That is to say, it has developed to a state that they will panic without an ID card. So, it may be obsolete to ask Hong Kong people whether they need an ID card, whether its application should be made mandatory, and whether we should make it mandatory to carry an ID card with them!

The question now should be how we are going to steer the new development of the ID card system. For example, should we adopt a new mode of ID card or a smart ID card? Miss Margaret NG mentioned many problems that might arise and the fears that might be brought by general technologies, such as the fear of hacker. Mr SIN Chung-kai said that it was possible for the scenes like those in movies to realize, such as a "hacker" intruding the Government's computer system and altering all the information in the computer or even eliminating everything in it. However, I know that the Government has kept all the information, such as forms, in the form of visual images. Of course, theoretically, visual images can still be altered or even replaced by inserting a new image. If, in the final analysis, technology is considered horrible in that it takes away all the protection for individuals, then what is involved is not just the question of ID cards, because the situation would be the same in all other aspects.

The problems arising from system digitalization aside, some people have put forward the argument about imposing control on society. Miss Margaret NG mentioned that a system supported by computers may conduct many analyses, impose many forms of control, and do a lot of things. Certainly, if different government departments will in the future collect even more information, including medical information and that kept by the police, and if such information is checked against other information, this could lead to very horrifying scenarios.

Having said that, however, we cannot deny that technology can at the same time bring along convenience in many areas, say, when crossing the boundary via an electronic system and in e-commerce. So, we must ask: How should we go down the road? The Democratic Party considers that we must go down this road very carefully. Unlike Miss Margaret NG, we have never said that a smart ID card should not be issued.

That said, we still think that we must work very carefully. First, we must enact an independent piece of legislation, rather than patching up the existing Registration of Persons Ordinance. It must be done by way of an independent piece of legislation. Come to think about this. If, for example, we have to include some data unrelated to registration of persons (ROP) matters, then in the approving process, the granting of approval would have to be considered in the context of immigration legislation, and a schedule might even have to be drawn up in the future. This is undesirable. Many in the academia have also pointed out that this is improper. This will not happen insofar as laws in foreign countries are concerned, because in most cases, stipulations are laid down in an independent piece of legislation.

On the other hand, with regard to the protection of privacy, I would also like to make two points. First, the Chairman of the Bills Committee, Mr IP Kwok-him, mentioned privacy compliance audits. The Government must not only conduct privacy compliance audits in respect of the smart ID card scheme, but also make assessments after the smart ID card scheme has been implemented for some time or after the implementation of voluntary inclusion of non-ROP data. I think this is not within the purview of the Security Bureau. Rather, this should be considered by the Home Affairs Bureau and even the entire Government as a matter of policy. The Government should consider what problems might arise or what other problems this might cause. Many academics are very worried and so, the Government must conduct a review and assessments in this regard.

Ms Audrey EU mentioned earlier the question of approving the disclosure of ROP data. Under the existing laws and the new smart ID card replacement scheme, the power to grant such approval nominally rests with the Chief Secretary for Administration. But in reality, this power has already been delegated to a Principal Assistant Secretary (I dare not say that this is a low-ranking official, because in terms of salary, his salary is far higher than ours as Members). I think this is not a proper delegation of power. The Government has also undertaken to review this. All I can say is that the many problems in the past apparently show inadequacies in the way the data collected is currently monitored. I think when only one Superintendent says that access to certain data is necessary, then as many as 10 million pieces of information can then be accessed in theory. Certainly, as we can see from history, while the information involved may not be that much, but at some rough calculations, there must be no less than a hundred such cases. We must remember that whether

these people will destroy the data collected is not in any way monitored. So, these people can continue to store and accumulate the data. The Government still cannot tell us at this point whether the many data sent to other departments have been destroyed or what the situation of such data is.

Another point at issue is whether non-ROP particulars should be stored in the ID card, or to put it in another way, whether the ID card should have the capacity to support multiple applications. Certainly, we all know the developments in respect of this issue. You, Madam Deputy, are also aware of it. What we are debating now is whether this should be made mandatory. The Government has considered one or two applications, such as serving at the same time as a library card or driving licence. But under the present proposal, the inclusion of data for these applications is voluntary in principle.

(THE PRESIDENT resumed the Chair)

Earlier on, some Members suggested that the inclusion of more data in the ID card should be encouraged. But insofar as the policy is concerned, I do not support the inclusion of more data in the ID card. All I can say is that those who suggested the inclusion of more data must clearly explain the advantages of doing so. In the community, the academics, members of representative assemblies or leaders of public opinions have continuously contended that the situation would be very serious if the data as stored in the ID card could be altered. While the data would be stored separately, but as the ID card contains many data, and if we unfortunately lost the ID card and if other people managed to break the data safeguards, what should we do? So, we must weigh the pros and cons. Therefore, on the proposal of encouraging the inclusion of more data, I can only take a so-called neutral stance. This is like a person who does not encourage fertility insofar as the population policy is concerned will be regarded as taking a neutral stance. I would rather be considered as taking a neutral stance.

The introduction of a smart ID card system will in fact expand the powers of the police. Why do I say so? It is because no fingerprint is included in the ID card before, but now, the fingerprint template will be included. Even though the amendment to be moved later on will put in place a stringent mechanism, the powers of the police will still be expanded. After all, such a

great deal of data, including the DNA, will be included in the ID card, and this will expand the powers of the police enormously. Then how is it going to operate? I hope the Government can monitor it closely.

Back to the details of the law. Frankly speaking, most of the amendments proposed to the Government were actually initiated by me, and the Government has also taken on board these proposals. Instead of saying that the amendments serve to improve the Bill, I think it is more appropriate to say that the amendments are necessary remedies without which I would not be supporting the Bill.

I would like to specifically comment on regulation 4 of the Registration of Persons Regulations which will be amended. Over the years, the data that have been collected and inquired about under the Regulations are far more than necessary, and the data collected have also been highly sensitive. An example is data relating to nationality. In the past only a person's claimed nationality was included. In fact, regulation 4(1)(b)(xi) is a provision on travel document. The data to be furnished on request can include the number of travel documents in a person's possession and hence, the authorities can indirectly obtain information on all the nationalities of the ID card holder. In this international metropolis of Hong Kong, all such information is very sensitive.

However, the Government said that the data collected had never been used for other purposes, and that the Government would not ask questions in relation to the information furnished and filled in by the applicants. But while the past Government had not done so, does it mean that the present Government will never do so? The amendments to the Regulations will greatly enhance the clarity of the provisions and so, Members can feel more rest assured.

As for the form designed in accordance with regulation 4, the Government already provided it to us on 18 March. Initially, I noted a number of points, and drew the Government's attention to these points earlier before this meeting. My main concern is that if the furnishing of certain information is mandatory in law, then a person who furnishes inaccurate or false information will be criminally liable. In that case, it would be mandatory to provide such information and the Government must store it properly.

For information that is more than necessary, applicants should have the choice of whether or not to give answers and the provision of such information

should be voluntary. The law only requires the furnishing of name, address or commercial address. It does not stipulate the furnishing of contact telephone numbers. Amendments are also proposed to obviate the need to provide information on all travel documents, and the applicant is only required to state whether any of his travel documents bears an endorsement as to whether he is allowed to stay in Hong Kong. This stipulation mainly applies to foreigners. As Hong Kong people have the right of abode, it is unnecessary for them to produce any travel document. However, the draft version of form S1 still asks questions about travel documents, their date of issue, and so on. This is like the law only requesting for the commercial address whereas the form nevertheless asks for the name of the company. Since this information is not required in law, the Government should not make use of the form to insidiously probing for more information, though this may not be the intention of the Government. Moreover, as the applicant must sign on the form to declare that the information provided is accurate and true and that the applicant understands that he will otherwise be liable for prosecution, this requirement of the form will therefore mislead the public to think that the furnishing of their information is mandatory. Therefore, the form should only include items in respect of which the furnishing of information is mandatory. If non-mandatory items have to be included, it must be clearly stated that the furnishing of information for such items is not mandatory.

Moreover, it is stated at the end of the form that the person who signed the form understands that the inquiries conducted for the purpose of his application are considered as having obtained his consent. This statement has transcended the requirement in law, and is tantamount to seeking an additional and unconditional consent from millions of people in Hong Kong for inquiries to be conducted in respect of any item. This is unreasonable. At least I will not give this consent, and if this might lead to legal proceedings, I am glad to fight until the end. I hope the Government will take on board these views and agree that the form contains inconsistencies with the provisions in law.

Another point is that regulation 4(1)(b)(xii) of the Registration of Persons Regulations mentions that when the furnishing of further particulars is considered necessary, the authorities can request for any of the particulars as set out in subsections (i) to (xi). I have made inquiries with the Government in this respect. The Government stated that information such as that on level of educational attainment may be requested. But what does it have to do with subsections (i) to (xi)? The Government explained that this is consistent with

the requirement in the Jury Ordinance, under which the lists of Jurors are compiled based on such information as whether the person concerned is bilingual and whether he or she knows Chinese and English. However, after discussions with the Legal Adviser of the Legislative Council, it is considered that if the Government asks for information of a person's education level under subsection (xii), it would be *ultra vires*. Certainly, I am not saying that the Government should not compile the lists of Jurors. But since the Government is aware that section 4A of the Jury Ordinance already empowers their compilation, it should therefore invoke section 4A of the Ordinance to compile such lists. But after reading section 4A, I would also like to raise some questions. However, these will have to be considered by the Government when it reviews the system, qualifications and requirements of the Jury system. But back to this Bill, under the existing system, obviously there is something wrong with collecting information this way.

Furthermore, let me briefly explain why Mr SIN Chung-kai and I will move an amendment separately (I will further explain this in detail later). The reason is very simple. It is because under one of the amendments, the Government will not be empowered to mandatorily require the inclusion of such information as marital status and occupation in the smart ID card by way of subsidiary legislation. The request for the deletion of information on occupation from the ID card is supported by Mr LEUNG Fu-wah on behalf of the Hong Kong Federation of Trade Unions. As he wishes that the amendments can be moved separately, we will therefore move the two amendments separately.

Finally, I hope the Government will appreciate the importance of conducting publicity overseas, for there may be hundreds of thousands and even over a million of Hong Kong permanent residents. I hope the Government can put in sufficient efforts in this respect.

MS EMILY LAU (in Cantonese): Madam President, I rise to speak on the Second Reading of the Registration of Persons (Amendment) Bill 2001.

Madam President, on 6 December 2000, I moved a motion on smart ID card in this Council. I expressed concern over the issues arising from the scheme relating to security, privacy and the public's right to choose and to know, and urged the authorities to implement the scheme only after such issues had

been satisfactorily resolved. Madam President, these were the contents of the motion moved by me in 2000. My motion was negatived at that time. So were the amendments moved by other Members to my motion.

After some time, this proposal was submitted to the Finance Committee of the Legislative Council. On 9 March 2001, the Government submitted to the Finance Committee documents relating to the computer system. I opposed it at the time, and I expressed concern over how privacy, security, and the choice of ID card holders could be guaranteed. That the authorities did not give any clear undertaking was, in my view, regrettable.

Madam President, now that the Second Reading debate of this Bill has resumed today. I do agree with some Members who said earlier that in the process, the executive authorities had done a lot and at the same time made concessions and amendments. However, can the efforts made by the executive authorities eventually allay all our concerns? I think even if we look at this from a most liberal (not necessarily lenient) angle, we still may not be given any guarantee. However, I do see for myself that the executive authorities have indeed done something; and I also remember that in the course of the scrutiny of the Bill, a number of scholars had come to share their views with us. Like Ms Audrey EU, I am also grateful to them. I trust that the executive authorities are also grateful to them, for the Government has actually taken on board some of their proposals.

As the Secretary may also remember, Prof GREENLEAF of the University of Hong Kong made some fundamental proposals that were not accepted by the executive authorities. He said that if the arrangement as presently proposed had to be implemented, the entire piece of legislation should be redrafted. That is, a new piece of legislation may have to be drawn up, instead of just making amendments to a certain ordinance. I believe the Secretary does not want this to happen, because if a new piece of legislation has to be drawn up, this piece of legislation is unlikely to be enacted in a few months' time. But I feel that the points made by Prof GREENLEAF are very useful. He considered that safeguards were required in many areas, such as privacy, the right to know, security, and so on. The Secretary will certainly ask, "Can the present proposal provide these safeguards?" Madam President, all I can say is that I do not know. Certainly, the Government has stated that it has done a lot of work. Recently, we have visited the Immigration Department and luckily, nothing went wrong in their operation on that day. But although nothing went

wrong on that day, it still does not mean that nothing will go wrong in the future. During our previous visit to Malaysia where we observed the operation of the same system, the information could not be displayed even after pressing the buttons many times. So, I personally still have misgivings about these systems.

Madam President, perhaps let me express my views on this Bill. I am not going to repeat what Members have said. Many colleagues mentioned section 10, which is about how a request for data can be approved, and this is very important. In the course of the scrutiny of the Bill, the executive authorities kept on telling us that there were clear provisions governing this. I hope the relevant authorities will endeavour to ensure stringent enforcement of these provisions. If someone requests for those data, the reasons of such request must be carefully examined to see why such data are required and for what purpose the data will be used. Besides, the request must be put on record in express terms. About the delegation of power by the Chief Secretary for Administration as mentioned by many colleagues earlier, at first we felt assured on learning that such request is subject to the approval of the Chief Secretary for Administration. But we had never expected that all of a sudden, we were told that an official at a far lower rank of D2 would be responsible for approving such requests. This made us feel utterly worried. Then what happened in the end? After rounds of debate, it was decided that the matter be referred to the Privacy Commissioner for Personal Data (Privacy Commissioner) for him to conduct studies. The Privacy Commissioner will also conduct studies in the context of privacy compliance audit to examine if the proposed arrangement of making an official at the rank of D2 instead of D10 responsible for approving requests for data is in compliance with the data protection requirements. So, this is not the end of the story.

Therefore, Madam President, I must tell the Secretariat that it has to follow up many matters for us. Whatever the executive authorities have said must be followed up. I believe the Secretary will make some undertakings later. Sometimes we just do not wish to see anything happening after a piece of legislation is passed. The enactment of the Copyright Ordinance, for example, was followed by pandemonium in society. So, the Secretariat must set out the issues item by item. Regarding the point at issue now, I would like to consider the view of the Privacy Commissioner. But as Ms Audrey EU has said, if an official at the rank of D10 is required to examine each and every request, then this D10 official will have to vet and approve tens of millions of requests, which is not an easy task. But then, do we find the present arrangement satisfactory?

Compliance with the data and privacy protection requirements is most important. So, this matter is now referred to the Privacy Commissioner for studies.

Speaking of the Privacy Commissioner, Madam President, he had stated in the newspapers — Indeed, we had invited him to our meeting but I am sorry that I was unable to attend that meeting. But I did read from the newspapers that the Privacy Commissioner had urged the public to trust the Government. He said that if members of the public believed in nothing, no further discussion would be necessary. I responded to this point at another meeting (the Privacy Commissioner, however, did not attend this meeting). Speaking of placing complete trust in the Government, even the DAB does not trust the Government in everything, although they trust the Government on 99.9% of the occasions. In some cases, the point lies not in whether we trust the Government or a particular person. Rather, there must be a system whereby legislation can be made to govern everything, so as to prevent acts in defiance of the law and abuses of power. So, I found the remarks of the Privacy Commissioner somewhat shocking and worrying. However, nothing can be done at the moment, for we only have one Privacy Commissioner. Therefore, I hope the Privacy Commissioner will understand that all the people in Hong Kong are watching him, like everybody is watching Antony LEUNG. In a nutshell, every official is subject to monitoring by the public, and we do have this system in place. I hope the Privacy Commissioner can give us his views on the point just mentioned by me.

Besides, I am also gravely concerned about another point which has to do with the Privacy Commissioner and that is, a point concerning privacy. A number of colleagues mentioned privacy compliance audit earlier in the debate, and we have had discussions on this issue for some time. At first, it was proposed that accountants, other professionals or lawyers be engaged to conduct such audits. But it was ultimately decided that such audits be carried out by the Privacy Commissioner. I am not definitely against this. But as pointed out by the Privacy Commissioner himself, it might lead to conflict of roles if he is made responsible for the job, because on the one hand, he is responsible for receiving complaints in this regard, but if he is responsible for conducting such audits on the other hand, from the perspectives of some people, according to the Privacy Commissioner, there is conflict between these two roles. As we all know, when it comes to conflict of roles, conflict of interests, and so on, Hong Kong people will consider these conflicts very important. While we do not have a government returned by popular elections, any of such conflicts is considered

very important by the people. I believe this is particularly so recently, and all the people in Hong Kong are particularly concerned about this. So, what should we do? I understand that the executive authorities have already proposed and agreed to sign a memorandum of understanding with the Privacy Commissioner to the effect that the outcome of the audit conducted by the Privacy Commissioner will not prejudice any of his powers to discharge his other duties and functions. We must look into this in the future and examine how well this proposal goes and ascertain whether the other duties of the Privacy Commissioner are truly unaffected. This is also very important.

Some people (including myself) proposed that the official responsible for the audit could be specified in the Bill. The proposal was later rejected in the hope that flexibility would be built into the Bill. Then it was proposed that this be incorporated as a provision in a code of practice. I am not going to argue against this, for I think this is also an option. But the code of practice must be subject to the approval of the Privacy Commissioner, for it will serve as a basis for the audit. These proposals must be followed up by the relevant panels.

Then how and when privacy compliance audits will be conducted by the Privacy Commissioner? The only point on which Members agreed is that an audit will be conducted in 12 months after the implementation of the system. This, I certainly agree. Then what is the arrangement thereafter? We were told that such audits would be conducted on a need basis thereafter. This, I oppose. What is "on a need basis"? Is it that after an audit is conducted, no audit will be carried out in the next four years? Why is this point so important? This has to do with the point mentioned by me on data access. I really have no idea about how data will be obtained and whether they will be abused; and I cannot check the documents of others, and even if I am allowed to do so, I do not know how to do it because of the complexity. But I hope that the Privacy Commissioner can work out a sound methodology to conduct the audit. Therefore, I consider "on a need basis" unacceptable, and in my view, an audit should be conducted at least annually. In the meantime, Members also agreed that the audit report of the Privacy Commissioner must be submitted to the Legislative Council for scrutiny. It would be fine if, after the audit, no problem is found. But if problems are found, then I believe it would be very serious. The Secretary certainly knows that this would be very serious, because members of the public take their personal data very seriously. If members of the public get wind of their personal data having been abused, I believe all the staff of the

Immigration Department would have to come before the Legislative Council to give an explanation.

So, I think this may well be considered as pressure. But maybe it is not. Generally speaking, the reality is before our eyes, and such audits must be conducted with great care. Everything must be written down clearly. The term in English is "audit trail", which means that all the information can be trailed for audit purposes. If no information is available, how could the Privacy Commissioner carry out an audit? So, I hope an audit can be conducted annually.

The Privacy Commissioner also told us that he is actually empowered to conduct such audits under the existing law, just that he has never done so. Madam President, do you know why? It is because he does not have the financial resources. He does not have the financial resources to conduct such audits. Since the relevant ordinance came into effect in 1996 (we certainly know that there is this ordinance), he has not been provided with the financial resources to conduct such audits. Speaking of financial resources, I wonder if the Secretary can inspire confidence in us, for it all boils down to confidence. For example, it can be specified in the Bill that the Privacy Commissioner is required to carry out audits to examine if there are abuses. But he is not provided with the resources. What can we do? I have discussed this with the Privacy Commissioner and he said that it would cost \$5 million to \$6 million. I have also brought this up with some officials who are present here. I am not sure if I have got it wrong and the costs required are actually more than that. But anyhow, a colossal amount of financial resources is required. If he does not have the financial resources, then it would only be empty talk and in that case, there is every reason for us to put up opposition and even to put up strong opposition to the Bill.

Therefore, since the Secretary has agreed on so many proposals, in order to inspire confidence in the public, she must find the resources by all means, or else everything would only be empty talk. I agree that the law be enforced, but if the Privacy Commissioner is not given a single cent, how could he do it? So, all these are points we must know. I note that the Secretary and the Privacy Commissioner will sign a memorandum of understanding to set out the terms of reference, the duration, the provision of resources and other arrangements. The Secretariat must closely monitor these matters and then refer them to the relevant panels for monitoring.

Another area over which I am greatly concerned is that the ID card of the public is subject to frequent inspection and the proposal of using a portable ID card reader to view the data. Some time ago, we saw a device of this sort. I am worried that if everyone carries it to inspect the ID cards of other people on the street, there would be something very wrong. Perhaps the Secretary can explain later how this device operates. But when she explained to the panel, she said that this device would seldom be used, for it would be used to facilitate anti-illegal immigrant operations and so, the number of these readers would be small. She had better tell us later how many such readers will be purchased and how much they will cost.

Madam President, I understand that the entire scheme may make some people feel very worried. Miss Margaret NG, for example, is very worried. She is worried because she does not know for what purposes these data as stored in an orderly manner in the Government's database would be used, particularly given that the work of the executive authorities sometimes do make people feel that they are barbarous and unreasonable. Yet, I also see that many people are hankering after the convenience offered by this scheme. In fact, I wish to tell them not to hastily welcome everything with open arms merely for convenience. It is because a price tag is attached to the convenience. Earlier on Mr SIN Chung-kai asked why the data to be stored in this smart ID card would be so few, although it had been said before that lots of data could be stored. He asked the Secretary if this showed that she was afraid of Members of the Legislative Council. I do hope that the Secretary fears criticisms of Members of the Legislative Council and therefore refrains from making use of the functions of the scheme. When we debated this motion in 2000, this system was implemented in very few countries. Perhaps let us refresh our memories. At that time, Finland was one of the countries where this system was implemented, but participation in the scheme was voluntary. In Malaysia, the scheme was carried out on a trial basis; and there was also Brunei. But in Taiwan, the scheme was a complete mess. So, are there any more countries where such scheme is implemented? Should the decision rest with me, I would not push ahead with this scheme hastily. While I may not completely oppose this scheme in principle, I would first look at its implementation in other countries. Madam President, as I said on that day, an organization had pointed out that very often, the intention of the government was to maintain surveillance on the people through such ID card scheme. Hong Kong people may already be accustomed to carrying with them their ID cards, for we have to combat illegal immigrants. But we must realize there are issues that give cause for concern. So, we must

be very careful in each and every piece of work to be carried out. The Government must have the people's confidence in every step it takes before the scheme can be put into practice. I will not encourage the inclusion of four, five, six and seven kinds of data in the ID card and the hasty implementation of the scheme.

So, Madam President, I hope that in her reply later, the Secretary can clearly respond to our various concerns, and explain particularly on the several points made by me earlier. Madam President, under such circumstance, I will neither oppose nor support the Bill and so, Ms Cyd HO and I will abstain in the vote.

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

MR LAU KONG-WAH (In Cantonese): Madam President, regarding the position of the Democratic Alliance for Betterment of Hong Kong (DAB), Mr IP Kwok-him has already mentioned it earlier, and I only wish to add a few points. In the course of the deliberations, apart from considering the convenience for the people, we of course also considered privacy and human rights from the very beginning, because we always give much weight to these issues. We have listened to the views of many experts and community organizations, and our deliberations have spanned almost a year. So, after discussions and verification of arguments, we conclude that there are safeguards in these areas.

Earlier on, Ms Emily LAU asked, "Does the DAB invariably support the Government in everything?" I have not kept statistics on this. But I believe Ms Emily LAU doubts the Government on 99.9% of the occasions. This is a fact. But if she doubts the Government over everything, it will be very difficult for anything to make progress. Indeed, throughout the entire process of deliberations, I felt that Members generally had adopted a pragmatic attitude to deal with the issue. If we had doubts, we would point them out for explanation by the Government and for discussion by experts, and then for subsequent affirmation by community organizations. Therefore, this is not a piece of legislation hastily scrutinized for enactment. This is absolutely not the case. In fact, after learning about the introduction of the smart ID card, many people have been looking forward to its implementation with great enthusiasm, hoping that this facility will bring more convenience to their daily lives.

Let us think this way. To Hong Kong people who always attach great importance to efficiency, the application of advances in technology is very important. I think we should put the chip of the new ID card to good use by expanding its applications, so that the ID card does not only serve as an identity proof, but will also include non-registration of persons (ROP) applications as well as other functions, with a view to providing greater convenience for the public in their living. Certainly, the expansion of the ID card applications may cause enormous impact, particularly when non-ROP data will be stored. So, we agree with the Government's amendment which clearly tells the people that they have the right to know and the right to choose, and provides that non-ROP particulars can be included only with the consent of the ID card holder. In this way, the ID card can truly provide convenience to the people wherever they go.

Madam President, earlier on a number of Members discussed the use of a smart ID card in the future, and I found that Members' stances were diverse. For example, Miss Margaret NG is absolutely against this; she even opposes to the introduction of a smart ID card system, so she will oppose the inclusion of whatever applications. She is an extreme example. But I go to the other extreme. I think since there will be this card, it should serve more purposes and perform more functions. The more functions are included, the better. So, I am another extreme example. From what Mr SIN Chung-kai said earlier, his view appeared to be very close to mine, and of course, that is not the mainstream position of the Democratic Party. The approach being adopted now appears to be a middle-of-the-road approach, under which the most essential functions are to be included first. The new ID card will also provide room for inclusion of other functions in the future. However, I think it is most important to obtain the consent of the public and to give the public the right to choose. If those could be done, I would consider it appropriate to start the scheme in the way as it is now proposed.

I have also thought about the future development of the smart ID card. I first thought of including information on the blood type. Come to think about this. When a person is sent to the accident and emergency department, the relevant personnel there can immediately arrange for a blood transfusion using the information stored in his ID card. This can save the time required for testing the blood type before transfusion, which can in turn speed up rescue. When the system has developed to a mature stage, the public can even choose to include in the chip of the ID card their personal medical records and information about the types of medicine to which they are allergic, but I stress that such

inclusion should be voluntary. This will provide medical personnel with comprehensive information about the patient and thus reduce the danger of they not being given proper medical treatment. Certainly, these are just preliminary ideas and the details, the specific arrangements, legal liabilities, and so on, have yet to be worked out. But I still consider it worthwhile to further explore these possibilities in the future.

The applications of the new ID card should aim to provide convenience to the people, rather than to make it convenient for law enforcement officers to infringe upon human rights. So, I am particularly concerned about the use of ID card readers by law enforcement officers. When law enforcement officers conduct ID card checks, they can only read some very general information, such as the ID card holder's date of birth, name, and so on. But it is now proposed that law enforcement officers, when conducting ID card checks, can use a portable reader to scan a person's fingerprint for match with the fingerprint information stored in the chip. That is to say, law enforcement officers can further access the subject's information, and there are some problems with this. In this connection, during the scrutiny of the Bill, we requested that suitable limitations, a code of practice or standards be put in place to restrict the power of law enforcement officers to use the readers. The Government has proposed a number of amendments in response to our requests and concerns. I think putting in place two tiers of limitations can effectively prevent abuse of the readers by public officers to infringe upon the privacy of the people.

Generally speaking, Madam President, I support the Second Reading of the Bill.

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

(No Member responded)

SECRETARY FOR SECURITY (in Cantonese): Madam President, to start with, I have to thank Mr IP Kwok-him, Chairman of the Bills Committee on the Registration of Persons (Amendment) Bill 2001 (the Bills Committee), and members of the Bills Committee for their detailed scrutiny of the Registration of Persons (Amendment) Bill 2001 (the Bill) over the past 10 months and their valuable input on the contents and draft of the Bill. In the course of scrutiny, I

received lots of valuable input from concerned groups and individuals. In considering the relevant Committee stage amendments, the Government has taken on board many suggestions made by Members and academics.

The Government proposes to amend the Registration of Persons Ordinance (the ROP Ordinance) to tie in with the new smart ID card system to be launched in mid-2003. In brief, the Bill essentially covers the following four aspects:

First, changes brought about by the smart element of the new ID card and revised work processes under the new ROP system;

Second, the inclusion of other smart applications in the new ID card;

Third, the protection of personal data privacy; and

Fourth, the launching of a smart ID card replacement exercise.

In relation to these four aspects, I intend to briefly explain the provisions of the Bill and the Committee stage amendments proposed by the Government after taking account of the views of the Bills Committee.

(1) *Smart ID card and changes brought about by the revised work processes under the new ROP system*

The amendments proposed in the Bill pertaining to the first aspect seek to introduce smart ID cards with a built-in chip and specify changes related to the ROP procedures. We therefore propose specifying in the ROP Ordinance that the chip is a component of the ID card and the functions of the chip. We will also specify that the built-in chip will store the template of thumb-prints or other fingerprints of an applicant. In the case of an applicant who is not a permanent Hong Kong resident, information about his condition of stay will be included as well.

According to the Bill's original proposal, a police officer, an officer of the Immigration Department or an authorized person may, under certain circumstances, require a person to produce his ID card for verification with his fingerprint template. On this proposal, some members of the Bills Committee expressed concern over possible procedural ambiguity or abuse of power. To address this concern, we will move an amendment to propose that law enforcement officers can use portable ID card readers to make fingerprint

template verification only when they have reasons to believe that the person producing the ID card is not the genuine holder of the card, that is, the ID card may be false or may belong to another person. The amendment will also delete persons categorized as other "authorized persons", as originally proposed in the Bill. Provisions will also be added to require the Commissioner of Registration to publish in the Gazette the types of approved portable ID card readers to be used. At the request of Members and academics, the amendment will make it an offence for any person to, without lawful authority or reasonable excuse, gain access to the data stored in the chip. Lawful authority will be specifically defined too.

(2) Inclusion of other smart applications in the new ID card

The Bill's proposed amendments pertaining to the second aspect seek to introduce other smart applications into the smart ID card. At present, other one application, namely e-cert, is set out in Schedule 5 to the ROP Regulations. In the course of discussion, some members of the Bills Committee expressed the hope that the primary legislation can clearly provide that other smart applications can be included in ID cards' surface or stored in chips only with the consent of the subjects of the ID card. After careful consideration, the Government will move appropriate amendments to achieve this effect. The amendments will also make it clear that the subject may request to have such information removed from the chip if he considers it necessary to do so.

(3) Protection of personal data privacy

Amendments pertaining to the third aspect are related to the protection of personal data privacy. Appreciating the community's grave concern over privacy, the Government has given careful consideration to the views expressed by Members, the Privacy Commissioner and academics. The Bill has proposed to make it an offence for any person to make unauthorized disclosure of the records kept by the Immigration Department with respect to ROP details. The amendment will take one step further to enhance the protection of personal data privacy by, for instance, clearly providing for the lawful usage of stored records.

In addition to protecting personal data privacy by way of appropriate legal provisions, the Government will maintain close contact with the Privacy Commissioner. According to the consensus reached at present, the Immigration Department will, upon the completion of the fourth Privacy Impact Assessment study, draw up a code of practice for the smart ID card system.

The code of practice will be covered by section 12 of the Personal Data (Privacy) Ordinance to be approved by the Privacy Commissioner. Furthermore, the Privacy Commissioner has planned to conduct a privacy compliance audit in 12 months or so after the implementation of the system. Without prejudice to the protection of personal data privacy and the security of the system, we undertake to suitably submit the audit report to this Council.

(4) Launching of the smart ID card replacement exercise

The fourth aspect covers mainly certain technical amendments and transitional provisions necessitated by the issue of new ID cards and replacement. Given the tight implementation timetable, we will introduce an amendment to bring the Bill, if passed, into force on 12 May. According to the present progress, the system can hopefully be launched on 26 May for the issue of new smart ID cards. The territory-wide ID card replacement exercise can commence in late July. Upon the launching of the territory-wide ID card replacement exercise, we will announce in phases the dates on which the old ID cards will cease to be effective under the ROP Ordinance. Nonetheless, people who are out of town and are unable to return to the territory need not hurry back for replacement of their ID cards. They may apply for replacement of their ID cards within 30 days of their return to Hong Kong. The Immigration Department will suitably launch publicity programmes through overseas and mainland offices of the Hong Kong Government, and place advertisements in local newspapers to notify Hong Kong people residing overseas of the ID card replacement arrangements. Information and arrangements on the replacement exercise can also be accessed through the Internet and inquiry hotlines set up by the Immigration Department.

Lastly, I would like to once again express my gratitude to the Bills Committee for its support for the resumption of the Second Reading of the Bill. Thanks to the hard work of members of the Bills Committee, we managed to launch the smart ID card replacement exercise as scheduled to enable the general public to enjoy a wide range of convenience brought about by the new ID cards, including the phased implementation of a self-help immigration clearance system for travellers and a self-help inspection system for vehicles (drivers) to be launched by the end of next year. I implore Members to support the proposed amendments I shall be moving to the Bill later.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Registration of Persons (Amendment) Bill 2001 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Ms Emily LAU rose to claim a division.

PRESIDENT (in Cantonese): Ms Emily LAU 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, Dr David CHU, Mr Albert HO, Dr Raymond HO, Mr Martin LEE, Mr Eric LI, Mr Fred LI, Dr LUI Ming-wah, Mrs Selina CHOW, Mr James TO, Mr CHEUNG Man-kwong, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Mr SIN Chung-kai, Mr Andrew WONG, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Dr YEUNG Sum, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Miriam LAU, Mr Ambrose LAU, Miss CHOY So-yuk, Mr SZETO Wah, Mr Timothy FOK, Dr LAW Chi-kwong, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr Abraham SHEK, Ms LI Fung-ying, Mr Henry WU, Dr LO Wing-lok, Mr WONG Sing-chi, Mr Frederick FUNG, Mr IP Kwok-him and Mr MA Fung-kwok voted for the motion.

Miss Margaret NG voted against the motion.

Ms Cyd HO, Mr LEUNG Yiu-chung, Mr LAU Chin-shek, Ms Emily LAU and Ms Audrey EU abstained.

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

THE PRESIDENT announced that there were 47 Members present, 40 were in favour of the motion, one against it and five abstained. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

CLERK (in Cantonese): Registration of Persons (Amendment) Bill 2001.

Council went into Committee.

Committee Stage

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

REGISTRATION OF PERSONS (AMENDMENT) BILL 2001

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

CLERK (in Cantonese): Clauses 5, 6, 11, 12, 15, 16, 18 and 22.

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, 3, 7 to 10, 13, 14, 17, 19, 21 and 23.

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

The amendments have been deliberated by the Bills Committee and are supported by it. After amendment, clause 1 seeks to specify that the commencement date of the Registration of Persons (Amendment) Ordinance is 12 May 2003, whereas the minor amendment to clause 2 will make the Chinese version of the Registration of Persons (Amendment) Bill 2001 (the Bill) fully consistent with the English version.

Clause 3 seeks to make the definition of members of the Immigration Service consistent with the relevant definition in the Immigration Service Ordinance (Cap. 331).

The amendment to clause 7 seeks to further strengthen the protection of privacy of personal data. In this connection, I just briefly mention its key points. Firstly, the amendment provides for the registration of persons (ROP) particulars furnished to a registration officer, as well as the legal applications of the records kept by the Commissioner of Registration on such particulars.

Besides, in view of the fact that regulation 24 of the Registration of Persons Regulations (ROP Regulations) will be transferred to the primary legislation and the request made by the Members, we propose to also transfer the related regulation 23 to the primary legislation, in order to remove the possibility of any future move to bypass the restrictions imposed by the primary legislation by way of subsidiary legislation.

The amendment also specifies that, if the Chief Secretary for Administration should give permission to a registration officer to disclose records kept by the Commissioner of Registration, he must state the reason for giving permission.

The amendment to clause 8 includes the deletion of the definition of officers of the Immigration Department (ImmD), so as to tie in with the use of the term "members of the Immigration Service" which is more commonly used in other sections of the Bill, and to clearly define the permitted portable ID card readers.

The amendment to clause 9 mainly reflects that, in our new ROP work, we shall not collect information on a registrant regarding his stay in a previous country or place of residence before his arrival in Hong Kong as well as particulars of his children. Besides, the amendment clearly stipulates that the requirement for an applicant to furnish any travel document information will be limited to any travel document bearing an endorsement to the effect that he is authorized to remain in Hong Kong or any document issued under the Immigration Ordinance authorizing him to remain in Hong Kong.

The amendment to clause 10 provides that the consent of the registrant is a prerequisite for the inclusion of non-required information, particulars and data in his ID card. Besides, the purpose of the inclusion of such non-required information, particulars and data as well as their actual content must also be set out in Schedule 5 to the ROP Regulations. Furthermore, the amendment also states that the registrant may request the removal of such non-required information, particulars and data from the chip.

The amendment to clause 13 authorizes police officers and members of the Immigration Service to use portable ID card readers under suitable circumstances and stipulates the relevant restrictions.

The amendment to clause 14 seeks to make any act of unauthorized access to data stored in the chip of an ID card without lawful authority or reasonable excuses an offence, and to explicitly give a definition of lawful authority.

The amendment to clause 17 deletes regulation 23 of the ROP Regulations, which will be transferred to the Registration of Persons Ordinance; and the amendment to clause 19 adds new preserved and transitional provisions, and suitably preserves the existing relevant provisions.

Clause 21 provides for a more detailed Schedule 5, listing the purposes of non-required information, particulars and data to be stored in the chip of a smart ID card, as well as its specific contents.

The amendment to clause 23 makes consequential amendments to part I of Schedule 2, and adds the offence of hindering public officers from verifying the identities of individuals.

Thank you, Madam Chairman.

Proposed amendments

Clause 1 (see Annex I)

Clause 2 (see Annex I)

Clause 3 (see Annex I)

Clause 7 (see Annex I)

Clause 8 (see Annex I)

Clause 9 (see Annex I)

Clause 10 (see Annex I)

Clause 13 (see Annex I)

Clause 14 (see Annex I)

Clause 17 (see Annex I)

Clause 19 (see Annex I)

Clause 21 (see Annex I)

Clause 23 (see Annex I)

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

MR JAMES TO (in Cantonese): Madam Chairman, I am speaking mainly on clause 9 of the Bill, that is, the issues in relation to amending sections 4(1)(b)(i) to (xii) of the Registration of Persons Regulations (ROP Regulations).

I have already mentioned this part briefly in my speech during the Second Reading. However, I have the responsibility to provide a more detailed explanation. Although I have not proposed any amendment to this part, that is, I have not proposed any Committee stage amendment, I still have the responsibility to remind the Government of its present interpretation of subparagraph (xii), "such further particulars relating to any of the particulars furnished under this paragraph as the registration officer may consider necessary." In this connection, we have asked the Government whether this means that any details could be asked, that is, the same as subparagraphs (i) to (xi). If this subparagraph is interpreted broadly, the scope could be very large. But the Government replied in the negative, citing an example in which a person claims to be of a certain nationality, and the Government would not make any attempt to verify whether the claim is true. Then I asked, "What purpose does subparagraph (xii) serve?" The Government then quoted another example, in which someone has a physical appearance of a 60-year-old man but claims to be only 20. (In fact, many of us would like to do this as well.) So the officials of the Immigration Department (ImmD) can handle this case by invoking this provision, so that no matter the persons involved are local or overseas persons, the officials can ask him to produce birth certificates or relevant information because his appearance really does not look like a 20-year-old. Of course, this person may have had a facelift or he may have been given a sheep embryonic injection. That would be a totally different story.

In the written information provided by the Government to the Legislative Council, another example has also been quoted. Under the present system, ImmD officials may ask an applicant of his educational qualifications. In this connection, I asked the Government if there was any relevance between the educational qualifications of an applicant and the above subparagraphs (i) to (xi). In its reply, the Government said that it was related to the occupation of that person. However, I find this a very bad example, and it shows that the Government is actually *ultra vires*. This is because a person may, for example, claim to be a councillor. We all know that people with a high educational

standard could become a councillor, but it is also possible for people without a high level of educational attainment to become a councillor. So, under certain circumstances, the action of the Government actually could not help it to verify the identity of that person. Furthermore, the Government has also said that it would by no means try to verify the claim made by the person. Therefore, why should the Government ask an applicant of his educational standards? Actually, under subparagraph (xii), the Director of Immigration (or the Commissioner of Registration) has the responsibility to compile a list of jurors under the Jury Ordinance for use by the High Court in the selection of jurors. However, if the Government obtains certain information by virtue of subparagraph (xii) in the ID card replacement exercise, I feel that such an act is *ultra vires*. From the legal point of view, it is *ultra vires*.

If the Government says that it is not obtaining the information by virtue of regulation 4(1)(b)(xii) of the ROP Regulations, and that it is just taking the opportunity of the ID card replacement exercise to obtain the information in accordance with section 4A of the Jury Ordinance, then this may sound more plausible. As the person happens to be here, so the government officers ask him for information under section 4A of the Jury Ordinance. However, on a closer examination of section 4A, I find that this is not the spirit of the provision. This is because the section provides that the Registrar or the Director (refers to the Director of Immigration) may, by way of a written notice, require anyone specified in the notice who is in possession of certain information, to provide him with certain information, such as whether someone has passed any Chinese or English tests. As I understand it, it means that the Director of Immigration, for example, may inquire of the Examinations Authority, certain schools, or even universities, whether a certain person has obtained a pass in the subjects of the Chinese or English languages in the Hong Kong Certificate of Education Examination. However, will the Government issue a notice to ID card applicants under section 4A of the Jury Ordinance to require them to disclose their educational standards every time the ID card replacement exercise is launched? I am also doubtful about this.

Therefore, if such examples are cited to explain subparagraph (xii), I may infer that the Government's interpretation of subparagraph (xii) is too broad. The interpretation is so broad that it even makes me worry that the provision can be abused, that is, subject to interpretation by the Government, any question could be asked, and anything related to the applicants could be asked. I hope the Government could respond to this aspect.

Besides, someone may ask, "Why do you not move an amendment or demand abolition of the provision?" In fact, I have discussed many possible solutions with the Legal Adviser of the Legislative Council and my colleagues. We tried to see whether we could move an amendment or narrow down the scope of the provision. However, we could not find a good solution. I can just say that, if I request the Government to abolish the provision, I worry that the Government may say it would be really necessary for the ImmD to ask for additional information under certain circumstances. Therefore, I can only voice my opinions in this speech. However, when the ID card replacement exercise is launched in the future, we may still, through the monitoring mechanism of the Legislative Council, find out what information the Government would ask the applicants to provide, how the applicants are asked, in general what percentage of persons are asked, will each applicant be asked, and whether subparagraph (xii) is invoked when questions are asked. With such monitoring, it is just like adding in some individual items which do not exist in the law. However, this is the only way we can monitor the situation, so as to find out whether the Government has enforced the legal requirements in a reasonable manner.

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

(No Member responded)

CHAIRMAN (in Cantonese): Secretary for Security, do you wish to speak again?

SECRETARY FOR SECURITY (in Cantonese): Madam Chairman, I just wish to say briefly that, regarding the opinions just raised by Mr James TO, we already responded to them in our letter to Honourable Members on 14 March. Therefore, I have nothing to add now.

MR JAMES TO (in Cantonese): Madam Chairman, all of my arguments are really built on the letter dated 14 March, which was mentioned by the Secretary for Security in her earlier response. In other words, if we do not have the letter dated 14 March, we would not have been able to see so clearly how the practice

of the Government is *ultra vires*. However, the Government mentioned in the letter dated 14 March that it had really exercised the power stipulated in subparagraph (xii) in order to solicit further information, that is, to inquire into the educational level of each applicant. The justification of the Government is that the subparagraph is related to the above subparagraph (x), which asks about information on the occupation of the person concerned. I think that no matter what kind of job the person concerned pursues, even he is immediately asked about his educational standards, he would still answer in terms of his occupation. In fact, whatever job a person is engaged in, he may have high educational standards, and he could have low educational standards as well.

The Government says that it has to make use of such information to select jurors. Therefore, it has adopted the method of invoking subparagraph (xii), and this is actually taking a circuitous route of achieving what is stipulated in the Jury Ordinance. No matter what answer the Government would give this time, the Jury Ordinance will eventually be reviewed. I hope the Government would not invoke this Ordinance to make a general inquiry of the educational standards of the applicants. I am not saying that it is not necessary for the Government to do so. I still think that it is necessary to keep the jury system, and it is also necessary to draw up a list of suitable jurors. I also think that, on the list of jurors, there are much fewer people with the required educational standards. However, the Government still should not collect the information in the present manner. Of course, the Jury Ordinance really warrants a comprehensive review. However, the Government should have a proper mechanism to exercise its authority legally.

MR IP KWOK-HIM (in Cantonese): Madam Chairman, I would like to reiterate the view and stand of the DAB on this point.

In fact, on the issue of section 4(1)(b)(xii), there had been a lot of discussions in the meetings of the Bills Committee, in which members held divergent views. Some members thought that it would provide a greater chance for the Government to abuse its power, whereas many other members (including those of DAB) held the view that the making of such a provision would provide a legal basis for the Government when it had to obtain further information. Therefore, the DAB supports this provision. Thank you, Madam Chairman.

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

(No Member responded)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the amendments moved by the Secretary for Security 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, 2, 3, 7 to 10, 13, 14, 17, 19, 21 and 23 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clause 4.

CHAIRMAN (in Cantonese): The Secretary for Security, Mr James TO and Mr SIN Chung-kai have respectively given notice to move the addition of paragraph (aa) to clause 4, which relates to the information or particulars to be included in ID cards, and data to be stored in chips.

CHAIRMAN (in Cantonese): Committee now proceeds to a joint debate. I will first call upon the Secretary for Security to move her amendment, as she is the public officer in charge of the Bill.

SECRETARY FOR SECURITY (in Cantonese): Madam Chairman, I move an amendment to add paragraph (aa) to clause 4, as set out in the paper circularized to Members. This is a provision related to the areas in which the Chief Executive in Council may make regulations. One of the purposes of the amendment is to stipulate that the consent of applicants of ID cards must be obtained before information, particulars and data other than prescribed information could be included on the ID card surface or stored in the chips. In short, prescribed information, particulars and data include the name, address, place of birth, date of birth, sex, marital status, occupation, nationality claimed, photograph or fingerprint, travel document, right of abode, right to land, condition of stay, ID card and its number.

The amendment on "prescribed information" has suitably narrowed down the scope in which the Government may exercise its power to include additional information in the ID cards without the consent of the applicant by way of subsidiary legislation.

In the discussions of the Bills Committee, the Government accepted the opinions of Members to change "the nationality" into "the nationality which he claims", and to delete the name and age of the spouse of the applicant from "prescribed information". The Government considers that this amendment has struck a proper balance between establishing an effective ROP system and protecting personal data privacy. Therefore, the Government has no intention of further excluding more information such as the "marital status" and "occupation" from the scope of "prescribed information" at the present stage.

The Bills Committee also supports our view of retaining the two items of "marital status" and "occupation" in "prescribed information". I would like to thank Members and seek their support for the amendment moved by me. Thank you, Madam Chairman.

Proposed amendment

Clause 4 (see Annex I)

CHAIRMAN (in Cantonese): I will call upon Mr James TO and Mr SIN Chung-kai to speak on the amendment moved by the Secretary for Security as well as their own amendments respectively. However, they may not move their amendments at this stage. Whether Mr James TO may later move his amendment will depend on the Committee's decision on the Secretary for Security's amendment, and whether Mr SIN Chung-kai may move his amendment will depend on the Committee's decisions on the Secretary for Security and Mr James TO's respective amendments.

MR JAMES TO (in Cantonese): Madam Chairman, regarding my amendment, firstly, I would like to discuss the provision. As the Secretary has said, the provision is an authorization provision. In other words, what we should consider is the scope of authorization. Should the scope be so broad or so narrow? A moment ago, an Honourable colleague talked about what the authorization was intended to do. The authorization seeks to enable the Government to make some regulations to empower it to include some information or part of such information in the chip of the smart ID card.

As I said in the Second Reading debate, the information to be included in the chip of a smart ID card should be the less the better. Why? If some Members have reservations about technology, or if they want to strike a balance between privacy and data security, there is all the more reason for them to consider the consequences to be brought about by the compulsory requirement to include certain information in the smart ID card — no matter such compulsory measure is initiated out of good or bad intentions (the Government may feel that its measure is proposed out of good intentions).

Of course, if such information is immigration-related, and is required in general law enforcement, then such a measure is justified. However, if such information has nothing to do with general law enforcement, or is unrelated to immigration affairs, and if even the accuracy of such information is doubtful, because such information may be subject to frequent changes (the Government has just mentioned that, as a matter of principle, it agrees to require the inclusion of such information as the name and age of a person's spouse in his smart ID card), then it is inappropriate for the Government to be authorized to make such subsidiary legislation. Why should, for no reason at all, it be made mandatory for the name and age of the spouse of a person to be included in his smart ID card?

Likewise, I feel that the inclusion of such information as the marital status and occupation of a person in the smart ID card is also neither related to general law enforcement nor necessary. And such information could be misleading too. Why? It is because when a person replaces his ID card, he may be engaged in profession A, but as we all know that, there could be many changes in the life of a person. He could be undergoing retraining; or he may have switched to different professions many times; or incidentally he has become unemployed due to the economic recession when he replaces his ID card, then information on the chip will show that he is unemployed. When he is asked to produce his ID card for inspection by the authorities, he will be regarded as unemployed and he may face some kind of discrimination. Most important of all, we should know that, providing the most current or updated information to the Immigration Department (ImmD) will become our responsibility. But I can tell you the realistic side of the truth: the Government has told us in the meetings of the Bills Committee that even if the people do not update their information with the ImmD, the Government would not take prosecution action against them. All of us who are present here today must have the experience of moving to a new flat. Under the new provision of the Bill, to be honest, you may have already committed an offence for failing to update your residential address with the ImmD.

You may switch to different jobs in the future. Once you have switched your job, you are required to report your information with the authorities. Otherwise, you have committed an offence. Of course, the Government may say that you have to replace your ID card as you are updating your information with the ImmD. You could possibly imagine that, if such information is required to be included in the ID card on a compulsory basis, then more and more such information will be required soon. We will not change our names

very frequently, so it is reasonable for us to replace our ID cards if we really proceed to change our names. Information on the age and date of birth is also not easily subject to changes. But if the scope of authorization is really extended to the compulsory requirement of including information on occupation and marital status in the smart ID card, then we are required to report any changes in such information and this would possibly involve the replacement of the smart ID card. Otherwise, the information would be inaccurate. It may incur a cost of up to several hundred dollars for a replacement ID card. Is this a fair requirement? I feel that once the Government requires the people to include such information in the chip, they will have to replace their ID cards very frequently. Otherwise, the information will not be accurate, and eventually law enforcement may be misled and confused as a result. It would make the matters worse. Therefore, with reasonable considerations, I think there seems to be little justification for the Chief Executive in Council to require everyone to include the information on marital status and occupation in their smart ID cards in deciding the scope of this provision.

Besides, I wish to explain why there is some difference between the amendment proposed by me and that by Mr SIN Chung-kai. This is because, during one of the meetings of the Bills Committee, one of the members, Mr LEUNG Fu-wah, who is a representative of Hong Kong Federation of Trade Unions, told me that they also found it a problem to include information on occupation in the smart ID card. Therefore, Mr LEUNG Fu-wah told me that, if there were two amendments as options, he would, apart from supporting the amendment of the Government, vote against the one which required the compulsory inclusion of information on occupation in the smart ID card. Therefore, if we wish Mr LEUNG Fu-wah to support my amendment (maybe some other Members also share the same feeling), we have to propose two amendments. My amendment opposes the inclusion of two items of information, whereas the amendment of Mr SIN Chung-kai opposes the inclusion of one item of information.

MR SIN CHUNG-KAI (in Cantonese): Madam Chairman, Mr James TO has actually explained the issue very clearly. However, is it necessary for the Government to include the information on occupation in the chip? If the Government wishes to collect information in this regard, I believe it still has to rely on the opportunity offered by the ID card replacement exercise. I have a form in hand now which was attached to a letter sent to the Secretariat on 18

March by the Immigration Department (ImmD). The ImmD stated in the letter that there was a column of occupation on the form to be filled in by the people when they replaced their ID cards.

In fact, just as Mr James TO has said, the people of Hong Kong may change their occupations many times in their lives. The ImmD may have stored the information on the occupations of the people, since such information was not required to be displayed in the past, so even if changes in such information had taken place, it was not necessary for the people to report them to the authorities. However, in the future, information on the occupation of a person is stored in a chip, and the person concerned will have the chance to read the information on the chip, therefore he will know that the information on occupation shown on the chip has changed. For example, he used to be a construction worker, but he is no longer doing such a job now. He has changed to work as a watchman or a caretaker of a building. So it is necessary for him to replace the chip. In the past, we did not know that the ImmD had kept information on our occupations, so we were not considered as having committed an offence for failing to report the change. However, in the future, if we have changed our occupations, and from the chip we know that such information has changed, then the Government will have an additional reason to prosecute us for our failure to report the change to the ImmD. If this Bill is really passed, I would advise the people to fill in either "employee" or "employer" in the column of occupation. This is the most basic occupation, and it can never be wrong. Of course, it may not be the most accurate information because a boss could change from being an employer to an employee, and could even change from being an employee to unemployed. Therefore, there are three possibilities: employer, employee or unemployed. In the future, when filling in the column of occupation, I do not know whether the ImmD would allow me to fill in "employee". But I am really an employee. I could be employed by a construction company, and then change to work in a transportation company. And I could have changed my job from a driver to a construction worker. Will the Government accept this? I really fail to see the rationale of storing information on occupation in the chip, and what merit there is in such a measure.

In fact, if the Government wants to collect data, this purpose has already been achieved in each large-scale ID card replacement exercise. Therefore, the Government has already achieved its objective if its intention is maintenance of records only. As for the information that the people are required to report to the authorities once changes have taken place, I think the Government needs to

conduct a review of this, so as to take the opportunity to amend outdated legislation. The people should report to the authorities any changes in certain essential information. For such information, it is absolutely necessary for the people to report the changes to the authorities. However, as regards occupation, for example, is it really necessary for the people to report each job change to the authorities? If, after listening to our views, the Government thinks that it is not necessary to make it mandatory for the people to fill in the information on occupation, then it should consider deleting this column. Is it not a more thorough and straightforward approach?

Madam Chairman, for many wage earners, I believe they would find it troublesome to fill in such information as they are required to report the changes to the authorities every time they switch to another job. If my earlier suggestion of just filling in "employer" or "employee" is not accepted, then even a person switches from the accounting profession to the financial services industry, he still has to report the change. Is this a satisfactory practice? I do not know whether the people would be so "compliant" as to report each job change to the authorities. However, in the future, we can see the information on occupation from the chip. So in that case, have we committed "the offence of failure to report the crime" if we do not report the change to the authorities after we have changed our occupations? In this connection, would we be guilty of a more serious offence? I think the Government must consider this issue.

Before listening to my speech, Honourable colleagues might be supporting the Government. But this is the last chance now. Please think whether you really want to support the Government. The column of occupation is really troublesome because everyone of us may change our occupations many times in our lives, is it not?

Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): Members may now debate the amendment moved by the Secretary for Security as well as the respective amendments by Mr James TO and Mr SIN Chung-kai.

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

MR HOWARD YOUNG (in Cantonese): Madam Chairman, on the amendments proposed respectively by Mr James TO and Mr SIN Chung-kai, that is, the proposals of deleting the information on marital status and occupation or just deleting the information on occupation, the Liberal Party has reservations. The justification advanced by the two Honourable colleagues is that such information would frequently change. Certainly, we agree that there are chances for such information to change. Therefore, they propose that the Government needs not include such information in the new ID card.

I think that the issue under discussion is not all the information must be included in the smart ID card. Instead, we are discussing the scope of authorization. As far as I understand it, the Government is not saying that it wants to include all such information in the smart ID card. It is just saying that this can be done, if necessary. However, it cannot go beyond that scope.

We think that, under certain circumstances and given the need, if the inclusion of the relevant information could help law enforcement officers to check and verify the identities of cardholders, then we should not disallow the inclusion of such information in the ID card just because changes could take place any time. Although we do not have any data to show that once such information is included in the ID card, what serious impact would be caused as a result, we believe that at the present stage, even if such information is included, it would not cause any damage to personal privacy. In most of the situations, the information included must be harmless.

Very often, we are required to provide personal particulars (including marital status and occupation) when we are filling in some forms. Therefore, information on these two items is not considered confidential, and is just for use as ordinary personal records. Such information can be amended by the cardholders simply through reporting the changes to the authorities. However, there is one point to which I must agree, that is, if a person has to pay several hundred dollars as the fee for replacing the ID card every time he has to report a change in occupation, then it is really unfair. Unless my understanding is incorrect, I think we are now discussing the scope of authorization — the Government is not saying that it intends to include all the information into the smart ID card at the present stage. However, if due to some reasons, the Government really has to include the information on occupation in the smart ID card in the future, I would suggest that easier ways of amending such information

should be adopted. I understand that amending some information on the chip does not require the destruction of the chip involved and a replacement of the smart ID card. Of course, the change in fingerprint, photographs or names would normally require the issue of a new ID card because certain words or characters have to be reprinted on the ID card. However, if all that is involved is just the information stored in the chip, I do not see any reasons why the ID card has to be replaced. If the Government really has to store certain information on the chip, technology in the future may make it possible for the people to change such information by using a certain reader, which would also enable the Government to receive the amended information direct. In this way, even the postage could be saved. This would benefit everyone.

Therefore, the Liberal Party does not agree to casually vote down the proposal of allowing the Government now, if necessary, to include the two items of information of marital status and occupation in the smart ID card within the scope of authorization.

MR IP KWOK-HIM (in Cantonese): Madam Chairman, regarding the information on a person's marital status and occupation, we support the proposal of the Government, as suggested in the Bill, to include such information in the smart ID card. The main reason is, when members of the public apply for or renew their ID cards, they are providing information on their current situation. So we think this will not cause them any substantive harm. Besides, we also feel that the ID card would serve some significant functions. Should something happen in the future, such as emigration or something else, it would help us understand the identity of the card holder during that period of time. If we have such information, then we could provide assistance to the card holder. After assessing the various aspects, as the card holder could report information on his marital status or occupation, from a certain perspective, more useful information could be available to assist the verification of his identity in the future. Therefore, we could not see why we should delete information on this. The DAB will support the proposal of the Government to include such information in the chip.

However, I would like to raise a point here. All along, I have participated in the full process of deliberations on the Bill. Mr James TO has mentioned earlier that any amendment to the information would entail a

replacement of the entire chip, and it may incur costs. As far as I understand it, the information is not stored in the chip, which in fact just serves as a key. The key would unlock the databank, and then the ImmD could work on the information. Therefore the information is not to be added to the chip in order to change the information on the chip. I believe the Security Bureau could clarify this later on. But I think we should not interpret it this way. Otherwise, it seems that whenever a person changes a job, he has to spend several hundred dollars to replace the chip. I think such an understanding is somewhat misleading.

I would like to mention, in particular, that we actually do not support that the Security Bureau should interpret the immigration information, especially the issue on the nationality of a person. The Security Bureau changes "the nationality" into "the nationality which he claims". The DAB has reservations about this point. The amendment in question is just specifying what is ROP information, so it just involves a scope. As far as we understand it, and we also agree that, "the nationality" in fact could include "nationality which he claims". We agree that, in the application for the ID card, the form should carry the column of "the nationality which he claims". There is no change on this point. But the problem is interpretation. I understand that there are certain provisions in the Bill specifying what is "prescribed information". Under such circumstances, we think that there is no need to narrow down the scope of "the nationality" to "the nationality which he claims". Of course, we understand that, as the amendment is proposed by the Government, if this is voted down, then this provision will be missing in the Bill, and there will be a vacuum, and it will become an incomplete piece of legislation. Therefore, we have no alternative but to agree to this. But this does not mean that we think the Security Bureau should restrict the definition of "the nationality" to "the nationality which he claims". Therefore, I am now declaring the stand of the DAB.

Thank you, Madam Chairman.

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

(No Member responded)

MR JAMES TO (in Cantonese): Madam Chairman, first of all, let me respond to the viewpoint of Mr IP Kwok-him. First, I find it strange. Mr IP says he is under pressure, but I believe no one can be forced to do anything, especially Mr IP is the Chairman of the Bills Committee. If he thinks that it is wrong for the Government to move an amendment to change "the nationality" into "the nationality which he claims", then he is at liberty to reverse the amendment of the Government, just like Mr SIN Chung-kai and I have done. This can be done, is it not? He may also seek assistance from the legal advisers of the Legislative Council. The Democratic Party also sought help from them. Although technically it is more complicated, it is still better than saying that you are being forced to do it. He could go as far as breaking up the amendment and reverse it. But Mr IP has not done this.

All I can say is that, it is absolutely correct for the Government to propose to change the information on "the nationality" into "the nationality he claims", which is within the scope of authorization to be displayed on the face of the ID card or be stored in the chip on a compulsory basis. Why do I say so? Firstly, we can all refer to the existing regulation 4 of the ROP Regulations. We can see that all along, "nationality claimed" has been adopted and used by the Government. This is because it would be an extremely complicated issue, as Miss Margaret NG said in the Bills Committee, to ascertain and clarify the nationality of a person in a thorough manner. All along, the Government has accepted "nationality claimed" as a registration data. If it is said that this ID card replacement exercise has changed the substance of the accepted information, then a major problem has emerged. We have originally just intended to change the form, that is, to change from the present form of ID card to smart ID card. However, if now everything goes back to the basics, and provisions are made to extend the scope of authorization to make it possible to include information on the face of the ID card or store such information in the chip, then there may be even more information on our ID card than those stored in the computer terminals of the Government. Should this happen, I would find this very strange.

We may imagine this. At the moment, the ROP Regulations just require the storage of information on "nationality claimed" in the back-end computers of the ImmD. However, if the scope of authorization of the Bill is to be extended to, like Mr IP Kwok-him said, requiring the compulsory storage of information on "the nationality", instead of "the nationality claimed", then two different sets

of data would be stored in the ID card (on the face of it and in the chip) and the computer terminals of the ImmD respectively. They are essentially different because some information is on "the nationality", whereas the other information is on "the nationality claimed". Besides, it is surprising that the ID card and the chip which we carry around casually should be storing such information. I feel that, firstly, such information has never been the information that the Government should possess nor require in law enforcement. Secondly, the Government does not have to make use of such information stored on the face of the ID card or in the chip in its daily operation. Therefore, I do not understand why Mr IP Kwok-him says he thinks the amendment of the Government has narrowed down the scope. In fact, the issue has nothing to do with whether the scope has been narrowed down because "the nationality" and "the nationality claimed" are two different things, and they are by nature very different. I think it was just a slip in the process of law drafting on the part of the Government, so the slip has to be rectified for consistency with regulation 4 of the ROP Regulations.

Mr IP Kwok-him has just said that, as far as he understands it, all the present arguments are only related to the scope of information to be collected in the process of replacing the ID cards. I am really a bit disappointed by his remark. However, on the one hand, maybe it is because the provisions have been too technical. Yet, as Chairman of the Bills Committee who has been following through the course of deliberations on the Bill, he should understand what we are discussing. Let us take another look at the relevant provisions. In clause 2(a) under which the Government proposes to make amendments, the information is to be included on the face of the ID card or to be stored in the chip. Subparagraph (i) mentions the information to be included on the face of the ID card, whereas subparagraph (ii) says the information is to be stored in the chip. In other words, we really have to imagine whether the Government really wishes to introduce a legal provision which authorizes it to require the people, on a compulsory basis, to include their information on "occupation" and "marital status" on the face of the ID card.

Mr Howard YOUNG is also right in saying that, if a person may go to a booth to amend the information on the chip, then he can amend such information on his own by using the machine. Is that so? If one may go to a DIY information service counter and amend the information on the chip on his own after verifying his identity by a match of his fingerprint, then the address as

reported can be amended as well. But the problem is, if the Government really requires the people, on a compulsory basis, to include their information on the face of the ID card, I really do not know whether the face of the ID card can be altered. Is it possible for one to insert the card into the relevant machine, and then a laser beam will be emitted to amend the information? As far as I understand it, at least this is not possible at the moment. I do not know whether the chip can still be used after the ID card is replaced. However, I have asked government officials whether the chip can still be used on the new ID card if only the information on the card has to be amended but no change is made to the information stored in the chip. The Government's answer is that, if this is done, the cost will be even higher because presently the cost of a chip is rather cheap. Therefore, we can see that it would necessitate the replacement of the entire ID card. If the Government really requires the compulsory registration of such information, it will be a major issue. I am not kidding. I believe Mr YOUNG would understand this viewpoint.

However, it is really stipulated in subparagraph (i) that it may include the information on the face of the ID card on a compulsory basis. However, if this is unnecessary, why should we do it in such a manner? Please think about this. The Government has already conceded that the information on the name and age of the spouse is not necessary. However, if the Government says the information is required in the process of law enforcement, then Honourable colleagues and Mr Howard YOUNG may also argue that it is good to include information on the name and age of the spouse, because once something happens, as such information is already on the face of the ID card, it would facilitate a double check. For example, we can find out the date on which the ID card is last replaced, and we can also ask the holder the name of his spouse, and see if he can answer. If he cannot answer, then we can conclude that the ID card does not belong to him. And we may also ask the person to present his fingerprints for verification, and we will be able to tell whether the ID card really belongs to him. If the Government really wants to make use of the information in such a manner, it could require us to provide all kinds of information, could it not? Since the Government thinks that it is not necessary to include information on the name and the age of the spouse, then there is no reason to say that it is necessary to include information on the marital status and occupation of a person.

Here, I would like to respond to a point made by Mr SIN Chung-kai. In fact, it is not acceptable for one to fill in either "employer" or "employee" in the

occupation column. This is because, as far as I understand it, according to the definition of "profession" under regulation 4 of the ROP Regulations, you cannot say that the profession (that is, his specialized trade or occupation) of a person is "employee". You simply cannot say that. What kind of occupation an employee is engaged in? He could be a cleaner, a manager, or a salesman. He must specify the occupation he is engaged in. You cannot just say that you are either an employer or an employee. Under such circumstances, there are really chances for such information to change frequently. If it is not the intention of the Government to have such an extensive scope of authorization, then it should narrow it down reasonably. I feel most disappointed by the great haste in which the Government has apparently drafted the legislation. It seemed to be in a mad rush. In fact, if it has a chance to think about it in a sensible manner, I believe it would regret today because it really has no reason to include such information in the ID card. If the Government really wants to get the vote of Mr Howard YOUNG, at least it should not require on a compulsory basis the inclusion of such information on the face of the ID card. Otherwise, even though Mr YOUNG has put forward the justifications, he would not know how he could help the Government. If the Government says that such information is required for law enforcement, I think the Government has never used such information before in enforcement.

Lastly, if the Government really proceeds to enact laws in such a way, I hope Honourable colleagues, even if they really do not support the Democratic Party, will not agree to the Government including such "stupid" information on the face of the ID card or storing such information in the chip at the next stage.

CHAIRMAN (in Cantonese): Mr SIN Chung-kai, do you wish to speak again?

MR SIN CHUNG-KAI (in Cantonese): Madam Chairman, I think the Secretary for Security may clarify certain issues later. With reference to the present technology level of the Government, even if it is necessary to find out the occupation of a certain person in the course of law enforcement, it is not necessary to read the chip. There are other ways to find out the information, for example, through the walkie-talkies of the policemen. As such, why should the Government bother the card holders? Alternatively, the Government may accept the suggestion made by me or Mr James TO, that is, let the people fill in

either "employer" or "employee" in the occupation column after the law is enacted. In this way, the information would remain correct no matter how many job changes have occurred. However, the Government says that this is not acceptable.

If the information on his occupation is stored in the chip, and in case the person obviously knows that such information has changed, he will be considered to have committed an offence under the Bill if he does not report the change to the authorities. I feel this is not right. Moreover, if someone is really so "compliant" in taking the initiative to report and update the information stored in the chip, honestly, will he be charged a fee? Let us not mention the cost of \$400 required for replacing the ID card, even if the cost of replacing the card is not charged, will card holders be charged for updating the information on the chip? I do not know.

Furthermore, frankly speaking, what useful purposes will the storage of information on the occupation of the holder in the chip serve? If name and sex are basic information, what is the case about occupation? In particular, for the wage earners, they could have switched jobs three times in a year. A person could be a construction worker today, and tomorrow he could become a caretaker, and then he could even become a driver on the day after tomorrow. In a year, he might have to amend the record several times. I hope Honourable colleagues could appreciate the difficulties of the wage earners.

MR IP KWOK-HIM (in Cantonese): Madam Chairman, I think we have to leave further clarification to the Security Bureau because we have already expressed our views and have had a lot of arguments in the meetings of the Bills Committee.

I agree with a remark made by Mr James TO earlier on, that is, the Government has acted too fast in certain areas, and the speed has surprised me enormously. For example, I think it is necessary to keep the information on the age of the spouse. However, the Government has reacted too fast — soon after listening to the views of certain Members, it agreed promptly to delete this item of information. Now the Government says that it will not go ahead, but why I have the feeling that I am under some pressure? This is because if I move an amendment again, and if my amendment is not passed, this part will be missing

from the Ordinance, and it will become a deficiency of the Ordinance. That is why I have not proposed an amendment.

Therefore, I must stress that, what I have said earlier about the issue of nationality, it belongs to the scope of personnel information, and such data need not be concrete information that has to be directly filled in the forms or reported.

Madam Chairman, I so submit. Thank you.

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

(No Member responded)

SECRETARY FOR SECURITY (in Cantonese): Madam Chairman, I just wish to make a simple response. I think, without violating the existing policies, the Government should retain the power to make regulations to put the two items of information on "marital status" and "occupation" of the person concerned on the face of the ID card or store such information in the chip.

In fact, if in the future the Government thinks that it is necessary to make the relevant regulations, such regulations will still have to go through the negative vetting procedure of the Legislative Council. So the issue of bypassing the supervision of the Legislative Council actually does not exist. The Bills Committee also supports our view of retaining the items of "marital status" and "occupation" in the scope of prescribed information.

I also want to point out that, on the collection of information, the Commissioner of Registration is already collecting particulars related to the marital status and occupation of the people now under regulation 4 of the ROP Regulations. ID card holders are also required to update their information with the Commissioner of Registration under regulation 18. In other words, the Bill has not imposed any new legal responsibility on the people. Furthermore, it is a common practice for ROP systems in other countries or territories to collect the above information. For example, Finland, Singapore and Macao are also collecting such information.

Thank you, Madam Chairman.

MR SIN CHUNG-KAI (in Cantonese): Madam Chairman, I wish to clarify one point, that is, our amendment is not intended to oppose the collection of information on the "occupation" of the people. I did not criticize the Government for collecting such information from the government forms in my speech. The crux of the issue is whether such information should be put on the face of the ID card or stored in the chip. This is the crux of the issue.

Firstly, we agree to the collection of such information by the Government. In fact, there are many channels through which the Government can collect such information. They can have access to such information even in the course of law enforcement, because the back-end computer system of the Government has already stored such information for instant retrieval. The issue in question is, "Should such information be put on the face of the ID card or be stored in the chip? Is such information unnecessary?"

Frankly speaking, suppose the information on "occupation" of a person is really stored in the future ID card, what should we do? Do the people have to replace their ID cards frequently? I believe the Government dares not list the information on the "occupation" of the card holder on the face of the ID card, but what if such information is stored in the chip? If the Government will not or dares not do this, simply, should Members support my amendment today to illustrate that the Government does not have to do this? As we all know, the Government can access such information in many different ways, but the problem is putting such information on the ID card, firstly, is unnecessary; secondly, will bring unnecessary trouble to the people; and thirdly, will cause many inconveniences to the people.

Thank you, Madam Chairman.

MR JAMES TO (in Cantonese): I would like to provide some further information for Members' consideration. Please think about this. If the Government really implements the listing of the marital status of the card holder on the face of the ID card by way of subsidiary legislation, now on the government form, in the column of marital status, there are such options: single, married, separated, divorced and widowed. If the marital status of everyone is put on the face of the ID card, I am not sure if Members would find it disgusting. If we do not wish to authorize the Government to do this, then at least the face of

the ID card should not display the marital status of a person; if such information is only stored on the chip, then at least when someone picks up our ID cards, he would not be able to tell our marital status from the face of the ID card. And as we go to the banks to do some transactions, the bank staff would not be able to tell we are divorced or widowed just from reading our ID card. If the Government does this, I would really ask: What on earth is going on here? You must not do it like this.

However, the Government is still very obstinate with the old ways. It thinks that since the provisions were so drafted in the past, it can just copy the old provisions and everything would be fine. The Government really has to do some proactive thinking. If the occupation is displayed on the face of the ID card (the holder could be unemployed or jobless at the time of applying for the ID card), then it could show the following: Marital status: widowed; Occupation: unemployed. I could not help asking, "What on earth is going on here?" Of course, if the card holder gets married again, or if he manages to find a job eventually, then he can quickly spend several hundred dollars to replace the old ID card to update the information. However, we have absolutely no reason to authorize the Government to handle our personal data in such a manner. If we are sure that we will not authorize the Government to disclose the above information in the ID card, why do we not abolish these two compulsory provisions altogether now?

Maybe some Honourable colleagues think that the present situation has already created problems. They would agree that the listing of information on the face of ID card is inappropriate, so this should be abolished. But what shall we do as the chip still stores such information? This fully shows that, even though there are people supporting it and there are people opposing it in our discussion, the Government is still very eager to make a quick decision. In fact, the Government should take all the justifications into consideration, and think very carefully about it. Please think about this. If this is printed on the face of the ID card: Marital status: Divorced; Occupation: Unemployed, then it is possible that, under certain circumstances, as Mr SIN Chung-kai said, some occupations

CHAIRMAN (in Cantonese): Mr SIN, you should not speak at the same time when Mr James TO is speaking. Mr TO, please continue with your speech.

MR JAMES TO (in Cantonese):would make the card holder face some kind of discrimination. Therefore, why should the Government be allowed to list such information on the face of the card on a compulsory basis? How can this be done?

MR HOWARD YOUNG (in Cantonese): Madam Chairman, I remember that when the discussion of the Bills Committee progressed to this point, we came to the end of our deliberations. With the exception of one Member who holds an opposing stand, I believe all Honourable Members wish to be able to use the smart ID card as soon as possible.

On the clarification just made by the Secretary, I feel that today we have adopted a very serious attitude in deliberating on the Bill. I also believe that, in the future whoever are the Legislative Council Members, they would be equally serious. I am also very confident that, in future, if the Government really wishes to invoke this Ordinance to list the information on the "occupation" of the card holder on the face of the ID card, the Legislative Council Members of that time would also vote down such a measure. Furthermore, the background of everything done by the Government will be examined, and all the concerns and opinions expressed today in this Chamber will have been put on record. Therefore, I feel that we should not immediately dismiss the authority of the Government to present proposals to the Legislative Council, if necessary, in order to implement such measures.

In fact, the Government has already made some concessions. I remember that when the discussion was drawn on the issue of "the nationality he claims", the Government made the concession immediately, perhaps out of its desire to expedite the passage of the Bill. At that time, I queried whether the concession of the Government would undermine the public credibility of the smart ID card, and the Bills Committee had discussed the issue. Therefore, on the point just mentioned by Mr IP Kwok-him, I am quite sympathetic. However, I feel that at this stage (two weeks ago, Members already paid a visit to watch the machines for producing the smart ID cards), the Government should be able to issue the smart ID cards very soon. As everything is now in proper order, all of us would like to see the launch of the smart ID cards as soon as possible, and hope that the people could enjoy its benefits the sooner the better. This is particularly true for me, as I am a member of the travel industry. I hope

the smart ID card can help reduce the clearance time of travellers at immigration checkpoints, shorten the time for queuing up and bring extra convenience to the people. As such, I would like to give my full support to the amendment moved by the Secretary.

MR IP KWOK-HIM (in Cantonese): Madam Chairman, I wish to clarify once again that, regarding the issue we have been arguing, I do not think that the Bills Committee has handled the Bill in a crude manner. In fact, the points we have been arguing would not affect the meticulousness of the entire Bill. On the issue of whether such information will be listed on the face of the ID card, actually the Government has to submit the relevant subsidiary legislation to this Council before it can be implemented. Mr James TO has already expressed this point in great eloquence. I believe that we may discuss it again by then. Personally, I do not support the inclusion of such information on the face of the ID card. At the moment, such information is not displayed on the present ID card, so this is sufficient evidence to show that the Government will not implement the measure to such an extent.

Earlier on, I stated our views very explicitly; that is, the collection of such information would be helpful to the verification of the ID card in the future, or even for verifying the identity of the person concerned. Such information would not affect the other aspects of privacy of the applicants, nor will the applicants be subject to injustice just because some information has become outdated. I think such problems do not exist. Therefore, I would like to stress that the crux of the issue being argued is whether the scope should cover such information. If the inclusion of such information in the ID card is really implemented, the Government will have to submit the relevant subsidiary legislation to this Council. Therefore, I support the amendment moved by the Government.

I would like to clarify one point on the nationality issue which we have discussed. Members of the Bills Committee were asked to vote on the issue at the meeting to indicate whether they supported or opposed the amendment. There were actually more members who disagreed with the amendment of the Government than those who supported it. I would like to supply this piece of information here. In fact, the Report of the Bills Committee has also mentioned this point. Thank you, Madam Chairman.

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

(No Member or the Secretary indicated a wish to speak)

CHAIRMAN (in Cantonese): Before I put the question on the Secretary for Security's amendment, Members will please note that if the Secretary for Security's amendment is passed, Mr James TO and Mr SIN Chung-kai may not move their respective amendments to clause 4.

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

(Members raised their hands)

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

(Members raised their hands)

Mr James TO rose to claim a division.

CHAIRMAN (in Cantonese): Mr James TO has claimed a division. The division bell will ring for three minutes.

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

CHAIRMAN (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, Dr David CHU, Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Mr HUI Cheung-ching, Mr Bernard CHAN, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Mr YEUNG Yiu-chung, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Miriam LAU, Mr Ambrose LAU, Miss CHOY So-yuk, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr Henry WU, Dr LO Wing-lok, Mr IP Kwok-him, Mr LAU Ping-cheung, Ms Audrey EU and Mr MA Fung-kwok voted for the motion.

Ms Cyd HO, Mr Albert HO, Mr Martin LEE, Dr David LI, Mr Fred LI, Mr James TO, Mr CHEUNG Man-kwong, Mr LEUNG Yiu-chung, Mr SIN Chung-kai, Mr Andrew WONG, Dr YEUNG Sum, Mr LAU Chin-shek, Ms Emily LAU, Mr SZETO Wah, Dr LAW Chi-kwong, Mr Michael MAK and Mr WONG Sing-chi against the motion.

Ms LI Fung-ying abstained.

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

THE CHAIRMAN announced that there were 46 Members present, 27 were in favour of the motion, 17 against it and one abstained. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

CHAIRMAN (in Cantonese): As the amendment moved by the Secretary for Security has been passed, Mr James TO and Mr SIN Chung-kai may not move their respective amendments to clause 4, which are inconsistent with the decision already taken.

SECRETARY FOR SECURITY (in Cantonese): Madam Chairman, I move further amendments to paragraph (a) of clause 4 in order to amend subparagraphs (v) and (vi) and to add subparagraphs (vii) and (viii), as set out in the paper circularized to Members.

These amendments are not controversial; they just explicitly specify that "documents and records" may either be in tangible or digital form, and they add in the provisions for stipulating the charges in order to implement section 9A of the ROP Ordinance, so as to reflect that section 9A is introduced from the ROP Regulations.

Thank you, Madam Chairman.

Proposed amendment

Clause 4 (see Annex I)

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the amendment moved by the Secretary for Security 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 4 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clause 20.

SECRETARY FOR SECURITY (in Cantonese): Madam Chairman, I move the amendments to clause 20, as set out in the paper circularized to Members.

The amendments to clause 20 seek to impose suitable restrictions on the authority vested in the Director by virtue of paragraph 1(g) of Schedule 1 in deciding to list "data, signs, English alphabets or numbers" on ID cards, so as to make these data or signs not to exceed the scope of "prescribed information". Other amendments proposed to this clause are mainly consequential technical amendments.

Thank you, Madam Chairman.

Proposed amendment

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 propose the question to you and that is: That the amendment moved by the Secretary for Security 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 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.

CLERK (in Cantonese): New clause 20A Fees.

SECRETARY FOR SECURITY (in Cantonese): Madam Chairman, I move that new clause 20A, as set out in the paper circularized to Members, be read the Second time. The amendment seeks to make consequential amendments to Schedule 2.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 20A be read the Second time.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New clause 20A.

THE SECRETARY FOR SECURITY (in Cantonese): Madam Chairman, I move that new clause 20A be added to the Bill.

Proposed addition

New clause 20A (see Annex I)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 20A be added to the Bill.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Long title.

SECRETARY FOR SECURITY (in Cantonese): Madam Chairman, I move the amendment to the long title, as set out in the paper circularized to Members. The amendment seeks to reflect the scope covered by the latest amendments to the Bill.

Proposed amendment

Long Title (see Annex I)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the amendment to the long title moved by the Secretary for Security be passed.

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bill

PRESIDENT (in Cantonese): Bill: Third Reading.

REGISTRATION OF PERSONS (AMENDMENT) BILL 2001

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

Registration of Persons (Amendment) Bill 2001

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

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Registration of Persons (Amendment) Bill 2001 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

Ms Emily LAU rose to claim a division.

PRESIDENT (in Cantonese): 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 Albert HO, Dr Raymond HO, Mr Martin LEE, Dr David LI, Mr Fred LI, Dr LUI Ming-wah, Mr James TO, Mr CHEUNG Man-kwong, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Mr SIN Chung-kai, Mr Andrew WONG, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Dr YEUNG Sum, Mr YEUNG Yiu-chung, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Miriam LAU, Mr Ambrose LAU, Miss CHOY So-yuk, Mr SZETO Wah, Dr LAW Chi-kwong, Mr TAM Yiu-chung, Dr TANG Siu-tong, Ms LI Fung-ying, Mr Henry WU, Mr Michael MAK, Dr LO Wing-lok, Mr WONG Sing-chi, Mr IP Kwok-him and Mr LAU Ping-cheung voted for the motion.

Ms Cyd HO, Mr LEUNG Yiu-chung, Mr LAU Chin-shek and Ms Emily LAU abstained.

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

THE PRESIDENT announced that there were 42 Members present, 37 were in favour of the motion and four abstained. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

CLERK (in Cantonese): Registration of Persons (Amendment) Bill 2001.

Resumption of Second Reading Debate on Bill

PRESIDENT (in Cantonese): We will resume the Second Reading debate on the Bills of Exchange (Amendment) Bill 2003.

BILLS OF EXCHANGE (AMENDMENT) BILL 2003**Resumption of debate on Second Reading which was moved on 19 February 2003**

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Bills of Exchange (Amendment) Bill 2003 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): Bills of Exchange (Amendment) Bill 2003.

Council went into Committee.

Committee Stage

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

BILLS OF EXCHANGE (AMENDMENT) BILL 2003

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Bills of Exchange (Amendment) Bill 2003.

CLERK (in Cantonese): Clauses 1 to 4.

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

(Members raised their hands)

CHAIRMAN (in Cantonese): Those against please raise their hands. *(Noises came from outside a side door to the Chamber)*

(No hands raised)

CHAIRMAN (in Cantonese): Stewards, please close that side door.

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.

BILLS OF EXCHANGE (AMENDMENT) BILL 2003

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

Bills of Exchange (Amendment) Bill 2003

has passed through Committee without amendment. 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 Bills of Exchange (Amendment) Bill 2003 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): Bills of Exchange (Amendment) Bill 2003.

MOTIONS

PRESIDENT (in Cantonese): Motions. Proposed resolution under the Pharmacy and Poisons Ordinance to approve the Pharmacy and Poisons (Amendment) Regulation 2003 and the Poisons List (Amendment) Regulation 2003.

PROPOSED RESOLUTION UNDER THE PHARMACY AND POISONS ORDINANCE**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese):

Madam President, I move the motion, as printed on the Agenda, in order that the Poisons List (Amendment) Regulation 2003 and the Pharmacy and Poisons (Amendment) Regulation 2003 be passed.

Currently, we regulate the sale and supply of pharmaceutical products through a registration and inspection system set up in accordance with the Pharmacy and Poisons Ordinance (the Ordinance). The Ordinance maintains a Poisons List under the Poisons List Regulations and several Schedules under the Pharmacy and Poisons Regulations. Pharmaceutical products put on different parts of the Poisons List and different Schedules are subject to different levels of control in regard to the conditions of sale and keeping of records.

For the protection of public health, some pharmaceutical products can only be sold in pharmacies under the supervision of registered pharmacists and in their presence. For certain pharmaceutical products, proper records of the particulars of the sale must be kept, including the date of sale, the name and address of the purchaser, the name and quantity of the medicine and the purpose for which it is required. The sale of some pharmaceutical products must be authorized by prescription from a registered medical practitioner, a registered dentist or a registered veterinary surgeon.

The Amendment Regulations now before Members seek to amend the Poisons List in the Poisons List Regulations and the Schedules to the Pharmacy and Poisons Regulations for the purpose of imposing control on three new medicines.

The Pharmacy and Poisons Board proposes to add three new substances to Part I of the Poisons List, and the First and Third Schedules to the Pharmacy and Poisons Regulations so that pharmaceutical products containing any of them must be sold in pharmacies under the supervision of registered pharmacists and in their presence, with the support of prescriptions.

The two Amendment Regulations are made by the Pharmacy and Poisons Board, which is a statutory authority established under section 3 of the Ordinance to regulate the registration and control of pharmaceutical products. The Board comprises members engaged in the pharmacy, medical and academic professions.

The Board considers the proposed amendments necessary in view of the potency, toxicity and potential side effects of the medicines concerned.

Madam President, I beg to move.

The Secretary for Health, Welfare and Food moved the following motion:

"That -

(a) the Pharmacy and Poisons (Amendment) Regulation 2003; and

(b) the Poisons List (Amendment) Regulation 2003,

made by the Pharmacy and Poisons Board on 25 February 2003, be approved."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Health, Welfare and Food be passed.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Health, Welfare and Food 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 the Members present. I declare the motion passed.

PRESIDENT (in Cantonese): Proposed resolution under the Public Finance Ordinance.

PROPOSED RESOLUTION UNDER THE PUBLIC FINANCE ORDINANCE

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I move that the first motion under my name, as printed on the Agenda, be passed.

The purpose of this motion is to seek funds on account to enable the Government to carry on existing services between the start of the financial year on 1 April 2003 and the enactment of the Appropriation Ordinance. This follows the procedure long established in this Council.

We have determined the funds on account sought under each subhead in accordance with paragraph four of the resolution, by reference to percentages of the provision shown in the 2003-04 Estimates of Expenditure. If the Estimates are changed by the Finance Committee or officers under delegated powers, the provision to which the percentages are applied will also change accordingly. Thus the provision on account under each head is not constant but may vary, with every increase being matched by an equal decrease. The initial provision on account under each head is shown in the footnote to this speech. The aggregate total under all heads is fixed, however, at \$114,691,186,000 and cannot be exceeded without the approval of this Council.

The resolution also enables the Financial Secretary to vary the funds on account in respect of any subhead, provided that these variations do not cause an excess over the amount of provision entered for that subhead in the 2003-04 Estimates of Expenditure or an excess over the amount of funds on account for the relevant head.

The Financial Secretary will issue a vote on account warrant to the Director of Accounting Services, authorizing him to make payments up to the amount specified in this motion and in accordance with its conditions. The vote on account will be subsumed upon the enactment of the Appropriation Ordinance, and the general warrant issued after the enactment of the Appropriation Ordinance will replace the vote on account warrant.

Madam President, I beg to move.

Footnote

<i>Head of Expenditure</i>	<i>Amount shown in the Estimates \$'000</i>	<i>Initial amount of provision on account \$'000</i>
21 Chief Executive's Office.....	59,923	11,985
22 Agriculture, Fisheries and Conservation Department.....	795,994	226,346
25 Architectural Services Department.....	1,536,090	307,218
24 Audit Commission	131,854	26,371
23 Auxiliary Medical Service	64,183	12,837
82 Buildings Department	769,234	175,097
26 Census and Statistics Department	534,842	107,610
27 Civil Aid Service.....	77,778	15,556
28 Civil Aviation Department	682,597	144,070
43 Civil Engineering Department	938,725	200,401
29 Civil Service Training and Development Institute	146,169	40,203
30 Correctional Services Department	2,605,200	531,739
31 Customs and Excise Department	2,026,041	471,711
37 Department of Health	3,220,859	682,907
92 Department of Justice	988,446	209,792
39 Drainage Services Department	1,623,296	346,313
42 Electrical and Mechanical Services Department.....	261,218	75,268
44 Environmental Protection Department ..	2,544,735	834,191
45 Fire Services Department.....	3,209,018	770,146
49 Food and Environmental Hygiene Department.....	4,404,249	897,823
46 General Expenses of the Civil Service ..	5,105,918	1,197,384
166 Government Flying Service	213,579	86,980
48 Government Laboratory	269,880	74,116
50 Government Land Transport Agency....	153,074	115,415
51 Government Property Agency	1,795,092	366,796
35 Government Secretariat : Beijing Office	48,517	9,752

<i>Head of Expenditure</i>		<i>Amount shown in the Estimates \$'000</i>	<i>Initial amount of provision on account \$'000</i>
143	Government Secretariat : Civil Service Bureau	205,344	46,644
152	Government Secretariat : Commerce, Industry and Technology Bureau (Commerce and Industry Branch) ...	165,601	72,526
55	Government Secretariat : Commerce, Industry and Technology Bureau (Information Technology and Broadcasting Branch).....	149,085	31,511
144	Government Secretariat : Constitutional Affairs Bureau	37,404	7,958
145	Government Secretariat : Economic Development and Labour Bureau (Economic Development Branch) ...	120,042	34,706
157	Government Secretariat : Economic Development and Labour Bureau (Labour Branch).....	34,348	6,870
156	Government Secretariat : Education and Manpower Bureau	32,924,895	7,238,743
158	Government Secretariat : Environment, Transport and Works Bureau (Environment and Transport Branch)	97,637	21,192
159	Government Secretariat : Environment, Transport and Works Bureau (Works Branch)	232,545	49,739
148	Government Secretariat : Financial Services and the Treasury Bureau (Financial Services Branch)	159,411	44,599
147	Government Secretariat : Financial Services and the Treasury Bureau (The Treasury Branch)	122,059	24,412

<i>Head of Expenditure</i>	<i>Amount shown in the Estimates \$'000</i>	<i>Initial amount of provision on account \$'000</i>
149 Government Secretariat : Health, Welfare and Food Bureau	160,576	49,465
53 Government Secretariat : Home Affairs Bureau	209,957	48,462
96 Government Secretariat : Hong Kong Economic and Trade Offices	270,917	56,737
138 Government Secretariat : Housing, Planning and Lands Bureau (Planning and Lands Branch)	85,358	19,008
155 Government Secretariat : Innovation and Technology Commission.....	156,574	48,133
142 Government Secretariat : Offices of the Chief Secretary for Administration and the Financial Secretary.....	436,191	114,511
151 Government Secretariat : Security Bureau	135,344	29,677
58 Government Supplies Department	178,828	36,612
60 Highways Department.....	2,005,099	404,825
63 Home Affairs Department.....	1,362,282	315,490
168 Hong Kong Observatory	223,296	45,108
122 Hong Kong Police Force	12,189,767	2,563,647
62 Housing Department	378,010	75,602
70 Immigration Department.....	2,304,683	466,083
72 Independent Commission Against Corruption.....	708,162	143,063
121 Independent Police Complaints Council	14,009	3,242
74 Information Services Department	402,424	88,085
47 Information Technology Services Department.....	578,809	118,685
76 Inland Revenue Department.....	1,305,710	262,150
78 Intellectual Property Department.....	126,542	69,822
79 Invest Hong Kong	67,410	30,282

<i>Head of Expenditure</i>	<i>Amount shown in the Estimates \$'000</i>	<i>Initial amount of provision on account \$'000</i>
174 Joint Secretariat for the Advisory Bodies on Civil Service and Judicial Salaries and Conditions of Service	18,378	3,676
80 Judiciary	1,031,281	223,497
90 Labour Department	1,091,606	375,056
91 Lands Department	1,601,782	337,538
94 Legal Aid Department	826,945	165,389
112 Legislative Council Commission	376,389	81,418
95 Leisure and Cultural Services Department	5,285,678	1,148,011
100 Marine Department	990,212	221,197
106 Miscellaneous Services	4,666,100	3,817,023
114 Office of The Ombudsman	93,861	19,166
115 Official Languages Agency	122,760	24,552
116 Official Receiver's Office	139,468	32,244
120 Pensions	14,806,044	3,003,146
118 Planning Department	465,958	108,907
130 Printing Department	228,459	45,692
136 Public Service Commission	17,963	3,593
160 Radio Television Hong Kong	496,031	112,915
162 Rating and Valuation Department	406,135	81,227
163 Registration and Electoral Office	204,395	40,879
170 Social Welfare Department	32,868,899	7,730,281
173 Student Financial Assistance Agency	3,810,654	1,571,211
176 Subventions : Miscellaneous	268,416	72,970
177 Subventions : Non-Departmental Public Bodies	33,956,787	7,298,817
180 Television and Entertainment Licensing Authority	117,402	38,335
110 Territory Development Department	223,194	44,639
181 Trade and Industry Department	755,137	507,465
186 Transport Department	959,191	226,595
188 Treasury	343,903	71,368

<i>Head of Expenditure</i>	<i>Amount shown in the Estimates \$'000</i>	<i>Initial amount of provision on account \$'000</i>
190 University Grants Committee	13,152,349	2,681,056
194 Water Supplies Department	5,374,527	1,083,707
	216,454,734	51,677,186
184 Transfers to Funds	63,014,000	63,014,000
Total	279,468,734	114,691,186
	=====	=====

The Secretary for Financial Services and the Treasury moved the following motion:

"That -

1. Authority is hereby given for a sum not exceeding \$114,691,186,000 to be charged on the general revenue for expenditure on the services of the Government in respect of the financial year commencing on 1 April 2003.
2. Subject to this Resolution, the sum so charged may be expended against the heads of expenditure as shown in the Estimates of Expenditure 2003-04 laid before the Legislative Council on 5 March 2003 or, where the Estimates are changed under the provisions of the Public Finance Ordinance (Cap. 2) as applied by section 7(2) of that Ordinance, as shown in the Estimates as so changed.
3. Expenditure in respect of any head of expenditure shall not exceed the aggregate of the amounts authorized by paragraph 4 to be expended in respect of the subheads in that head of expenditure.
4. Expenditure in respect of each subhead in a head of expenditure shall not exceed -

- (a) in the case of a Recurrent Account subhead of expenditure, an amount equivalent to -
- (i) except where the subhead is listed in the Schedule to this Resolution, 20% of the provision shown in the Estimates in respect of that subhead;
 - (ii) where the subhead is listed in the Schedule to this Resolution, the percentage of the provision shown in the Estimates in respect of that subhead that is specified in the Schedule in relation to that subhead; and
- (b) in the case of a Capital Account subhead of expenditure, an amount equivalent to 100% of the provision shown in the Estimates in respect of that subhead,

or such other amount, not exceeding an amount equivalent to 100% of the provision shown in the Estimates in respect of that subhead, as may in any case be approved by the Financial Secretary.

SCHEDULE

[para. 4]

<i>Head of Expenditure</i>		<i>Subhead</i>	<i>Percentage of provision shown in Estimates</i>
28	Civil Aviation Department	170 Airport insurance	100
46	General Expenses of the Civil Service	013 Personal allowances	40
90	Labour Department	280 Contribution to the Occupational Safety and Health Council	30
		295 Contribution to the Occupational Deafness Compensation Board	30

<i>Head of Expenditure</i>		<i>Subhead</i>	<i>Percentage of provision shown in Estimates</i>
92 Department of Justice	234	Court costs	30
106 Miscellaneous Services	163	Write-offs	50
	192	Refunds of revenue	100
120 Pensions	021	Ex gratia pensions, awards, allowances and increases	50
	026	Employees' compensation, injury, incapacity and death related payments and expenses	50
170 Social Welfare Department	176	Criminal and law enforcement injuries compensation	30
	177	Emergency relief	100
	179	Comprehensive social security assistance scheme	25
	180	Social security allowance scheme	25
	187	Agents' commission and expenses	100
176 Subventions : Miscellaneous	414	Environmental Advisory Service	25
	420	Asian and Pacific Development Centre	100
	437	Hong Kong - Japan Business Co-operation Committee	25

<i>Head of Expenditure</i>	<i>Subhead</i>	<i>Percentage of provision shown in Estimates</i>
	446 Duty Lawyer Service	25
	451 Hong Kong Life Saving Society	25
	475 Outward Bound Trust of Hong Kong	25
	503 Subventions to non-government organization camps	26
	521 Skills centres	25
	527 Open University of Hong Kong	25
	528 Guardianship Board	25
177 Subventions : Non-Departmental Public Bodies	520 Vocational Training Council	25
	526 Legal Aid Services Council	25
	537 Employees Retraining Board	25
188 Treasury	187 Agents' commission and expenses	79"

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Financial Services and the Treasury be passed.

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

(No Member indicated a wish to speak)

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.

PRESIDENT (in Cantonese): Proposed resolution under the Dutiable Commodities Ordinance to amend Schedule 1.

PROPOSED RESOLUTION UNDER THE DUTIABLE COMMODITIES ORDINANCE

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I move that the second motion under my name, as printed on the Agenda, be passed to extend the existing concessionary duty rate on ultra low sulphur diesel (ULSD) of \$1.11 per litre for another year, that is, from 1 April 2003 to 31 March 2004.

In view of the recent increases in oil prices and the operating difficulties of the transportation industry, the Financial Secretary announced in his Budget speech on 5 March that the Government had proposed to extend the duty concession for ULSD for another year. The resolution moved by me today is to implement the Financial Secretary's proposal.

In the past four years or so, the Government has provided a series of concessions for motor diesel or ULSD. In June 1998, we reduced the duty rate on regular diesel from \$2.89 to \$2 per litre as a temporary measure in the light of the economic climate at that time. Later, in July 2000, ULSD was introduced at a concessionary rate of \$1.11 per litre on environmental grounds. The duty rate

was to be adjusted to \$2 per litre on 1 January 2001 and was to revert to \$2.89 per litre on 1 January 2002. In order to relieve the operating pressure on the transportation industry, the Government, however, proposed to the Legislative Council in December 2000, June 2001 and March 2002 to postpone the reversion of the duty rate on each occasion. According to the latest approved resolution, the duty rate is scheduled to revert to \$2.89 per litre on 1 April 2003. The above relief measures have so far cost government revenue a total of \$4.6 billion.

As regular motor diesel has been completely replaced by ULSD at petrol filling stations in the territory, it is not necessary for us to consider encouraging the use of ULSD by maintaining the concessionary duty rate from the environmental point of view. The Government's current proposal is a special measure to relieve the operating difficulties of the transportation industry in the light of the current movements in oil prices. We propose that the duty concession for ULSD ceases on the expiry of the latest concessionary period on 31 March 2004, when the duty rate will revert to \$2.89 per litre. This special concession will cost \$1 billion in 2003-04.

Madam President, I hope Members will support the resolution.

The Secretary for Financial Services and the Treasury moved the following motion:

"That Schedule 1 to the Dutiable Commodities Ordinance be amended in paragraph 1A of Part III:

- (a) in subparagraph (a), by repealing "2003" and substituting "2004";
- (b) in subparagraph (b), by repealing "2003" and substituting "2004";"

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Financial Services and the Treasury be passed.

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

MS MIRIAM LAU (in Cantonese): Madam President, on behalf of the transportation and the logistics industries, I welcome the Government's extension of the existing concessionary duty rate on ULSD of \$1.11 per litre for another year. I have to thank the Government for its appreciation of the plight of the sectors. However, I hope the Government will review the duty rate on diesel to examine if there is room for duty rate concession, or a new duty rate can be determined, or if the duty can be abolished. In fact, I have raised this request several times in the past, but the Government just evaded giving me an answer on each occasion.

Actually, if the Government just extend the period of concession for diesel duty year by year, there is still a chance that the duty may be reverted to the level of \$2.89 per litre one day. Like a "knife", this chance is posing a threat to the transportation industry, making them worry all the year round. They do not know when the Government will refrain from being sympathetic to the industry, and when it will not take the initiative to extend the concession. If that happens, the pump price of diesel will surge suddenly, and so will the operating cost of the industry. The transportation industry will all at once find no room for survival.

The sectors understand that the Government is facing an enormous fiscal deficit, and the extension of the existing concession will cost government revenue of \$800 million to \$1 billion. Though the extension will reduce government revenue, this will be a tremendous help to the transportation industry and the logistics industry. As fuel costs represent a large proportion of the operating cost of the transportation industry, a lower fuel cost will enhance the competitiveness of our logistics industry. If the logistics industry can prosper in the territory, so will Hong Kong. The benefit so generated must exceed \$800 million to \$1 billion. Therefore, if the Government is bent on fostering the growth of the logistics industry, it should start by granting a concession on diesel duty.

In the light of the current economic climate, together with the threat of the likely outbreak of war between the United States and Iraq, which may probably be tomorrow morning, Hong Kong economy will take a long time to revive. The transportation industry will still encounter operation difficulties in the coming days and take a long time to recover. Other than extending the concession year by year, the Government should instead grant a concession on diesel duty or determine anew the duty rate of diesel at a reasonable level. This is the quest of the transportation industry. By doing so, the Government will

show the industry that stability of duty rate will be maintained, thus allowing them to invest and work with assurance. Above all, this will convey a positive message that the Government is devoted to the development of the logistics industry, bringing new impetus to the revival of the economy and boosting the confidence of the public.

Madam President, I so submit.

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

DR TANG SIU-TONG (in Cantonese): Madam President, on behalf of the Hong Kong Progressive Alliance, I support the Government's extension of the concessionary duty rate on ULSD for another year. The transportation industry hard hit by the recent economic doldrums in Hong Kong has already found their vitality enormously reduced. And the pressure of a rise in fuel prices posed by tensions in the Middle East adds a burden on them. Duty concession granted by the Government is an essential measure of relief to the transportation industry and the public. Any rise in transportation cost will impede the development of the logistics industry, as well as other socio-economic activities.

Certainly, the Government must guarantee that savings from the duty concession will go entirely to consumers rather than being "pocketed" by oil companies. I think oil companies as commercial organizations have the right to adjust oil prices in accordance with market demand. However, oil companies are also regarded as quasi-public utilities. The Government, thus, has the responsibility to urge oil companies to increase the transparency of their pricing policy, including the frequent provision of clear information that is easy to understand to consumers, the Legislative Council and the Government. With such information, the public can monitor oil companies effectively, checking them against any manipulation of oil prices and improper practice to make exorbitant profits. The Government should, in particular, urge oil companies not to use the Middle East conflicts as an excuse for raising oil prices. The root and branch solution to the problem is for the Government to speed up the pace of introducing competition, using market force to oblige oil companies to set oil prices at reasonable levels.

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

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

(No Member responded)

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I would like to thank Ms Miriam LAU and Dr TANG Siu-tong for the views they have expressed. I wish to make a brief response here. In fact, when the Government compiled the Budget, it had fully considered how the duty rates for each type of fuel should be adjusted and the duration for each type of these adjusted duty rates should remain in force. The duty on motor diesel has always been an important and steady source of revenue for the Government and it is used to help the Government pay for the expenses in providing various public services. If the existing concessionary duty rate on ULSD is maintained over a long period of time or if the duty rate for it is lowered, then this would further add to the financial burden of the Government. Therefore, the Government can only propose that the existing concessionary duty rate on ULSD be extended for one year.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Financial Services and the Treasury 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 Members who are present. I declare the motion passed.

PRESIDENT (in Cantonese): Proposed resolution under the Motor Vehicles (First Registration Tax) Ordinance.

PROPOSED RESOLUTION UNDER THE MOTOR VEHICLES (FIRST REGISTRATION TAX) ORDINANCE

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I move that the third motion under my name, as printed on the Agenda, be passed to extend the existing exemptions for electric vehicles from first registration tax for three further years, that is, from 1 April 2003 to 31 March 2006.

The Financial Secretary announced in his Budget speech on 5 March that in order to continue promoting the use of electric vehicles, the Government had proposed to extend the exemptions for these vehicles from first registration tax for a further three years. The resolution moved by me today is to implement the Financial Secretary's proposal.

The Government first granted the exemption in 1994-95 and extended it in 1997-98 and again in 2000-01. To continue encouraging the use and development of these environmentally-friendly vehicles, we propose to extend the first registration tax exemption for another three years to 31 March 2006. This concession is estimated to reduce government revenue by \$400,000 in a full year.

Madam President, I hope Members will support the motion of the Government.

The Secretary for Financial Services and the Treasury moved the following motion:

"That the Resolution made and passed by the Legislative Council on 14 May 1997 and published in the Gazette as Legal Notice No. 237 of 1997, as amended by section 3 of the Revenue (No. 2) Ordinance 2000 (27 of 2000), be amended by repealing "2003" and substituting "2006"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Financial Services and the Treasury be passed.

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

DR LAW CHI-KWONG (in Cantonese): Madam President, on behalf of the Democratic Party, I rise to speak in support of the motion. I only wish to add one point for the consideration of the Government. Electric vehicles are certainly conducive to environmental protection, but the fact is that besides electrical vehicles, that is, rechargeable electrical vehicles, there is another alternative in the market — the hybrid vehicle. The vehicle used by one of the Secretaries in fact belongs to this type. Some members of the community are of the view that even though the Government is not prepared to offer a 100% tax exemption, it should still consider a 50% tax exemption, because these vehicles are hybrid — using both electricity and petrol. That is why a tax exemption should be offered for the non-petrol part.

Actually, in view of the choices offered by modern technological advances, the Government should consider the granting of tax concessions to encourage the use of alternative forms of power. In Japan and Canada, for example, some people are using vehicles powered by the hydrogen produced by the internal combustion engine. These vehicles are very environmentally-friendly, and the theory of using hydrogen is quite similar to the use of rechargeable batteries. Therefore, I hope that the Government can continue to consider tax concessions in this respect. Thank you, Madam President.

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

(No Member responded)

PRESIDENT (in Cantonese): Secretary for Financial Services and the Treasury, do you wish to give a reply?

(The Secretary for Financial Services and the Treasury indicated that he did not wish to reply)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Financial Services and the Treasury 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 motion is agreed by a majority of the Members present. I declare the motion passed.

MEMBERS' BILL

Second Reading of Members' Bill

Resumption of Second Reading Debate on Members' Bill

PRESIDENT (in Cantonese): Member's Bill. We will resume the Second Reading debate on the Dao Heng Bank Limited (Merger) Bill.

DAO HENG BANK LIMITED (MERGER) BILL

Resumption of debate on Second Reading which was moved on 26 February 2003

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

(No Member indicated a wish to speak)

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, the Government welcomes the Dao Heng Bank Limited (Merger) Bill introduced by Dr David LI. Our policy is to support the

consolidation of the banking industry in Hong Kong in order to enhance the competitiveness of the industry, strengthen the systematic stability and enhance protection for depositors. We believe that the merger case under the Bill is consistent with our policy, and is conducive to maintaining Hong Kong as an international financial centre. Thank you, Madam President.

DR DAVID LI: Madam President, I should like to thank all Members of the Legislative Council for their assistance and time with regard to this Bill.

The management of Dao Heng Bank Limited and the parent company, the Development Bank of Singapore Limited, have requested that I should also express their gratitude to this Council for its assistance.

The purpose of this 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 this 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. I will move an amendment at the Committee stage to introduce the revised names.

Once again, I should like to restate my gratitude, and that of the institutions concerned, for Members' support of this Bill. I am confident that this merger will enhance Hong Kong's role as an international financial centre, and contribute to the strength and vitality of our city.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Dao Heng Bank Limited (Merger) Bill 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 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.

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

Council went into Committee.

Committee Stage

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

DAO HENG BANK LIMITED (MERGER) BILL

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Dao Heng Bank Limited (Merger) Bill.

CLERK (in Cantonese): Clauses 1, 2, 3 and 5 to 19.

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 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.

CLERK (in Cantonese): Clause 4.

DR DAVID LI: Madam Chairman, I move an amendment to clause 4, as set out in the paper distributed to Members. This amendment is necessary to bring the post-merger names of the transferring banks into compliance with relevant policy guidelines of the Companies Registry. The amendment has been agreed by the institutions concerned.

Proposed amendment

Clause 4 (see Annex II)

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

(No Member responded)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendment moved by Dr David LI 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 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.

CLERK (in Cantonese): Clause 4 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 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.

CLERK (in Cantonese): Preamble.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That this be the preamble to the Bill. 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 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.

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Members' Bill

PRESIDENT (in Cantonese): Members' Bill: Third Reading.

DAO HENG BANK LIMITED (MERGER) BILL

DR DAVID LI: Madam President, the

Dao Heng Bank Limited (Merger) Bill

has passed through Committee with an amendment. 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 Dao Heng Bank Limited (Merger) Bill 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 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.

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

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Proposed resolution under the Interpretation and General Clauses Ordinance to extend the period for amending the Electoral Affairs Commission (Registration of Electors) (Village Representative Election) Regulation and the Village Representative Election (Registration of Electors) (Appeals) Regulation.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MR ANDREW WONG (in Cantonese): Madam President, I move that the motion, as printed under my name on the Agenda, be passed.

At the meeting of the Subcommittee on subsidiary legislation relating to Village Representative elections held on 3 March 2003, it was agreed that I should move a motion as Chairman of the Subcommittee to extend the scrutiny period of the Electoral Affairs Commission (Registration of Electors) (Village Representative Election) Regulation, laid on the table of the Legislative Council on 19 February, and the Village Representative Election (Registration of Electors) (Appeals) Regulation, laid on the table of the Legislative Council on 26 February 2003, to 9 April 2003 and 30 April 2003 respectively, so as to allow more time for members to scrutinize the Regulations and report to the House Committee on our progress and conclusions.

Madam President, I urge Members to support the motion.

Mr Andrew WONG moved the following motion:

"That in relation to the -

- (a) Electoral Affairs Commission (Registration of Electors) (Village Representative Election) Regulation, published in the Gazette as Legal Notice No. 47 of 2003 and laid on the table of the Legislative Council on 19 February 2003, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the meeting of 9 April 2003; and
- (b) Village Representative Election (Registration of Electors) (Appeals) Regulation, published in the Gazette as Legal Notice No. 49 of 2003 and laid on the table of the Legislative Council on 26 February 2003, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the meeting of 30 April 2003."

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

PRESIDENT (in Cantonese): 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.

PRESIDENT (in Cantonese): Two motions with no legislative effect. It is now five minutes to nine o'clock. I do not think that the Council can conclude these two motion debates before midnight. Therefore, at about ten o'clock, I shall adjourn the meeting until 2.30 pm tomorrow.

I have accepted the recommendations of the House Committee on the time limits for Members' speeches. Since Members are very familiar with the time limits, I shall not repeat them here. I only wish to remind Members that I am obliged to direct any Member speaking in excess of the specified time to discontinue.

First motion: Opposing war.

OPPOSING WAR

MR CHAN KWOK-KEUNG (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

MR CHAN KWOK-KEUNG: Madam President, I would like to make this address to the people and the President of the United States. We, as members of the Democratic Alliance for Betterment of Hong Kong and the Hong Kong Federation of Trade Unions, believe that war is not an answer to conflicts. And we also believe that we should use persuasion and diplomacy to prevent war. Lives are precious, be they Americans or Iraqis. Once the war happens, a potential destabilization of the Middle East would occur. Also, the war will put thousands of people to harm, not only the soldiers, but also the innocent civilians. Here we urge President BUSH and the Congress to reconsider the impact of the war with moral courage and say "no" to it. The war in Iraq is not inevitable and we believe that there are other alternatives.

MR CHAN KWOK-KEUNG (in Cantonese): My motion on opposing war today hopes to let the whole world know that we the Chinese people all love peace and hate war and we oppose any ruler who disregard the value of the lives of his people.

As the ancient saying goes: A single general achieves fame on the rotting bones of ten thousand. The heartrending scene of a battleground is described in many an elegy: Under the dim glow of the slanting sun, winds bellow mournfully over broken and withered grasses, with languishing war victims covering the land as far as the eye can dwell. How many people will have to die in the wilderness trodden by war? How many families will be torn asunder? Throughout the course of history, very few people who actually wage wars have died at the front line. The head of state gives the order, and hundreds and thousands of soldiers have to risk their lives, with the gun barrel as their only protection. Bullets are fired, ruining their future and eventually ending their lives.

Over the past month or so, hundreds and thousands of people from different countries all over the world have taken to the streets to protest against the Anglo-American attack on Iraq. People do not wish to see any outbreak of war because they believe that bloodshed is no solution to conflicts, and violence as an answer to violence will only result in wanton military ventures, inflicting harm not only on soldiers but also Iraqi civilians. It is estimated that in the Gulf War of 1991, the United States caused at least 35 000 civilian deaths, not to speak of military casualties. It can therefore be imagined that the outbreak of war this time around will lead to yet more adverse consequences. I fail to see any reason for going to war this time except the desire of individual countries for entrenched influence.

Officials of the United States Central Command have reportedly disclosed that after President George W. BUSH has ordered the taking of military actions against Iraq, the bomb tonnage dropped on the country by United States forces during the first few days will be 10 times the tonnage in the initial phase of the Gulf War in 1991. There will be massive air raids, coupled with swift attacks on the ground, all aimed at neutralizing the Iraqi forces. It is believed that once the United States goes to war, the casualties suffered by Iraq will far exceed what it sustained in the Gulf War!

Under the United Nations Charter, a member state may exercise the right of self-defence only when it comes under military attacks. In addition, member states must resort to "peaceful settlement" of disputes as far as possible. On this premise, the United Nations does not recognize any "pre-emptive" reasons for waging a war. Even Jimmy CARTER, a former United States President and Nobel Peace Laureate, has written an article in the *New York Times*, condemning

the BUSH Administration for unilaterally attacking Iraq. According to CARTER, the military actions of the United States are not consistent with the principle of a just war, and American efforts to tie Iraq to the September 11 terrorist attacks have been unconvincing. All of us can still vividly remember the September 11 incident, and the whole world abhors terrorists. But the rash deployment of armed forces by the United States will bring harm to the Iraqis and cause deaths among this people. So what difference will the grave consequences so caused bear from the September 11 attacks?

Before the United Nations Security Council voted on the resolution of the United Kingdom and the United States, the latter resorted to "intimidation" and went so far as to say that it would bypass the Security Council and launch military attacks after the deadline of 17th of this month, looking as if it thought that no one could do anything against it. Among the five permanent members of the Security Council, China, France and Russia insist on the adoption of peaceful means to resolve the Iraq issue. French President CHIRAC remarked, "Every possible effort must be made to avoid war even when there is only a very, very slim hope of success." CHIRAC's remark speaks the minds of billions in the whole world.

We can thus see that most member states of the United Nations are against the war. Big powers are very clear in their opposition, and even other countries have demonstrated a reluctance to co-operate with the United Kingdom and the United States. For example, Pakistan and Mexico, two non-permanent members of the Security Council, have requested to defer the vote on the resolution moved by the United Kingdom and the United States. They have even proposed to defer the vote to 17 April, exactly a month later than the 17 March deadline set down by the United States. Sensing the growing opposition to their resolution within the United Nations since last week, the United States has voluntarily proposed to defer the vote on it.

In fact, as pointed out by former United States President Jimmy CARTER, the anti-war sentiments prevailing among most countries and people in the world can show that there is no legality for this war campaign of Washington. The behaviour of the United States is unacceptable. On the one hand, while it accuses Iraq of possessing weapons of mass destruction in large numbers and of having links with terrorist organizations, it cannot provide any forceful evidence. On the other, while it also possesses weapons of mass destruction in large numbers, it has refused to sign many arms limitation treaties. Its justification

for waging this war is therefore questionable. Besides, Iraq has repeatedly said that it does not wish to go to war and is prepared to co-operate with the weapon inspectors. Therefore, within the United Nations, there are requests for giving Iraq more time to destroy its weapons.

However, the United States alone has sought to counter the world's opinions on waging war, and people thus suspect that there is actually a hidden agenda. Globally, military expenditure is constantly on the rise. Calculations based on the budgets of different countries in 2001 show that the military expenditure of the whole world was as much as US\$839 billion, or 2.6% of the combined Gross Domestic Product (GDP) of the whole world in the same period. In many poor countries, military expenditure has even been higher than that on health care and education. In Ethiopia, for example, its military expenditure in 1999 amounted to 9% of its total GDP, a percentage far higher than that on health care and education. During the period from 1997 to 2001, the total volume of arms trade in the whole world was as high as US\$100 billion. The five major arms exporting countries were the United States, Russia, France, the United Kingdom and Germany, in that order. So, the British and American insistence on waging war this time, their warlike tendency, really leads people to think that they are motivated by selfish purposes.

Besides, many commentators have pointed out that the real objective of the American invasion of Iraq is to gain control of oil in the Middle East, because Iraq is the second largest oil producing country. As pointed out by Mr LIAO Hong-xiang, Director of the Taiwan Peace Research Centre, Mesopotamia, or the so-called "Fertile Crescent", on which Iraq is situated, contains the cream of the entire Middle East, which is why the control of the area has become one of the United States' strategic goals. Following the establishment of a pro-American regime in Afghanistan, the United States is now planning to repeat it in Iraq. This will enable it to control both Central Asia and the Persian Gulf region, thus consolidating its hegemony in the world.

There are many upheavals in the world. People all long for peace. The economies of different countries will be affected by the war, and oil prices may also go up, thus affecting the various trades and industries. As shown by the findings of a survey conducted by the DAB, of the 500 or so respondents, 70% are worried that the war may do harm to the economy of Hong Kong, dealing a blow to the financial services, the aviation industry and the tourism industry. The war will also worsen the unemployment problem of Hong Kong.

Therefore, whether it is for the Iraq people's aspiration to peace or for our own good, we should oppose the war this time around.

I hope that Members can appreciate the suffering of war-ridden people. They live under the constant threat of gunfire, and they may die literally any time. War has displaced them, making them homeless and taking away their loved family members, their friends and many of the things which we in Hong Kong take for granted, such as peace, physical safety and food. Really, the world can be so different for different peoples, and so can be their fates. Human civilization can be destroyed overnight by the flames of war. It is inconceivable that in the new millennium, some countries are still resorting to violence as a means of resolving problems. Besides, we must not forget that Iraq and the Middle East have for years been suffering from poverty, and many voluntary agencies all over the world are engaging in humanitarian aid there. Once war breaks out, the humanitarian aid over the years will be wasted, and the suffering of the Third World people is bound to increase.

All the suffering masses are just like us. Everyone is born equal. We need not bother about the relationship between other peoples and their respective governments. But we need to consider the matter from the humanitarian perspective. War will not result in the establishment of a democratic political system, and not only this, it will only kill hundreds and thousands of civilians, rich and poor alike. Finally, I wish to say this to Honourable colleagues in the Legislative Council: If war cannot be avoided, we will only see "a Persian Gulf filled by dead bodies and a Babylon filled by blood".

Madam President, I so submit. I hope colleagues can support this motion on opposing war. Thank you.

Mr CHAN Kwok-keung moved the following motion: (Translation)

"That this Council opposes the taking of military actions by the United States against Iraq."

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

PRESIDENT (in Cantonese): Mr Albert HO will move an amendment to the motion. In view of the development of the situation, he requested me to allow

him to amend the wording of his amendment this morning, so that the Council can debate the motion and the amendment on the basis of the latest development. Owing to the unique nature of the motion and the developments I have decided to approve Mr Albert HO's request. The amendment as amended is printed on the paper submitted. The Council will now discuss the motion and the amended amendment in a joint debate.

I now call upon Mr Albert HO to speak and move this amendment.

MR ALBERT HO: Madam President, I move that the Honourable CHAN Kwok-keung's motion be amended, as printed on the Agenda.

When I rise to speak on the motion this evening with the hope that the war against Iraq will not happen, I know almost for certain that it is going to happen in a matter of hours. Yet, the voices of our Honourable Members in this Chamber are still meaningful as they do form part of the world public opinion calling for peace. While the unholy alliance of the United States and other countries is unilaterally moving towards a war against Iraq, blatantly defying international public opinion and ignoring the due process for resolving disputes under the United Nations regime, all those who are opposed to such an irresponsible move should stand together more firmly and resolutely than before, upholding the principles and values shared by all the nations in the civilized world. As *New York Times* once put it, "there may still be two superpowers on this planet: the United States and world public opinion." We have to show the world and particularly President BUSH that ultimately, the power of public opinion can be as powerful as that of tanks and missiles.

Madam President, I am opposed to this war, not because I am sympathetic with Saddam HUSSEIN and his regime. I am in no doubt that Saddam is a brutal tyrant and he may still be defying certain terms in Resolution 1441 passed by the United Nations Security Council. However, the United Nations' mandate to disarm Iraq by military intervention can and should only be invoked when there is clear and cogent evidence on a material breach of or non-compliance with the terms of Resolution 1441. But up to now, according to the report of the United Nations Weapons Inspectors, there is still no such evidence. The fact that Iraq has acceded to the request of the United Nations Weapons Inspectors by destroying over 40 banned Al-Samound missiles in the face of an imminent United States attack cannot be totally discounted. Whether or not

Saddam is still in possession of weapons of mass destruction can still be dealt with by persistent and vigorous examination of the United Nations Weapons Inspectors. As the French President Jacques CHIRAC said in an interview with *Time Magazine*, "I'm betting that we can get Iraq to co-operate more. If I'm wrong, there will still be time to draw other conclusions."

On the other hand, President George W. BUSH sought to assume the role of an international policeman by purporting to enforce Resolution 1441. President BUSH even put to the whole world that "the United Nations Security Council has not lived up to its responsibilities so we will rise to ours." As such, the United States now seeks to bypass the United Nations Security Council and resort to unilateral military action. That is totally absurd as most of the United Nations Security Council members have openly disapproved of such United States action and have painstakingly pointed out that Resolution 1441 by itself does not give the United States such mandate.

It follows that the war against Iraq is both legally and morally unjustified. As such, it is an unjust war. It is deplorable to see that the United States and other countries which were instrumental in the founding of the United Nations are now committing acts to destroy the very foundation of the United Nations, namely, the United Nations Charter's commitment to global co-operation to maintain peace and order of the world.

The United States President, in a further attempt to justify the war against Iraq, said that Saddam HUSSEIN "is a danger to his neighbors. He is a sponsor of terrorism. He is an obstacle to progress in the Middle East. For decades he has been the cruel, cruel oppressor of the Iraqi people." That may well be true, but still, that cannot justify a war. If the reasoning of BUSH is carried to its logical conclusion, the United States can similarly select to strike at a number of countries from South America to most parts in Asia in the name of liberating the oppressed from their oppressors. This kind of logic and reasoning is extremely dangerous and by itself constitutes a threat to world peace and security.

As a believer in the value of democracy and human rights, I share the same dream and the common commitment with many other believers who are promoting democracy and human rights in all countries in the world. However, this is not to be achieved by means of war and military intervention.

I do not believe that a noble end can justify unscrupulous means, nor can a just end be attained by unjust means. That is why I am totally unconvinced by

the argument that the war is justified because it will bring about a regime change in Iraq with the goal of freeing the Iraqi people. No matter how much I wish to see the Iraqi people freed from Saddam's tyranny, I am opposed to an invasion by the United States and the United Kingdom troops to achieve that goal.

Last Sunday when President BUSH said, "Tomorrow is a moment of truth for the world", my instant reflection was that it is in fact a moment of truth in testing the strength of democracy in the United States and the United Kingdom.

Whilst millions of people have taken to the streets throughout the world, at least 42 cities in the United States have passed resolutions in City Councils to say "no" to their President's call for war. There are also prominent politicians and former politicians who have spoken out against the war, including ex-United States Presidents Bill CLINTON and Jimmy CARTER. Mr Robin COOK, former Foreign Secretary and leader of the House of Commons, resigned from Tony BLAIR's Cabinet in protest against the United Kingdom's participation in the war, and his resignation was followed by two other ministers of the Labour Government of the United Kingdom. Mr COOK said forcefully in his speech yesterday that "the threshold for war should be very high" and that "there is no urgent and compelling humanitarian crisis that calls for immediate military intervention in Iraq".

Do all these make sense to President BUSH and Prime Minister BLAIR? I do not understand why they "have eyes but cannot see, and have ears but cannot hear".

At this critical moment in the history of mankind, I am anticipating with anxiety and sadness that thousands of civilians will be killed by bombs and missiles in the coming days. I am also deeply concerned that the strength of the ideal of democracy will be severely undermined and the international co-operation to maintain global peace will be shaken to its foundation by the irrational and irresponsible decision to wage war against Iraq at this point of time.

MR ALBERT HO (in Cantonese): Madam President, our country is one of the five permanent members of the United Nations Security Council and the only one of its kind from Asia. A permanent member enjoys the power of veto. Such is an important task the other member states entrust to permanent members, in

the hope that the latter will exercise this significant power at critical moments to maintain the peace and stability of the world.

The Democratic Party supports our State's opposition to the waging of war by the United Kingdom and the United States against Iraq. But it is also hoped that the State can play the leadership role of a permanent member, exert the influence of a major power and exercise the right to convene an urgent meeting to prevent the outbreak of such an unjust war.

It does not matter so much whether the motion and the amendment can achieve any result, and whether the urgent meeting convened by our State can be of any use. The most important point is that we and our State have done our utmost to work for the cause of peace even at the last minute, leaving our call for morality in the records of history.

With these remarks, I support the motion and amendment.

Mr Albert HO moved the following amendment: (Translation)

"To delete "taking of military actions" after "That this Council opposes the" and substitute with "waging of war on Iraq"; and to delete "against Iraq" after "by the United States" and substitute with "of America and other countries without the consent of and authorization from the United Nations Security Council, and urges our country to ask the United Nations Security Council to convene an urgent meeting in order to stop the United States of America and other countries from waging war on Iraq"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment moved by Mr Albert HO to Mr CHAN Kwok-keung's motion be passed.

MR LAU CHIN-SHEK (in Cantonese): Madam President, I find it strange that no government officials are in attendance when we debate this motion. The governments of various countries and places will indicate their positions on an extremely urgent subject of opposing war. Today, we are not asking the SAR Government to separate itself from the Central Government and take actions on its own, but the Government has the responsibility of stating its position on a just

or unjust war. Let alone the fact that Mr Albert HO's amendment only asks the Beijing Government to convene an urgent meeting of the United Nations Security Council at which it should vote against the resolution by exercising its right of veto. In fact, the SAR Government has the responsibility of reflecting the opinions of this Council.

Madam President, the older generation and this generation of Chinese people have been tortured by war. Nowadays, Chinese people are still making unyielding efforts to demand the Japanese Government to admit responsibility for the aggressive war against China in the past and make compensations to the victims of war. Besides, we are always reminding ourselves about the resurrection of militarism.

As an organizer of labour and social movements, I have always firmly upheld the principle of peaceful and non-violent movements in the course of fighting for justice. As a Christian, I wish to share with Honourable colleagues our feelings about the war in the Middle East at present.

Madam President, as followers of Jesus Christ who teaches us to love one another, we can say that the war is wrong! In answer to the call of church leaders in the world, we can say that the war is wrong! In unity with Islamic brothers and sisters, we will say that the war is wrong! Together with people of goodwill in various parts of the world, we will also say that the war is wrong!

We know that God is kind, He embraces all people, countries and races without any exception. All of us are the children of God, every life is precious and every death is a tragedy.

Madam President, let the recent intranquility brings everyone closer not only because we have a lot of things in common, but also because we are facing an enormous challenge together.

Let us make efforts to build a bridge of mutual understanding between groups of different faith in the world.

Let us resist suspicion, fear and prejudice together.

Let us strive for a world of greater justice, peace and kindness.

When we pray to the Lord, let everyone of us bow and praise Him before His glory.

May He cleanse hearts made filthy by the cruelty of war.

May God look after His children in various places with His compassionate eye.

May He have mercy on us. Amen.

MR HOWARD YOUNG (in Cantonese): Madam President, I only wish to look at the issue of opposing war from the perspective of the sector that I represent. With the global economic downturn in recent years, various industries and trades have been struggling for survival. Fortunately, among the many industries in Hong Kong, the tourism industry can still attain a bit of growth. However, the prerequisite for the development of the tourism industry is a safe and peaceful environment, so any war and turmoil will have adverse effects on the tourism industry.

On the verge of the outbreak of a war between the United States and Iraq, a shadow is cast over the tourism industry of Hong Kong and a blow will be dealt to outbound and inbound tourism to a certain extent once the war breaks out.

Although the Hong Kong Tourism Board has recently announced a continuous increase in the number of visitors to Hong Kong and there was a 20% increase in the numbers of visitors to Hong Kong last year, it represents only an increase in the numbers of visitors but not their spending. In the face of the outbreak of war and the unstable situation, the confidence of foreign visitors in the future has been crippled and their desire for travel has naturally been dampened. Although Hong Kong is a very safe city, as the visitors to Hong Kong are mainly the nationals of countries participating in the war, for example, the United States and Britain and even Iraq, so in the interest of ensuring personal safety, these people will certainly reduce or even cancel travelling, no wonder only an 8.4% increase in the number of visitors to Hong Kong is anticipated this year, far less than that last year.

The war will also slow down the pace of global economic recovery and dampen the desire to make investments, economic and trade activities will slow down and fewer business visitors will make business trips abroad. It also puts a

burden on Hong Kong as an Asian financial centre. In February, the occupancy rate of hotels dropped 2% to 3%, mainly because there were fewer business visitors.

Although the war has not yet officially started, it has created quite a few unfavourable factors for outbound tourism in Hong Kong. The number of tourists to Europe and the United States have decreased and travel agencies dare not solicit clients for tours to Europe and the United States. Various travel agencies are taking a wait-and-see attitude and silently observing the developments, and they dare not rashly launch tours during the Easter holidays. All this evidently shows that the shadow of war and unstable situation have created hidden worries for outbound and inbound tourism.

The surge in oil prices with direct effects on the aviation industry is another problem caused by the war. After the financial turmoil, there has been a domino effect on the losses incurred by airlines and it has repeatedly been reported that airlines have run into financial crises, and two airlines in the United States with a long history have applied for bankruptcy protection as a result of long-standing losses. The oil prices will increase once a war breaks out between the United States and Iraq and they will even surge if the oilfields are destroyed, the operating costs will increase and there will be one disaster after another for the aviation industry.

Last month, 12 airlines in Hong Kong applied to the Civil Aviation Department for levying a fuel surcharge on visitors to subsidize the continuous increases in fuel charges. If it is only a war of short duration, it is estimated that the oil prices will only increase slightly and there may be relatively small effects on the aviation industry. Otherwise, a heavy blow will inevitably be dealt to the aviation industry and airlines will after all have to shift the additional costs onto travellers. They can only close down if they fail and that is their only alternative. Nevertheless, tourism, especially leisure tourism, is not a necessity and price is one of the major factors of consideration apart from safety. If airlines charge travellers fuel surcharges as a result of the increases in oil prices, the travellers will naturally be less willing to travel abroad. The tourism industry and the aviation industry will definitely be badly hit once again after the financial turmoil.

Oil prices account for approximately 20% of the operating costs of airlines, even though some airlines have recently indicated in their announcements of

performance that there was growth in profits, if we analyse them carefully, we will find that their profits are not more than 10% of their turnover. Oil prices have recently reached a 12-year peak, so if they rise continuously and the rate of increase exceeds 50%, airlines with the best performance in the industry will change from a profit situation to loss.

Moreover, enhanced security will increase the operating costs of airlines and seriously affect convenience to visitors. After the September 11 incident in the United States, various countries have raised their safety standards and airlines have to spend a lot of money on improving the safety facilities onboard aircraft for the prevention of terrorist attacks. The airlines in the United States are luckier than those in Hong Kong because they have government subsidies while the airlines in Hong Kong must pay out of their own pockets. It costs dozens of thousands of dollars to replace a cabin door. The increases in manpower and resources for stringent security checks on travellers bring about continuous increases in the operating costs of airlines. After the outbreak of the war, I believe various countries will impose stricter requirements on safety and the operating costs will increase even further. Since the relationship between the aviation industry and the tourism industry is as close as lips and teeth, the chain effects will deal heavy blows to the aviation industry and the tourism industry at the same time.

The unfavourable factors for the tourism industry mentioned above alone are sufficient to cause those in the tourism industry and I to oppose together the solution of the Iraq issue by war.

Madam President, I so submit.

DR RAYMOND HO (in Cantonese): Madam President, the relation between the United States and Iraq have become more and more tensed over the last few months and a war is on the verge of breaking out. Discussions in the international arena during the past few months have focused on whether the war is essential. In my opinion, it is an act of injustice for any country to use force against another for its own interests, and it is unacceptable for it to dispatch troops without authorization from the United Nations.

The United Nations is an international organization set up after the Second World War with the object of upholding world peace and resolving crises

through mediation. It is extremely ironic for a member state to bypass the United Nations and dispatch troops, taking no notice of the opposition raised by other member states. It implies that the United Nations has limited power and strong countries can act arbitrarily, place themselves above the United Nations and dispatch troops on their own. The United States is one of the significant member states of the United Nations and it calls itself the world police. There are national laws and family rules and even members of disciplined services have to observe discipline and rules. The United States as the world police and a member of the United Nations Security Council should observe the established rules of the game and can dispatch troops only after it has obtained the consent of and authorization from the United Nations, otherwise, it will knowingly violate the law and set a precedent that might is right.

Wars will plunge people into an abyss of misery and I believe this is the reason for people in many countries opposing war. A war will destroy infrastructure, incur losses of property and cause deaths or injuries, and if some people may survive the war, they will not necessarily have an easy time. The dropping of two atomic bombs by the United States onto Japan during the Second World War had far-reaching effects on the Japanese and the disastrous effects of the atomic explosion are still lingering today. Of course, the people of many countries victimized by wars will suffer hardships for a long time. If a war breaks out between the United States and Iraq and Iraq uses biochemical weapons, it will most probably have serious effects on the people of Iraq and the soldiers of the United States.

Besides causing deaths or injuries and property losses, a war will have certain effects on national economies. A heavy blow will certainly be dealt to the economy of the defeated country, but the winning country also has a price to pay. There have been a number of wars involving the United States over the last few years and the United States has to make considerable military expenditure during the wars and fund the reconstruction of the defeated countries after the wars. Although the state treasury of the United States has not been emptied by the wars in recent years, its economy has been affected in some measure. In fact, the United States economy in recent years is much worse than before and if it still insists on using force against Iraq, it may not do its economy any good in the long run. The United States is the trade partner of many countries in the world, so if its economy continues to go downhill, the economic situation of other countries will also be affected.

A war between the United States and Iraq will break out at any time, and China as a permanent member of the United Nations Security Council has clearly indicated its position that the war is not essential. If any country decides to wage war without authorization from the United Nations Security Council, all the other countries in the world should oppose together such an arbitrary decision to wage war without their support.

Wars are terrible and they will have serious effects on the people. I hope that all countries for the war will make a timely turn to avoid plunging people into an abyss of misery.

Madam President, I so submit.

MR CHAN KAM-LAM (in Cantonese): Madam President, the September 11 terrorist attacks still leap up vividly before our eyes today. The terrorist attacks have plunged innocent people into an abyss of misery and caused numerous losses of lives and property. Not only so, wars will also intensify the hostility among races and countries, further agonizing countries and people, and doing disastrous harm to the civilization of mankind.

Anti-terrorist activities were carried out on a global scale after the September 11 incident to eliminate the source of terrorist activities and maintaining perpetual world peace. It is a pity that the United States Government has always advocated power diplomacy in handling foreign affairs. Drawing strength from its strong military power, it intends to overpower everyone, thinking that those who submit will prosper and those who resist will perish. This is utterly wrong.

Why did the September 11 incident take place in the United States? Had the Americans conducted a review? Is any of the conflicts and racial disputes of varying scales in the international arena today not related to the United States? However, Americans always regard themselves as the international police and the United States dispatches troops to intervene in the internal affairs of other countries. Flaunting civil rights, democracy and human rights, it applies its standards to other countries, but it has actually planted the roots of trouble.

We oppose the United States' employment of military forces against Iraq because it is an unjust war waged by President George BUSH in the name of the people. Of course, it is important to uphold justice, but if justice is founded on

universal equality, then history has long proven that wars will fail to uphold justice. President George BUSH kept blaming Saddam HUSSEIN for threatening the world by means of chemical weapons, cruelly injuring or killing his people and indiscriminately killing the innocent, thus, he must root out Saddam HUSSEIN. Nevertheless, the accusation of the United States Government is groundless. Can 300 000 soldiers, thousands of warplanes, warships, tanks and missiles poised to kill bring justice to be seen to be done? Can force be arbitrarily used against other countries on the pretext of justice? In saying that he wishes to uphold peace by means of war, President George BUSH has simply resorted to sophistry and regarded other people as idiots. He has also said plausibly that he would take pre-emptive measures against whoever that threatens the United States. What is the logic? Does it mean that a highly developed capitalist and democratic country will certainly further develop into an aggressive imperialist state? After Iraq, which country will be the next target of attack?

We oppose war because very serious harm will be done to the common masses. We Chinese have a very profound understanding of that. During the Second World War, on the pretext of liberating Asian countries under colonial rule, Japanese imperialists waged a series of aggressive wars. The Nanjing massacre in which some 400 000 compatriots were killed sufficiently showed the helplessness of the ordinary masses in wars. However, the calamities that the chaos of war brought to the innocent cannot be avoided or reduced by the improvements in weapons. The Medecins Sans Frontieres has pointed out that, given the destruction of the infrastructure of Iraq during the 1991 war and the embargo imposed after the war, the Iraqi people have been living in difficulties and the mortality rate of children below five years of age rapidly increased three times within a year after the war. Evidently, wars have very serious effects on the helpless people.

We oppose the waging of war by the United States because it is an act of unilateralism by the United States. In our view, the disarming of Iraq of weapons of mass destruction can entirely be handled in political and peaceful ways. Some major countries in the United Nations Security Council including China, Russia and France think that the issue should be resolved within the framework of the United Nations. The 48-hour statement made by President George BUSH yesterday shows that he is going to invade the territory of another country, plainly ignoring the opposition of the United Nations. In fact, these are precisely the kind of gangster acts described by President George BUSH. We are very dissatisfied with the announcement made by the United States

yesterday that it would give up resolving the Iraq issue by peaceful or diplomatic means. The United States Government has acted wilfully, causing the international situation to become turbulent and unstable and even affecting quite a few countries on the verge of economic recovery.

We oppose war because the United States has acted arbitrarily, in serious violation of the United Nations Charter and injuring mutual trust and unity among countries. The unilateral waging of war by the United States will give rise to stronger anti-American and anti-war sentiments. A country that upholds hegemony and performs unjust acts will certainly reap what it has sown, which is an unchanging law in history.

In recent discussions among Honourable colleagues on the question of whether or not the United States would start the war, and nine out of 10 Members indicated that it would certainly start the war. I thought that it might not do so at that time because I believed the United States would definitely not risk universal condemnation. Nevertheless, now that the war is on the verge of breaking out, the United States is really acting irrationally, for which we feel very sorry indeed.

Mr Albert HO's amendment urges our country to ask the United Nations Security Council to convene an urgent meeting at which it would exercise its veto power to stop the war breaking out. Actually, Members should have learnt from the news on television that the United Nations Security Council has had meetings almost every day, urging the United States Government to act according to the United Nations Resolution 1441, that is, it cannot use force against Iraq without authorization from the United Nations. Therefore, it is not necessary to ask the United Nations Security Council to convene an urgent meeting.

Madam President, I so submit.

DR YEUNG SUM (in Cantonese): Madam President, Lord FRANKLIN who founded the United States said in 1783, "There never was a good war or bad peace." A war waged for whatever reason is not anything good. Britain and the United States intend to bypass the mechanism of the United Nations and unilaterally wage war on Iraq this time. While we hold this motion debate today, the United States has already stated very clearly that it will not present a

resolution to the United Nations seeking its authorization to start the war. It will not present a resolution simply because it adopts a "lose-hit, win-take" approach. An international law expert has pointed out that Resolution 1441 passed by the United Nations on 8 November 2002 has not given Britain and the United States a basis for unilateral attacks on Iraq and a war without authorization from the United Nations may be in violation of the United Nations Charter.

British Prime Minister Tony BLAIR thinks that the United Nations demanded Iraq to destroy weapons of mass destruction as early as 12 years ago, now that 12 years have passed, has Iraq not been given sufficient time and opportunities? United States President George BUSH frequently portrays Saddam HUSSEIN as the world's aggressor who possesses weapons of mass destruction, should he wait until Saddam HUSSEIN does the world greater harm before using force? However, the United Nations Charter has specified that all countries should resolve disputes peacefully, and pre-emptive wars are evidently not approved of. If pre-emptive wars are reasonable and lawful, can such wars be waged without authorization from the United Nations so long as there is suspicion that any country possesses weapons of mass destruction that threaten other countries?

In fact, I do not intend to conduct a theoretical probing into the legality of war. I only oppose the unilateral waging of war by Britain and the United States from the perspective that the mechanism of the United Nations should be respected. In the course of lobbying members of the United Nations Security Council to support authorizing the attack on Iraq, Britain and the United States found that they would not get nine votes in support and that France and Russia would exercise their rights of veto. Thus, they decided not to present a resolution to the United Nations and adopted a lose-hit, win-take approach. Britain and the United States protected themselves that way but, in bypassing the United Nations, they would set a very bad international precedent and resign the United Nations to a useless organization. The United States even indicated that Britain and the United States do not need a new resolution passed by the United Nations because the original resolution already provided sufficient grounds for an attack on Iraq and they also indicated that if there were nine votes in support of the resolution, they would have obtained the "ethical majority vote". It was certainly farfetched to say this, but even if only a very small number of United Nations members support them, Britain and the United States are still going to start the war unilaterally.

The Democratic Party thinks that intervention by the United Nations to stop the outbreak of war is essential. The day before yesterday, Mr Robin COOK, the Speaker of the House of Commons and former Foreign Minister of the United Kingdom, tendered his resignation to Prime Minister Tony BLAIR in protest of the British policy on Iraq. Actually, if the leader of a country does not have the people's mandate, a war will be unreasonable and illegal. The authoritative Gallup Poll in the United States has revealed that 78% of Americans support an attack on Iraq with authorization from the United Nations, but only 47% of them support a war without authorization from the United Nations. Evidently, even the nationals of the United States think that authorization from the United Nations is very important.

The attack of Iraq by Britain and the United States without authorization from the United Nations makes people worry that, under the new order of the world, emphasis will be put on might, the United Nations will be bypassed and unilateralism will rise. The United Nations was established after the Second World War and it is still the system and foundation for maintenance of world peace today. We are unwilling to see the destruction in a moment of the mutual trust actively established by the countries then and the dedicated efforts made to maintain world peace.

Our country has a distinctive position of opposing war, but the Democratic Party also hopes that, on the verge of the outbreak of a war, our country can ask the United Nations Security Council to convene an urgent meeting to oppose the waging of war on Iraq by the United States and other countries without authorization. The Democratic Party is most concerned about this point, but as Mr Albert HO has already discussed that in detail in his speech, I am not going to repeat what he has said.

Madam President, the Democratic Party will support the original motion and Mr Albert HO's amendment.

MR LAU PING-CHEUNG (in Cantonese): Madam President, in the international community today, any country that wages war on another sovereign state without authorization from the United Nations violates the United Nations Charter and its action should meet with opposition. Therefore, I support Mr CHAN Kwok-keung's motion.

In the morning of Tuesday, Hong Kong time, United States President George BUSH issued a 48-hour ultimatum to Iraqi President Saddam HUSSEIN and the situation took a sudden turn for worse. On the one hand, it has become impossible to continue to resolve the issue of Iraq peacefully within the framework of the United Nations, and on the other, Saddam HUSSEIN's clear indication that he will not leave the country has caused a war to break out at any moment. In the light of the rapid development of the situation, Britain and the United States have clearly indicated that they will not seek an authorization by the United Nations under its resolution, hence, the revised amendment of Mr Albert HO is extremely meaningful and timely.

On the surface, the object of the war is to punish the leader and comfort the people, and it is an extension of the Gulf War in 1991. The Gulf War that ended more than 12 years ago is suddenly being rekindled again, which really makes the whole world suspicious. There are extensive media reports that Britain and the United States want to remove Saddam HUSSEIN and control the major oil producing country in the Middle East. Therefore, the crude oil prices worldwide dropped rapidly after President George BUSH had issued the ultimatum and the market seemed to anticipate substantial increases in production by Britain and the United States after they have assumed control over Iraq to meet the demands in Britain and the United States. There are even media reports that some multinational oil companies in Britain and the United States have started lobbying behind the scene about the redevelopment of the oilfields in Iraq after the war and the distribution of benefits, so it has become more conspicuous that the war is unjust.

Madam President, on the surface, this war to be waged by Britain and the United States is a fight between a lion and a rabbit, and the lion will surely be victorious. However, I wish to say that the waging of war by Britain and the United States bypassing the framework of the United Nations will change the mode of war. In other words, countries with strong military power will declare war on other countries as they desire and for their own interests. Weak countries and even organizations that are not countries yet will strike back and carry out "terrorist activities" as described by Western countries. It may be easy to wage war on a country, but it is definitely not easy to encircle and suppress a terrorist organization that has no fixed place of operation. The revenge and retaliation by weak countries will only create terror and turbulence all over the world and deal a blow to the economic situation.

Since ancient times, there have never been civilized wars and even countries that called themselves democratic countries have used biochemical weapons in wars more often than not. The use of Agent Orange by the United States during the Vietnam War caused many Vietnamese to suffer from various diseases of aberration. Biochemical weapons were used during the Gulf War in 1991, but which of the parties to the war had used such weapons still remains unknown.

Madam President, this generation of Hong Kong people may not understand the pains of war. I wish to cite the widely read article, *Battlefield Condolence* (弔古戰場文), by the writer LI Hua during the Tang Dynasty to let Members experience the feeling. As depicted by LI Hua, in the bitter cold winter, the snow covered the knees of the soldiers and the ice framed their beards. Ferocious birds hid in their nests and the war horses were so cold that they could hardly stand. Even the armour suits of soldiers could not keep them warm, the fingers of soldiers fell off and their skin cracked in the cold weather. The extremely cold weather gave non-Han soldiers a chance to slaughter the Han people. The non-Han soldiers attacked the cold and hungry soldiers, the captain surrendered at the end and the soldiers fought until they died. There were dead bodies and blood everywhere and people, rich and poor, turned into skeletons. (A paraphrase of the original Chinese text of "至若窮陰凝閉，凜冽海隅。積雪沒脛，堅冰在鬚。鷲鳥休巢，征馬踟躕。繒纊無溫，墮指裂膚。當此苦寒，天假強胡。憑陵殺氣，以相剪屠。徑截輜重，橫攻士卒。都尉新降，將軍復沒。屍填巨港之岸，血滿長城之窟。無貴無賤，同為枯骨，可勝言哉？"). The last sentence, that is, "there were dead bodies and blood everywhere and people, rich and poor, turned into skeletons" is worth particular attention. Applying the above description to the present situation in the Middle East, a war between the strongest military powers such as countries like Britain and Iraq that cannot withstand a single blow would plunge people into an abyss of misery. The victory of the strong at the moment does not mean that they can enjoy long-term peace and comfort. There may be no end of trouble for the future and terrorist attacks for revenge may take place at any time, any place. There will not be any winner and there will only be a lose-lose situation at the end.

When the situation of the soldiers at the front line is hopeless, what about their family members at the rear? As LI Hua depicted: the families of soldiers suffered a lot from separation. There was no news from sons, brothers and husbands after their departure and it was not known whether they were alive or

dead. They even had doubts when there was news, they were worried and upset and they dreamt of their loved ones who went to the battlefield. They could only offer sacrifices to them from afar and cried sadly while gazing at the sky. (A paraphrase of the original Chinese text of "蒼蒼蒸民，誰無父母？提攜捧負，畏其不壽。誰無兄弟？如足如手。誰無夫婦？如賓如友。生也何恩？殺之何咎？其存其歿，家莫聞之。人或有言，將信將疑。惻惻心目，寤寐見之。布奠傾觴，哭望天涯。天地為愁，草木悽悲。弔祭不至，精魂何依？")

With these remarks, I condemn war.

MR WONG YUNG-KAN (in Cantonese): Madam President, after the September 11 incident, the United States dealt a blow at terrorism, flaunting the banner of protecting its safety and upholding world peace. However, with the development of events, people have come to discover that the United States has deviated from the original anti-terrorist course and it has intensified unilateral actions and adopted pre-emptive strategies. It has done so in respect of the issue of weapons of mass destruction in Iraq first of all.

The United States comes first on the list of countries possessing weapons of mass destruction and it precisely threatens the world most seriously. Kindhearted people after all will understand what the United States flaunting the banner of anti-terrorism is actually doing, and it may be said that "one may steal a horse while another may not look over the hedge" (只許州官放火，不准百姓點燈). The speech made by United States President George BUSH a few days to declare war indicated that he has given up resolving the Iraq issue by peaceful or diplomatic means. It is going to make a unilateral move, bypassing the United Nations and infringing upon the sovereignty of other countries. His waging of a war for the sake of assuming control of oil is a naked manifestation of his despise of the sovereignty of countries, international law and world order. The White House master believes that justice means strong nuclear weapons and military force, and that power is the truth. This out-and-out conservative power will cause damages similar to those inflicted by terrorism. The unilateralism advocated is more challenging than extremism. When state leaders and people in the world who love peace and respect life opposed unilateral waging of war together, President George BUSH knew that he was in the wrong. He provided the very weak so-called proof in a hurry and made unreasonable demands in the hope of starting a war quickly for the expeditious seizure of political power and oil. While President George BUSH demanded Saddam HUSSEIN to step down,

he would not allow him to destroy the oilfields in the country. This revealed very clearly his intention.

The war this time really reflects that President George BUSH has oil and hegemony in mind and it can be described as unprecedented housebreaking in which the master is driven away from the house and his property is seized by force, despite the criticisms of neighbours. What arouses our scorn and makes us feel worried and uneasy is that the United States has adopted a pre-emptive strategy and dispatched troops without concrete proof that Iraq has violated the resolution of the United Nations, setting a very bad precedent. From now on, gangster countries like the United States will abuse the reason, there will be chaos and the international situation will become turbulent and no longer tranquil. Many countries struggling on the verge of economic recovery will be affected and the common masses will suffer at the end.

Peace is the perpetual wish of mankind who have experienced several thousand years of war and the two world wars, especially the Second World War has brought about unprecedented trauma and wounds. The history of human society shows that war is the common disaster of the world while peace is the common wish of mankind. Therefore, so long as it may be possible, the question of war and peace should be resolved by political and diplomatic means. Fighting for the political solution of the Iraq issue and avoiding the use of force is not only conducive to world peace and development, but also consistent with the interests of various countries. In the international community, the United Nations is the most widely accepted international organization in the prevention of war and its object is to safeguard international peace and safety. Any acts that bypass the framework and mechanism of the United Nations will only render the situation completely out of control. Such international relations that are unprepared for and naked power politics are grave disasters for mankind.

Madam President, the solution to the Iraq issue involves many important issues of international relations and the safety and peace of the people of Middle East countries. In my opinion, war is an extreme measure for resolving international disputes, and it is the cruellest and most dangerous option. War is inconsistent with the pursuit of peace, safety and development by people all over the world. Nor will it be helpful to removing the inherent contradictions of disputes. War will incur significant losses of production, lives and property and sow new seeds of hostility and antagonism. It may even intensify the misunderstanding and confrontation among different cultures and races, and give rise to new turbulence and chaos on a regional or worldwide scale. Therefore,

the international community has to uphold world peace and oppose the use of force.

Madam President, I call upon all those who love peace and respect life to oppose war and raise a stern protest against the declaration of war by President George BUSH. I so submit.

MS MIRIAM LAU (in Cantonese): Madam President, war is a brutal act that does not respect life and it will thoroughly dash people's earnest aspiration for peace. Therefore, the Liberal Party opposes the waging of war on Iraq by the United States. The outbreak of war will have effects on the countries involved in the war and it will inevitably affect other countries or regions because oil prices and the world economy will certainly be affected.

Since the United States announced its intention to wage war on Iraq last year, the market has been worrying about the possible effects on the supply of crude oil. Actually, the risk of war has already caused an upsurge in the price of crude oil. In February this year, the price of crude oil surged to more than US\$37 per barrel, heading for the high level of US\$40 during the Gulf War in 1991. Although the Organization of the Petroleum Exporting Countries has recently emphasized time and again that there is an adequate supply of crude oil and the price has dropped a little, it is still fluctuating around a high level of more than US\$30.

Compared to other industrial countries, Hong Kong is relatively less dependant on crude oil, but the blow dealt by the upsurge in crude oil price to the transport and logistics industries in Hong Kong is quite heavy. With the upward adjustment in the price of crude oil, the oil companies in Hong Kong have substantially increased the pump prices of diesel in January and February, but there is still pressure for further increases. Diesel is a necessity to the transport industry and the cost accounts for 20% to 50% of the operating costs of various types of vehicles, so, every cent of increase in oil prices will put a heavy burden on the operating costs.

In the policy address this year, the Chief Executive has highlighted the development of four pillar industries to revitalize the economy, and one of them is the logistics industry. The logistics industry involves the whole process of the production and transportation of goods and transportation is one of the

important links. High oil prices will directly push up the transportation costs of the logistics industry and our economy may not be revitalized in the foreseeable future.

Therefore, as I pointed out when I spoke on the resolution about extending the duty concession for ultra low sulphur diesel, I urge the Government to review the existing duty on ultra low sulphur diesel. The oil price would certainly rise once a war breaks out between the United States and Iraq. We are definitely incapable of dealing with this external trouble, but we are fully capable of resolving the internal trouble by reducing the diesel duty.

Certainly, war will do harm to the local and world economies and a recent opinion poll shows that 80% of Hong Kong people oppose the attack of Iraq by the United States. The Liberal Party shares their view and opposes the war and hopes for world peace.

Madam President, I so submit.

MR YEUNG YIU-CHUNG (in Cantonese): Madam President, we should treat matters involving human life with the utmost care. The war by the United States against Iraq is on the verge of breaking out and may be triggered off at any moment. Numerous ordinary people in Iraq will lose their precious lives during the merciless fighting, and they will be plunged into an abyss of misery, with dead bodies being found everywhere. This war to be launched by President George BUSH is something done in defiance of nature. Spring should be the season of growth for all things on earth, but it has now become the season of death. Spring is no longer spring.

While there is worldwide opposition to the war, the United States still unilaterally takes military actions and forcibly starts a war against Iraq because the United States President George BUSH is extraordinarily obsessed with war. With the style of a cowboy from the West, he insists on his old ways and runs wild. After his failure to use threats and inducements on the members of the United Nations Security Council, he simply bypassed the United Nations Security Council and dispatched troops on his own. With his strong Gulf War complex, he has not hesitated to start the war to control the second largest oil producing country in the world and overthrow the Saddam HUSSEIN Government regardless of all consequences to fulfil the wish of his father, BUSH

Senior, that has not yet been fulfilled. For this purpose, instead of trying to improve the United States economy, he has started a war to divert people's attention. Instead of combating the terrorists, he has launched attacks on Iraq, and instead of catching Osama bin LADEN, he wants to eliminate Saddam HUSSEIN.

The United States absolutely has no cause for dispatching troops to attack Iraq this time. There were sufficient grounds for the United States and its allies to dispatch troops during the Gulf War in 1991 after Iraq had invaded Kuwait, and the action had the consent of and authorization from the United Nations Security Council. Iraq has not done anything this time around and it cannot be proved that Saddam HUSSEIN supports Osama bin LADEN or Iraq possesses weapons of mass destruction. While the verification work of the weapons inspection team of the United Nations has started to show some progress, some more time is required for further verification and the Iraq Government has indicated its co-operation. Yet, the United States has unilaterally taken military actions without the consent of and authorization from the United Nations Security Council. It is a manifestation of hegemonism, of unilateralism being pushed to the limits. Therefore, the dispatch of troops by the United States has met with strong opposition in a majority of countries and regions in the world. On 15 February this year alone, a total of more than 10 million people in more than 550 cities in the world organized and participated in anti-war demonstrations of the largest scale since the Vietnam War. Many countries and even the allies of the United States such as France and Germany strongly oppose the unilateral military actions by the United States. More than 100 Members of the House of Commons from the ruling Labour Party in Britain oppose the dispatch of troops by Britain to Iraq, and three of them have announced their resignations in protest. There are also large-scale anti-war campaigns in the United States and there has been a substantial drop in the popularity rating of President George BUSH.

Flaunting the banner of human rights, the United States frequently bullies other countries. It has started a war for the oil interest this time around, in total neglect of the sovereignty of Iraq and the human rights of the Iraqis. It has thoroughly exposed its true face as a hegemonist country. The censoring of public opinion against the war by the United States Government and the mainstream media has shown people clearly the double standards adopted by the United States in respect of the freedoms of the press and speech and human rights.

If we say that Saddam HUSSEIN is a tyrant, then George BUSH is the executioner who starts a war. He starts the war and plunges people into an abyss of misery. How different is his action from the terrorist activities of Osama bin LADEN?

The most worrying point is that if we condone the United States in pursuing hegemonism and unilateralism by launching pre-emptive attacks on another country on the pretext of its own national safety being threatened, the world will be plunged into a chaotic state, seriously jeopardizing world peace and stability.

A just cause enjoys abundant support while an unjust cause finds little support. A war can be just or unjust. In attacking Iraq this time around, the United States has bypassed the United Nations Security Council and violated the United Nations Charter and the relevant international laws and regulations, which is not supported by the people. Moreover, its action is generally opposed by the mainstream public opinion in the world. Furthermore, war is not the most effective or only means to resolve the issue of Iraq and it will cause deaths or injuries and plunge people into an abyss of misery. Therefore, we strongly oppose the attack of Iraq by the United States and we only hope that the issue of Iraq can be resolved in a peaceful manner by political and diplomatic means within the framework of the United Nations.

With these remarks, I support the motion.

SUSPENSION OF MEETING

PRESIDENT (in Cantonese): Honourable Members, it is just past 10 pm. At this stage, I suspend the meeting until 2.30 pm tomorrow.

Suspended accordingly at two minutes past Ten o'clock.

Annex I**REGISTRATION OF PERSONS (AMENDMENT) BILL 2001****COMMITTEE STAGE**Amendments to be moved by the Secretary for Security

<u>Clause</u>	<u>Amendment Proposed</u>
Long title	By deleting everything after "re-enact" and before "to verify" and substituting - "regulations 23 and 24 of the Registration of Persons Regulations as provisions of that Ordinance, to dispense with the requirement to furnish certain particulars to a registration officer in an application for identity card, to confer a power".
1(2)	By deleting everything after "on" and substituting "12 May 2003."
2(a)	By deleting "香港境內的人的" and substituting "其".
3(b)	By adding after the proposed definition of "fingerprint" - "member of the Immigration Service" (入境事務隊成員) means the holder of a rank specified in Schedule 1 to the Immigration Service Ordinance (Cap. 331);".
4(a)	(a) In subparagraph (v), by deleting the proposed paragraph (haa).

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- (b) In subparagraph (vi), by adding ", viewing of information reproduced from data stored in chips embodied in identity cards" before "and".
- (c) By adding -
- "(vii) in paragraph (n), by adding "(whether in tangible or digital form)" after "records";
- (viii) in paragraph (p), by adding "(including any fee prescribed for the purposes of section 9A)" before the full stop;"
- (d) By adding -
- "(aa) by adding -
- "(2A) (a) Without prejudice to the generality of the powers conferred by subsection (1), regulations made under that subsection may provide for -
- (i) prescribed information or particulars to be included in identity cards;
- (ii) prescribed data to be stored in chips;
- (iii) information or particulars other than prescribed information or

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particulars that may be included in identity cards with the consent of applicants for or holders of identity cards;

- (iv) data other than prescribed data that may be stored in chips with the consent of applicants for or holders of identity cards.

- (b) For the purposes of paragraph (a), information, particulars or data are prescribed information, particulars or data, as the case may be, if they are or relate to -

- (i) the name, address, place of birth, date of birth, sex, marital status or occupation of the relevant person or the nationality which he claims;
- (ii) any photograph or fingerprint of the relevant person;
- (iii) any travel document held by the relevant person;

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- (iv) the right of abode or right to land of the relevant person;
- (v) any condition of stay to which the relevant person is subject;
- (vi) issue of identity card to the relevant person; or
- (vii) the number of the identity card issued to the relevant person.";"

7

- (a) By deleting the proposed section 9 and substituting -

**"9. Restriction on use of particulars
and record kept on particulars**

Subject to section 10 -

- (a) particulars furnished to a registration officer under this Ordinance may be used for and only for the purpose of enabling the Commissioner to issue identity cards and to keep records on such particulars;
- (b) the records referred to in paragraph (a) may be used for and only for the following purposes -

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- (i) enabling verification of identity of individuals by public officers in discharge of their official duties;
- (ii) enabling verification of identity of individuals for any other lawful purposes; or
- (iii) such purposes as may be authorized, permitted or required by or under any Ordinance."

(b) By adding after the proposed section 9 -

**"9A. Power to certify and furnish
certified copies**

A registration officer may, upon receipt of the written and signed request from the person to whom an identity card relates (accompanied, if such person is living outside Hong Kong, with his photograph and a copy of his left or right thumb-print or such other fingerprint as the registration officer may require, both properly authenticated by a notary public) and payment of the fee prescribed in Schedule 2 to the Registration of Persons Regulations (Cap. 177 sub. leg.) -

- (a) certify to the correctness or otherwise of such matters relating

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to such person contained in the written request which are within his knowledge; and

- (b) furnish a certified copy of the photograph of such person or relevant document in his custody."

- (c) In the proposed section 10 -

- (i) by deleting "the provisions of regulation 23 of the Registration of Persons Regulations (Cap. 177 sub. leg.)" and substituting "section 9A";
- (ii) by deleting "which may -" and substituting "which -".

- (d) In the proposed section 10(b), by deleting everything after "copy of the" and substituting "records kept by the Commissioner on particulars furnished to a registration officer under this Ordinance,".

- (e) In the proposed section 10(c) -

- (i) by adding "may" before "refer";
- (ii) by deleting "and".

- (f) In the proposed section 10(d) -

- (i) by adding "may" before "contain";
- (ii) by deleting the full stop and substituting "; and".

- (g) In the proposed section 10, by adding -

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"(e) must state the reason for giving such permission."

- (h) In the proposed section 11, by deleting "or discloses, any" and substituting ", discloses, erases, cancels or alters any record kept by the Commissioner on".

8

By deleting everything after "adding -" and substituting -

""portable identity card reader" (便攜式身分證閱讀器) means an instrument which -

- (a) can reproduce, from the data stored in the chip embodied in an identity card, any information specified in schedule 1 but not other information;
- (b) can scan a person's fingerprint for the purposes of matching with the template referred to in paragraph 1 of Schedule 1 and stored in the chip embodied in an identity card;
- (c) cannot keep record of any fingerprint so scanned; and
- (d) is of a type approved under regulation 11B;".

9

By adding -

"(aa) by repealing subregulation (1)(b)(vii) and (ix);

(ab) by repealing subregulation (1)(b)(xi) and substituting

-

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"(xi) any -

(A) travel document bearing an endorsement to the effect that he is authorized under the Immigration Ordinance (Cap. 115) to remain in Hong Kong; or

(B) document issued under that Ordinance authorizing him to remain in Hong Kong,

held by him;";".

10

(a) In the proposed regulation 4A, by deleting everything before subregulation (2) and substituting -

"4A. Inclusion of certain particulars and data with consent

(1) Without prejudice to regulation 5(1)(a), the Commissioner or any person acting pursuant to a permission given by the Commissioner may, for the purposes referred to in column 1 of Schedule 5 and with the consent of the applicant for an identity card or the person to whom an identity card relates -

(a) include in the identity card the information or particulars; and

(b) store in the chip embodied in the identity card the data,

referred to in column 2 of Schedule 5 which are not information, particulars or data specified in regulation 4(1) or Schedule 1."

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(b) In the proposed regulation 4A, by adding -

"(1A) If -

- (a) the Commissioner or any person acting pursuant to a permission under subregulation (1) has stored any data in a chip embodied in an identity card under that subregulation with the consent of the person to whom the identity card relates; and
- (b) the person to whom the identity card relates presents the identity card to the Commissioner or the person acting pursuant to such permission, as the case may be, and requests the removal of such data from the chip,

the Commissioner or the person acting pursuant to such permission, as the case may be, shall as soon as practicable remove the data from the chip."

13

By deleting the clause and substituting -

"13. Regulations added

The following are added -

"11A. Power to verify identity by fingerprint match

(1) If -

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- (a) a person produces his identity card to a police officer or a member of the Immigration Service in compliance with a requirement made under any Ordinance; and
- (b) the officer or member has reason to believe that the identity card is not issued under the Ordinance to the person,

the officer or member may, by using a portable identity card reader -

- (c) view the information specified in Schedule 1 reproduced from the data stored in the chip embodied in the identity card;
- (d) scan the person's thumb-print or other fingerprint; and
- (e) match the same with the template referred to in paragraph 1 of Schedule 1 and stored in the chip embodied in an identity card.

(2) Any person who, without reasonable excuse, refuses to allow a police officer

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or a member of the Immigration Service to view any information or scan any fingerprint under subregulation (1) shall be guilty of an offence and shall be liable to a fine at level 2.

11B. Approval of portable identity card reader

The Commissioner may by notice published in the Gazette approve types of instruments as portable identity card reader for the purpose of regulation 11A."

- 14(a) (a) In the proposed regulation 12(1A) -
- (i) by adding "or reasonable excuse" after "authority";
 - (ii) by adding -

"(aa) gains access to any data stored in a chip;"
 - (iii) in paragraph (b), by deleting "adds to, erases, cancels or alters" and substituting "erases, cancels, alters or adds to".
- (b) By adding after the proposed regulation 12(1A) -
- "(1B) For the purposes of subregulation (1A), a person to whom an identity card relates has lawful authority to gain access to -
- (a) data specified in Schedule 1 which are stored in the chip embodied in the identity card if he gains such access

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by using facilities provided
by or with the approval of
the Government; or

- (b) data specified in Schedule 5
which are stored in the chip
embodied in the identity
card if he gains such access
only for the purpose for
which the data are stored."

17 By deleting everything after "is" and substituting "repealed."

19 By deleting everything after "amended" and substituting -

"by adding -

"(3) An identity card that is valid
immediately prior to the specified date shall remain
so until it ceases to be valid in accordance with the
Ordinance, and the regulations, as amended by the
Registration of Persons (Amendment) Ordinance
2003 (of 2003).

(4) An identity card for which an
application is made before the specified date may be
issued as if the Registration of Persons (Amendment)
Ordinance 2003 (of 2003) had not been enacted
and -

- (a) may be collected by the applicant,
or sent to him by the registration
officer, within 70 days of the
specified date; or

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(b) if not so collected or delivered, may be destroyed, and the applicant shall thereupon be deemed not to have applied for the identity card."."

20 (a) In paragraph (a), by repealing "5 & 11A" and substituting "2(1), 4A, 5, 11A & 12(1B)".

(b) In paragraph (b), by deleting subparagraph (ii) and substituting -

"(ii) by repealing subparagraph (g) and substituting -

"(g) such data, symbols, letters or numbers representing prescribed information, particulars or data within the meaning of section 7(2A)(b) of the Ordinance as the Commissioner may determine; and";".

New

By adding -

"20A. Fees

Schedule 2 is amended -

(a) within the square brackets, by repealing "regs. 5, 13, 14, 23" and substituting "s. 9A; regs. 5, 13, 14";

(b) in item 8, by repealing "regulation 23" and substituting "section 9A of the Ordinance".

ClauseAmendment Proposed

21

By deleting the proposed Schedule 5 and substituting -

"SCHEDULE 5 [regs. 4A & 12(1B)]

PURPOSES, INFORMATION, PARTICULARS AND
DATA REFERRED TO IN REGULATION 4A

Column 1

Column 2

Purposes

Information,
Particulars and Data

- | | | |
|----|--|--|
| 1. | Storage of a certificate defined in section 2(1) of the Electronic Transactions Ordinance (Cap. 553) issued by the Postmaster General and recognized under section 22 of that Ordinance. | A certificate defined in section 2(1) of the Electronic Transactions Ordinance (Cap. 553) issued by the Postmaster General and recognized under section 22 of that Ordinance." |
|----|--|--|

23(b)

By adding -

"regulation 11A(2)

obstructing public officers in
verification of identity"

before -

"regulation 12(1)

making alteration to identity
card or documents".

Annex II**DAO HENG BANK LIMITED (MERGER) BILL****COMMITTEE STAGE**

Amendment to be moved by Dr the Honourable David LI Kwok-po

ClauseAmendment Proposed

4

In subclause (1)(a), by deleting everything after "changed to" and substituting "'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)";".

Appendix I

WRITTEN ANSWER

Written answer by the Secretary for the Environment, Transport and Works to Dr LUI Ming-wah's supplementary question to Question 6

A comparison of light buses running on liquefied petroleum gas (LPG), petrol, diesel and electricity in terms of fuel efficiency, operating costs, environmental performance and safety is given below:

	<i>Diesel</i> <i>(Euro III)</i>	<i>LPG</i>	<i>Petrol</i>	<i>Electric</i>
<i>Normalized Emissions</i> <i>(against Euro III diesel light bus as baseline)</i>				
Carbon Monoxide	100	150	210	0
Total Hydrocarbon	100	50	70	0
Nitrogen Oxides	100	30	50	0
Particulate	100	Negligible	Negligible	0
Carbon Dioxide ¹	100	115	145	0
<i>Fuel Consumption</i> <i>(km/L)</i>	4.8	2.6	3	— ²
<i>Operation Cost</i>				
Tax included (\$/km)	1.32	0.77	3.82	1.65
Tax not included (\$/km)	1.09	0.77	1.81	1.65

Safety All vehicles must comply with local statutory safety standards in order to be registered for use in Hong Kong. A quantified comparison of safety is not available.

Note 1: Carbon dioxide is a greenhouse gas while particulate and nitrogen oxides are the major air pollutants at the roadside.

Note 2: It is not appropriate to compare the fuel efficiency of electric vehicles with the other three types of vehicles because of their different modes of mechanical operation.

Appendix II**WRITTEN ANSWER****Written answer by the Secretary for the Environment, Transport and Works to Ms Cyd HO's supplementary question to Question 6**

An estimate of the lifespan of diesel light vehicles (other than taxis) is given below:

- Diesel private cars: 15 years
- Diesel light vans: 11 years
- Diesel light goods vehicles: 13 years
- Diesel public light buses: 13 years
- Diesel private light buses: 13 years

Appendix III**WRITTEN ANSWER****Written answer by the Secretary for the Environment, Transport and Works to Ms Cyd HO's supplementary question to Question 6**

The Environmental Protection Department (EPD) completed in 1998 a "Study of Economic Aspects of Ambient Air Pollution on Health Effects". The public can access the report on the EPD's website (<http://www.epd.gov.hk/epd/english/environmentinhk/air/studyrrpts/air_studyrrpts.ht>). A copy of the report has been deposited with the Legislative Council Secretariat.